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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

April 4, 2017 - 9:17 a.m.

49 Donovan Street
Concord, New Hampshire

MORNING SESSION
ONLY

IN RE: SEC DOCKET NO. 2015-06
Joint Application of Northern
Pass Transmission, LLC, and
Public Service Company of
New Hampshire d/b/a Eversource
Energy for a Certificate of
Site and Facility.
(Prehearing conference)

PRESIDING: Michael J. Iacopino, Esq. (Brennan...)
(Presiding as the Presiding Officer)

Pamela G. Monroe, SEC Administrator

ALSO PRESENT: Iryna N. Dore, Esq.
(Brennan, Caron, Lehehan & Iacopino)

COURT REPORTER: Steven E. Patnaude, LCR No. 052

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APPEARANCES:

**Reptg. Northern Pass Transmission and
Public Service Company of N.H. d/b/a
Eversource Energy (The Applicants):**

Barry Needleman, Esq. (McLane...)
Thomas B. Getz, Esq. (McLane...)
Marvin Bellis, Esq. (Eversource)

Reptg. Counsel for the Public:

Peter C.L. Roth, Esq.
Sr. Asst. Attorney General
N.H. Dept. of Justice
Thomas Pappas, Esq. (Primmer Piper..)

**Reptg. the Society for the Protection
of New Hampshire Forests (SPNHF):**

Amy Manzelli, Esq. (BCM Environ.)
Jason Reimers, Esq. (BCM Environ.)
Will Abbott

Reptg. Intervenor Group 1-North:

Brad Thompson

**Reptg. Individual Land Owners Schrier,
Beland, Olson & Moore:**

Alan Robert Baker, Esq.

Reptg. McKenna's Purchase:

Stephen J. Judge, Esq. (Wadleigh...)

**Reptg. Kevin Spencer and Mark Lagasse
d/b/a Lagaspence Realty:**

Arthur B. Cunningham, Esq.

**Reptg. Dixville Capital, LLC, and
Balsams Resort Holdings, LLC:**

Mark Beliveau, Esq. (Pierce Atwood)

Reptg. Grafton County Commissioners:

Lara Saffo, Esq.

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

Reptg. Coos County Cmsr. District 3:
Rick Samson, Cmsr.

**Reptg. Abutting Property Owners
(Underground portion) Bethlehem
to Plymouth:**

Campbell McLaren
Susan Schibanoff
Bruce Ahern
Walter Palmer

Reptg. Easton Conservation Commission:
Kris Pastoriza

**Reptg. Coos County Business and
Employers Group:**

Jamie Myers, Esq. (Bianco)

**Reptg. the International Brotherhood
of Electrical Workers (IBEW):**

Alan Raff, Esq. (Primary Legal Sol.)

Reptg. Philip & Joan Bilodeau:

Philip H. Bilodeau

**Reptg. Abutting Property Owners
(Overhead portion) Deerfield:**

Jeanne Menard
Erick Berglund
Jo Anne Bradbury

**Reptg. Non-Abutting Property Owners
(Overhead portion) Ashland to
Deerfield:**

Thomas Foulkes
Maureen Quinn

**Reptg. the City of Berlin and the
City of Franklin:**

Chris Boldt, Esq. (Donahue, Tucker..)

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

Reptg. Conservation Law Foundation:
Melissa Birchard, Esq.

Reptg. Appalachian Mountain Club:
William Plouffe, Esq. (Drummond..)

**Reptg. Pemigewasset River Local
Advisory Committee (PRLAC):**
Max Stamp
Gretchen Draper
Barry Draper

**Reptg. Towns of Bethlehem,
Northumberland & Whitefield
(MG 1-South); Towns of Easton,
Franconia, Plymouth & Sugar Hill
(MG 2); Town of Bristol (MG 3-North):**
Christine Fillmore, Esq. (Gardner..)
Shawn M. Tanguay, Esq. (Gardner..)

Reptg. the City of Concord:
Danielle L. Pacik, Esq.
(Dep. City Solicitor)

**Reptg. Town of Littleton (MG 1-South);
Town of New Hampton & Ashland Water &
Sewer Dept. (MG 3-North); Towns of
Pembroke & Deerfield (MG 3-South):**
Steven Whitley, Esq. (Mitchell Mun.)

**Reptg. Abutting Property Owners
(Overhead portion) Ashland - Concord:**
Mary Lee
Taras Kucman

**Reptg. Non-Abutting Property Owners
(Overhead portion) Stark - Bethlehem:**
Rebecca More

**Reptg. Abutting Property Owners
(Overhead portion) Dummer, Stark,
and Northumberland:**
Susan Percy

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[Prehearing conference]

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P R O C E E D I N G

PRESIDING OFCR. IACOPINO: Okay.

Good morning, ladies and gentlemen. We are here today for a prehearing conference in Site Evaluation Committee Docket Number 2015-06, the Joint Application of Northern Pass Transmission, LLC, and Public Service Company of New Hampshire, doing business as Eversource Energy, for a Certificate of Site and Facility. Today is the 4th of April. My name is Michael Iacopino. I've been designated by the Presiding Officer on this docket to preside over this prehearing conference today. To my left is the Committee Administrator, Pamela Monroe. To my right is an associate from my office, Iryna Dore.

And what I'd like to start off by doing first is just, I know there's a sign-up sheet, but what I'd like to do is start with the Applicant, go to Public Counsel, and just take appearances for the record.

So, Mr. Needleman, if you would start off please.

MR. NEEDLEMAN: Barry Needleman, from

[Prehearing conference]

1 McLane Middleton, representing the Applicant.
2 To my right is Marvin Bellis, in-house counsel
3 at the Applicant, and to his right is Tom Getz,
4 also with McLane Middleton.

5 PRESIDING OFCR. IACOPINO: Thank you.
6 Mr. Roth.

7 MR. ROTH: Peter Roth, New Hampshire
8 Department of Justice, Counsel for the Public.
9 And with me, to my left, is Tom Pappas, from
10 the Primmer law firm, also for Counsel for the
11 Public.

12 PRESIDING OFCR. IACOPINO: Okay. I'm
13 going to go to Mr. Pappas's left.

14 MS. MANZELLI: Thank you. Amy
15 Manzelli, and, to my immediate left, Jason
16 Reimers, from the law firm of BCM Environmental
17 & Land Law, representing intervenor the Forest
18 Society. And, to my farther left, from the
19 Forest Society, is Will Abbott.

20 Thank you.

21 PRESIDING OFCR. IACOPINO: Behind Amy
22 there, please tell us your name and which
23 intervenor group you're representing.

24 MR. THOMPSON: Brad Thompson,

[Prehearing conference]

1 Intervenor Group North 1 of Pittsburg,
2 Clarksville, and Stewartstown. And I'm the
3 spokesman.

4 PRESIDING OFCR. IACOPINO: Thank you.
5 Mr. Baker.

6 MR. BAKER: Yes. Bob Baker. I
7 represent individual landowners Schrier,
8 Beland, Olson, and Moore.

9 PRESIDING OFCR. IACOPINO: And which
10 groups are those?

11 MR. BAKER: Two different groups.
12 Two of them are in the group that Mr. Thomas,
13 to my left, is the spokesperson for. And two
14 of them are in the Dummer/Stark Abutters Group.

15 PRESIDING OFCR. IACOPINO: Thank you.
16 Mr. Judge.

17 MR. JUDGE: Stephen Judge, from the
18 Wadleigh Starr firm in Manchester. I represent
19 one member of the Ashland to Deerfield Group,
20 and that is the Condominium Association called
21 "McKenna's Purchase".

22 PRESIDING OFCR. IACOPINO: Thank you.
23 Mr. Cunningham.

24 MR. CUNNINGHAM: Arthur B.

[Prehearing conference]

1 Cunningham, representing Legaspence Realty, a
2 member of the Dummer/Northumberland Group.

3 ADMIN. MONROE: Folks, there are two
4 microphones on each set of tables. So, there's
5 a switch on them. Please be sure to turn on
6 the microphone. We do have a court reporter
7 here today. Thank you.

8 PRESIDING OFCR. IACOPINO: Mr.
9 Beliveau.

10 MR. BELIVEAU: Mark Beliveau, from
11 the law firm of Pierce Atwood, representing
12 Dixville Capital, LLC, and Balsams Resort
13 Holdings. And we're a part of the Business &
14 Organizations with Economic Interests.

15 PRESIDING OFCR. IACOPINO: Is there
16 some -- Lara.

17 MS. SAFFO: Lara Saffo, on behalf of
18 the Grafton County Commissioners.

19 PRESIDING OFCR. IACOPINO: Yes, sir.

20 MR. SAMSON: Rick Samson, Coos County
21 Commissioner, District 3, representing
22 Municipal Group 1 North, Pittsburg,
23 Stewartstown, and Clarksville.

24 PRESIDING OFCR. IACOPINO: Thank you.

[Prehearing conference]

1 And to your right?

2 MR. McLAREN: Campbell McLaren,
3 Central Abutters Group.

4 PRESIDING OFCR. IACOPINO: Are the
5 spokesperson for that group, Mr. McLaren?

6 MR. McLAREN: I'm spokesperson for
7 myself. But our spokesman has not yet arrived.

8 PRESIDING OFCR. IACOPINO: Okay.
9 Thank you.

10 MS. PASTORIZA: Kris Pastoriza,
11 Easton Conservation Commission, which is a
12 member of Central and municipals.

13 PRESIDING OFCR. IACOPINO: Thank you.

14 MS. SCHIBANOFF: Susan Schibanoff,
15 Bethlehem to Ashland, underground route. Our
16 group spokesperson, Walt Palmer, is on route.
17 He's about twenty minutes out. There's really
18 bad weather in northern New Hampshire.

19 PRESIDING OFCR. IACOPINO: Thank you.

20 MR. AHERN: Bruce Ahern, Plymouth --
21 Bethlehem to Plymouth Group.

22 MS. MYERS: Jamie Myers, of Bianco
23 Professional Association, representing the Coos
24 County Business and Employers Group.

[Prehearing conference]

1 MR. RAFF: Alan Raff, spokesperson
2 for the Business Intervenors Group, and
3 representing the IBEW.

4 MR. DUMVILLE: Adam Dumville. I also
5 represent the Applicants.

6 PRESIDING OFCR. IACOPINO: Mr.
7 Bilodeau.

8 MR. BILODEAU: Phil Bilodeau,
9 representing Joan and Phil Bilodeau, abutters.

10 PRESIDING OFCR. IACOPINO: I can't
11 see if there is anybody else at that table. If
12 not, why don't we move up to -- oh, okay.

13 MS. GAGNON: Dawn Gagnon, from McLane
14 Middleton.

15 PRESIDING OFCR. IACOPINO: Thank you.
16 All right. And, then, Ms. Menard, actually --

17 MR. BERGLUND: Erick Berglund,
18 Deerfield Abutters.

19 MS. MENARD: Jeanne Menard, Deerfield
20 abutters.

21 MS. GREGG: Denise Gregg, Deerfield.

22 MS. BRADBURY: Jo Anne Bradbury,
23 Deerfield abutter.

24 PRESIDING OFCR. IACOPINO: Who's the

[Prehearing conference]

1 official spokesperson for that group? Jeanne?

2 MS. MENARD: Jeanne Menard.

3 PRESIDING OFCR. IACOPINO: Thank you.

4 Okay. If you can move up ahead of Ms. Menard,

5 if we're done with that table or -- oh, one

6 more, I'm sorry. Two more.

7 MS. QUINN: Maureen Quinn --

8 ADMIN. MONROE: Flip the switch.

9 There you go.

10 MS. QUINN: Maureen Quinn, Ashland

11 to Deerfield non-abutter.

12 MR. FOULKES: Tom Foulkes, southern

13 non-abutters, Ashland to Deerfield. I'm the

14 spokesperson.

15 PRESIDING OFCR. IACOPINO: Thank you.

16 MR. BOLDT: Chris Boldt, Donahue,

17 Tucker, Ciandella, for the City of Berlin.

18 Also the spokesperson today for the City of

19 Franklin, who's represented by Paul Fitzgerald,

20 who could not be here today.

21 MS. BIRCHARD: Melissa Birchard,

22 designated spokesperson for the NGO Intervenors

23 Group, and representing Conservation Law

24 Foundation. And to my right is William

[Prehearing conference]

1 Plouffe, with Appalachian Mountain Club.

2 MR. STAMP: Max Stamp. I'm the
3 spokesperson for the Pemi River Local Advisory
4 Committee.

5 MR. DRAPER: Barry Draper, with
6 PRLAC.

7 MS. DRAPER: Gretchen Draper, with
8 PRLAC.

9 PRESIDING OFCR. IACOPINO: Thank
10 you. Ms. Lee.

11 MS. LEE: I'm Mary Lee, with the
12 Ashland to Allenstown Group, *pro se*.

13 MS. FILLMORE: I'm Christine
14 Fillmore -- there we go. Christine Fillmore,
15 representing the Towns of Bethlehem,
16 Northumberland and Whitefield in Municipal
17 Group 1 South; Easton, Franconia, Plymouth, and
18 Sugar Hill in Group 2; and Bristol in Group 3
19 North. And I'm the spokesperson for Municipal
20 Group 2. And to my right is Shawn Tanguay,
21 also with the same firm.

22 PRESIDING OFCR. IACOPINO: Ms. Pacik.

23 MS. PACIK: Danielle Pacik, represent
24 the City of Concord. And I'm the spokesperson

[Prehearing conference]

1 for Municipal Group 3 South.

2 PRESIDING OFCR. IACOPINO: Steve.

3 MR. WHITLEY: Stephen Whitley, from
4 Mitchell Municipal Group, on behalf of New
5 Hampton, Littleton, Pembroke, Deerfield,
6 Ashland Water & Sewer Department, in Municipal
7 Groups 1 South, 3 North, and 3 South.

8 PRESIDING OFCR. IACOPINO: Thank you.
9 Whoops. Did I miss somebody back there?
10 Please find a microphone. Thank you.

11 MS. MORE: Can you hear me?

12 PRESIDING OFCR. IACOPINO: Yes.

13 MS. MORE: Rebecca More,
14 representing and the spokesperson for Stark to
15 Bethlehem Non-Abutters Group. Thank you.

16 PRESIDING OFCR. IACOPINO: Thank you.
17 Did I miss anybody else?

18 *[No verbal response.]*

19 PRESIDING OFCR. IACOPINO: Okay. As
20 you can see today, it's a little different than
21 if you've been attending the tech sessions. We
22 have a court reporter here. He is taking down
23 what we say verbatim. So, one of the things
24 I'm going to ask everybody to do is, before you

[Prehearing conference]

1 speak during the course of this conference,
2 just identify yourself, because I don't think
3 he's going to be able to remember all of your
4 names and designate your -- what you have to
5 say from his memory. So, I'm going to ask,
6 when you do please, please identify yourself.
7 Please use the microphone. It's a big room.
8 And it's very important that he hears you.

9 So, first thing that's on our agenda
10 is an explanation of the prehearing conference,
11 what this is. This is a means and a method for
12 the parties to get together and discuss various
13 issues that may arise during the course of the
14 upcoming adjudicative hearings. We expect this
15 to be a rather complex proceeding as it goes
16 forward. And there are going to be a lot of
17 witnesses and a lot of exhibits.

18 Some of you, especially those who are
19 not represented by counsel, or even some
20 counsel who may have not participated in a Site
21 Evaluation Committee hearing before, may have
22 questions about how -- what procedures we use
23 and how we operate our adjudicative hearings.
24 The purpose of today's prehearing conference is

[Prehearing conference]

1 to address those issues.

2 There will be no substantive
3 decisions made here today. As you can see, the
4 Committee is not here. There will be a
5 transcript of this proceeding. And there will
6 be a report of the prehearing conference, which
7 will be issued by myself at some point after we
8 conclude.

9 I have passed around agendas. And,
10 also, there's a Frequently Asked Questions
11 sheet that I prepared regarding marking of
12 exhibits.

13 My hope is that, at the end of this
14 prehearing conference, after we've dealt with
15 all the formal agenda items, those of you who
16 would like to discuss informally things like
17 "How do I mark exhibits? How should I get
18 organized? What happens during the course of
19 the hearings, as far as things like what kind
20 of questions can I ask and things like that?"
21 We can speak informally after the hearing about
22 those types of things.

23 Yes. And the Presiding Officer in
24 this docket, the Chairman of the Public

[Prehearing conference]

1 Utilities Commission, Martin Honigberg, is
2 present. He's over, my right, your left. But
3 he's not going to be running the proceeding
4 today. All right.

5 We're going to start off by
6 discussing the scheduling and the tracks. And
7 I want to start off by apologizing to some of
8 you, because I think there is some confusion
9 about the track -- the manner in which the
10 hearing is going forward. And I think part of
11 that confusion was started by my
12 misunderstanding of something. I believe that
13 I told at least one intervenor, maybe more than
14 one, that the hearing would go forward by
15 starting with the Track 1 witnesses for the
16 Applicant, followed by Track 1 witnesses for
17 the rest of the groups. And, then, when we
18 moved into Track 2, we would then go to the
19 Track 2 witnesses for the Applicant, followed
20 by the Track 2 witnesses for the rest of the
21 groups.

22 I went back and looked at the --
23 after I was advised that that wasn't
24 everybody's understanding, I went back and

[Prehearing conference]

1 looked at the order. And I think the order is
2 a little bit ambiguous in that respect. So,
3 some of you, and I'm just going to ask for a
4 show a hands, how many of you expected that the
5 tracks would be by issue? In other words, it
6 would be the Applicants' witnesses, followed by
7 all the rest of the witnesses in Track 1, and
8 then Applicants' witnesses, followed by the
9 other parties' witnesses in Track 2. How many
10 thought it was going to be done that way?

11 *[Show of hands.]*

12 PRESIDING OFCR. IACOPINO: Okay. And
13 how many understood that it would be a
14 situation where all of the witnesses for the
15 Applicant would be put on first, followed by
16 the witnesses for the other parties?

17 *[Show of hands.]*

18 PRESIDING OFCR. IACOPINO: Okay.
19 Well, more people thought like I did, I guess.

20 So, I think that's the first thing
21 that we need to discuss. I did hear concerns
22 from some of the intervenors about that
23 prospect. And, so -- and I know that Ms.
24 Manzelli was one of the ones that had the

[Prehearing conference]

1 biggest concern.

2 So, let me turn to her. And, Amy, if
3 you can tell us what your concern is with
4 moving forward the way that I had originally
5 thought we were going to proceed?

6 MS. MANZELLI: Thank you,
7 Mr. Iacopino. So, Amy Manzelli, for the Forest
8 Society. And, actually, we can be agreeable to
9 proceeding in a fashion where Track 1 would
10 have all of the Applicants' witnesses on the
11 Track 1 topics, and then Track 2 would have all
12 of the Applicants' witnesses on the Track 2
13 topic, as long as it's crystal clear, and I
14 would ask that the order following this clarify
15 this, that when an intervenor takes the stand,
16 so to speak, that they would be allowed to
17 address all of the topics. You know, that
18 there wouldn't be any suggestion that, because
19 Track 2 has closed, the topics that were
20 included in Track 2 are now somehow, you know,
21 done, completely done, nobody can say anything.

22 So, if it were clarified that "no, it
23 was the Intervenors' and Counsel for the
24 Public's turn to address those topics", then

[Prehearing conference]

1 that would be acceptable to us.

2 PRESIDING OFCR. IACOPINO: Let me
3 just ask you -- let me ask you one question
4 about that. Is it -- for the Forest Society,
5 for your client, would it be easier to just
6 proceed in the standard way that the Site
7 Evaluation Committee would proceed? That is,
8 allow the Applicant to put their witnesses on
9 first, followed by Counsel for the Public and
10 the Intervenors, including the Forest Society.

11 MS. MANZELLI: I don't think that
12 either one of the scenarios is going to be easy
13 for the Forest Society, also potentially for
14 other parties. But it would be fine with us if
15 we proceeded in the normal fashion.

16 PRESIDING OFCR. IACOPINO: You did
17 raise to me a concern about some witnesses may
18 wind up testifying twice, because they have
19 overlapping testimony. Is that part of your
20 concern as well?

21 MS. MANZELLI: Yes, it is.

22 PRESIDING OFCR. IACOPINO: Okay. Mr.
23 Judge.

24 MR. JUDGE: As a practical matter, my

[Prehearing conference]

1 witness and my exhibits are Track 2. So, I did
2 not file an exhibit list and I did not file a
3 witness list for Track 1. So, I'm a little
4 confused as to -- with the procedure that
5 you're suggesting now. Does this mean that I
6 need to file a witness list and an exhibit list
7 for Track 2?

8 PRESIDING OFCR. IACOPINO: No.
9 There's still going to be a separate deadline
10 for that. It's in the order. I think what --
11 the order expressed those deadlines. What it
12 didn't express real clearly was how the
13 witnesses would actually come before the
14 Committee.

15 MR. JUDGE: If I could follow up on
16 that --

17 *[Court reporter interruption.]*

18 PRESIDING OFCR. IACOPINO: Yes. Get
19 right close to that microphone there.

20 MR. JUDGE: If I have an exhibit that
21 I want to cross-examine one of the Applicant's
22 witnesses, regarding, for example, the effect
23 on the property of McKenna's Purchase, that's a
24 Track 2 item. Am I understanding that the

[Prehearing conference]

1 Applicant's witnesses are going to be crossed
2 on Track 2 items, they're going to only go up
3 there one time? So, do I need to put that
4 exhibit in, if I want to use it?

5 PRESIDING OFCR. IACOPINO: Well, let
6 me ask the Applicant. You have your witnesses
7 segregated from Track -- between Track 1 and
8 Track 2. Do you anticipate crossover on any of
9 those witnesses, in other words, that they
10 would have to come back in the second track to
11 testify, regardless of how the witnesses for
12 the other parties are presented?

13 MR. NEEDLEMAN: I think the general
14 answer is "no", we don't expect any crossover,
15 and I speak to that more specifically. The
16 Applicant has two witnesses that are disclosed
17 and have filed testimony on separate panels.
18 Only one of those witnesses, Ken Bowes, is a
19 witness in Track 1 and Track 2. And the issues
20 that Mr. Bowes is speaking to in each track I
21 think are separate and distinct, and the
22 subject of physically separate pieces of
23 testimony. So, to address Mr. Judge's issue, I
24 don't think there is an issue there, based on

[Prehearing conference]

1 what I'm hearing.

2 PRESIDING OFCR. IACOPINO: So, I
3 guess the next question to the Applicant then
4 is do you object to, for instance, the Track 2
5 witness lists -- Track 2 exhibit list, I'm
6 sorry, and Track 2 exhibits being exchanged at
7 the time in the order, as opposed to before we
8 begin Track 1?

9 MR. NEEDLEMAN: No, we don't. And
10 let me pick up just to be clear on what Amy
11 said. I agree with the way she described this.
12 Our vision has always been that the Applicant
13 would present its case in its entirety, and
14 then we would turn to the other witnesses in
15 whatever order is decided by the Hearing
16 Officer. And, when those other witnesses
17 testify, whoever they may be, our view is that
18 they are entitled to testify about anything and
19 everything that is within their testimony,
20 regardless of which track it deals with.

21 PRESIDING OFCR. IACOPINO: Mr. Judge,
22 does that answer your concern?

23 MR. JUDGE: I'm not sure. I'm still
24 a little confused about this. Let me see if I

[Prehearing conference]

1 can make it more pointed. The witness that I'm
2 interested in is Mr. Chalmers. Is Mr. Chalmers
3 going to testify during Track 1?

4 MR. NEEDLEMAN: No. We actually
5 filed the witness list the other day that
6 listed all of our Track 1 witnesses. Chalmers
7 is a Track 2 witness.

8 MR. JUDGE: All right. So, there
9 will be a Track 1 panel from the Applicant, and
10 then there will be witnesses from other
11 parties, and then there will be a Track 2 panel
12 from the Applicant?

13 MR. NEEDLEMAN: No. Our view is that
14 the Applicant puts up all of its Track 1
15 witnesses. When those are complete, the
16 Applicant turns to its Track 2 witnesses. We
17 complete those as is normally done in these
18 cases. Once the Applicant is done putting its
19 entire case in, other parties, in their
20 particular order, put their cases in.

21 So, you will have a full opportunity
22 to question Mr. Chalmers in Track 2.

23 MR. JUDGE: Right. And I don't want
24 to monopolize the conversation here, but what

[Prehearing conference]

1 is the timing of my obligation to file a
2 witness list and exhibit list in relation to
3 when your Track 1 panel is going to be done and
4 your Track 2 panel starts?

5 MR. NEEDLEMAN: Well, I guess I'll
6 defer back to Mike. But I think there is a
7 standing order right now which specifies when
8 those Track 2 materials are due. It's April
9 24th, I think.

10 PRESIDING OFCR. IACOPINO: Right.
11 Their supplemental prefiled testimony for Track
12 2 witnesses are to be filed by April 17th,
13 according to the outstanding order. And, then,
14 prehearing motions and stipulations on Track 2
15 topics shall be filed on or before April 24th.
16 And, then, there will be a prehearing
17 conference on April 28th.

18 It doesn't specifically reference
19 exhibits. If you note, in the first round,
20 there was a memorandum that was sent out about
21 when the exhibit lists should be due, and that
22 would be same -- that would occur the same way.
23 The reason why that happened in the beginning
24 is because I was hearing concerns from folks

[Prehearing conference]

1 about when they could do things. So, we're
2 trying to accommodate everybody in terms of
3 when that stuff would be traded amongst the
4 parties.

5 So, what I would envision is that
6 there would be a supplemental memorandum that
7 would designate a date after we've spoken today
8 for when exhibit lists for Track 2 would be
9 filed by all the parties.

10 MR. JUDGE: And I've been doing this
11 long enough that I shouldn't be this naive. I
12 just assumed Track 1 would be done by April
13 28th.

14 PRESIDING OFCR. IACOPINO: Well, I
15 had assumed that, too. And I didn't realize
16 that the Applicant, some of the other parties
17 were under a different thing. Actually, I will
18 tell you this. If we did it the way I thought
19 we were originally going to do it, is one of
20 the reasons why I wasn't so sure that was a
21 great idea, we're not going to be done with
22 Track 1 by April 28th. Because we would have
23 their witnesses on, and then Track 1 witnesses
24 from everybody else, and we would be well into

[Prehearing conference]

1 May before we got to Track 2.

2 And I'm not sure -- I think it's
3 probably easier, and for those who may be -- I
4 may be confusing here, you might think of it as
5 three tracks. Two tracks, the first -- and
6 I'll tell you why. The first track being the
7 witnesses in the first track is designated in
8 the order; the second track being the Track 2
9 witnesses is in the order; and a third track
10 being everybody else putting their witnesses
11 on. That may be an easier way of thinking of
12 that, of that idea. Although, technically,
13 it's not a track that's broken down by issues.

14 MR. JUDGE: Thank you.

15 PRESIDING OFCR. IACOPINO: Mr.
16 Roth -- I'm sorry, Mr. Judge?

17 MR. JUDGE: You've answered my
18 question. Thank you.

19 PRESIDING OFCR. IACOPINO: Okay.
20 Mr. Roth.

21 MR. ROTH: We're fine with the
22 Applicant's approach, provided that it's clear
23 that, once the Applicant's case is finished,
24 then Counsel for the Public's case begins, and

[Prehearing conference]

1 that there isn't sort of a sandwiching in of
2 intervenor witnesses with subject matter Track
3 1 type issues that comes before us. Because,
4 typically, Counsel for the Public follows the
5 applicant's case in its entirety. So, we don't
6 want to sort of get bucked down because of that
7 sandwiching effect. And, so, all of the
8 intervenors' issues, whether they're related to
9 the Track 1 type stuff or the Track 2 type
10 stuff would follow our witnesses in the -- what
11 you're now describing as, essentially, "Track
12 3".

13 PRESIDING OFCR. IACOPINO: Right.
14 And you would put all of your witnesses on,
15 rather than breaking them into tracks.

16 MR. ROTH: We don't really have Track
17 1 witnesses.

18 PRESIDING OFCR. IACOPINO: Okay.

19 MR. ROTH: And, so, that's how it
20 would work.

21 The other concern that I have, and
22 I've seen this play out in other instances or
23 other cases, is that, if a person has -- if an
24 intervenor has a sort of a Track 2 type

[Prehearing conference]

1 question, let's say a property valuation
2 question, that they want to pose to
3 Mr. Quinlan, for example, that it be clear that
4 their opportunity to do so is when Mr. Quinlan
5 is there at the beginning, and that there be no
6 expectation that Mr. Quinlan be available again
7 a second time. Not that I don't -- you know,
8 I'm not that concerned about Mr. Quinlan's
9 time, but I don't want people to be confused
10 about it, so that if, for example, they get to
11 their opportunity during Mr. Chalmers'
12 testimony, for example, and they say "Well, I
13 have a question for Quinlan, can you bring him
14 back?" And they're told "No, that ship has
15 sailed." So, it has to be really clear, I
16 think, for everybody that (a) you can question
17 any witness in the so-called "Track 1" group
18 about any topic that you think is germane, and
19 (b) you cannot expect them to be brought back
20 and to be cross-examined a second time.

21 PRESIDING OFCR. IACOPINO: And, of
22 course, you mean subject to whatever objections
23 might be lodged by the parties?

24 MR. ROTH: Yes, of course.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: Okay.

2 MR. ROTH: And, then, the last thing
3 I would say is, you know, we have a fairly
4 complicated calendar of our folks' availability
5 for hearing time. And, so, that's going to be
6 a real interesting puzzle to piece together
7 with our witnesses and everybody else's during
8 Track 2. But we'll get to that, I suppose,
9 when that comes.

10 MR. NEEDLEMAN: Could I speak?

11 PRESIDING OFCR. IACOPINO: Well,
12 theoretically, it would be what I've just
13 described as "Track 3".

14 MR. ROTH: Yes.

15 PRESIDING OFCR. IACOPINO: Okay.
16 Yes. And we would -- and I think that just so
17 there's no misunderstanding, the prehearing
18 conference on April 28th, I think we would
19 then -- one of the tasks at that prehearing
20 conference would be to schedule everything
21 that's to come, including Counsel for the
22 Public's witnesses, and all of the other
23 witnesses. So that it would be at that hearing
24 that any concerns about witness availability

[Prehearing conference]

1 for most of the parties, other than the
2 Applicant, would probably be addressed.

3 So, so far I'm hearing from at least
4 the Applicant, Counsel for the Public, and I
5 think at least some agreeability from SPNHF,
6 that we should proceed with the Applicant's
7 Track 1 witnesses, followed -- subject to
8 cross-examination by all the parties, followed
9 by the Applicant's Track 2 witnesses, subject
10 to cross-examination by all the parties,
11 followed by Counsel for the Public, which is
12 traditional, by the way, is that Counsel for
13 the Public's witnesses would normally follow
14 the applicant's. And, then, we would hear from
15 the witnesses for the rest of the intervenor
16 groups. And, of course, everybody is subject
17 to cross-examination by the other parties.

18 Is there any objection to that in the
19 room? Ms. Menard.

20 MS. MENARD: Jeanne Menard, Deerfield
21 abutters. I'm not objecting. I would just
22 like to ask for a clarification regarding the
23 timing of exhibit lists that were originally
24 thought to be Track 2, but dovetailing on what

[Prehearing conference]

1 Mr. Roth has just presented, Mr. Quinlan, Track
2 1, has presented in his supplemental testimony
3 real estate matters. So, would we be allowed
4 to bring in some of our Track 2 exhibits that
5 we weren't expecting to file later, and amend
6 our Track 1, so that they are available for
7 that cross-examination period?

8 PRESIDING OFCR. IACOPINO: I'm not
9 sure that the Applicant agrees with your
10 characterization. But, if that is -- if that
11 is the case, what a party should do is file an
12 amended exhibit list. And, if the Applicant
13 objects to it, they will object to it. And, at
14 the time of the hearing, the Presiding Officer
15 will determine whether or not the exhibit can
16 be used in the examination of that witness or
17 not. That's something that I can't determine.
18 I'm not going to be the presiding officer over
19 the adjudicatory hearing.

20 But I would recommend that, if there
21 is -- because of something that's changed,
22 there's now an exhibit that you wish to use in
23 Track 1 that you didn't expect to use until
24 Track 2, you amend your exhibit list and file

[Prehearing conference]

1 that. And the Applicant may object. And, at
2 the time of the hearing, the presiding officer
3 will make a determination --

4 MS. MENARD: Thank you.

5 PRESIDING OFCR. IACOPINO: -- as to
6 whether or not you can use that exhibit. And,
7 again, even exhibits -- all exhibits, even an
8 exhibit that's on your exhibit list, may draw
9 an objection at the time of the hearing, and
10 you may learn from the Presiding Officer that
11 he is not going to allow you to use that
12 exhibit. But that's, you know, that can happen
13 at any point in time in the hearing anyway. So
14 that everybody is on the same level playing
15 field, and this goes to the Applicant as well,
16 if there is something that's came in, and you
17 feel that there's an additional exhibit you
18 need to use for that, because of that filing,
19 you should amend your exhibit list as soon as
20 you know you're going to do it. So, --

21 MS. MANZELLI: Mike, can I make a
22 clarification, --

23 PRESIDING OFCR. IACOPINO: Yes.

24 MS. MANZELLI: -- before we close

[Prehearing conference]

1 this topic. I think I heard the Applicant,
2 Attorney Needleman saying that "only Kenneth
3 Bowes would be a witness in both of the
4 tracks". So, could you confirm, Barry, is
5 Mr. Quinlan going to be only in one of the
6 tracks, not both?

7 MR. NEEDLEMAN: Yes. I mean, in a
8 sense, now that we've clarified that the
9 Applicant is going to put on their whole case,
10 it may not even be helpful to think about it in
11 terms of tracks. We are going to put on the
12 five witnesses that we disclosed the other day.
13 When we're done with those five, we're going to
14 move forward with the rest of our witnesses,
15 and then we're going to be finished. We're not
16 going to keep calling witnesses back. They
17 will be up once, and then they will be done.
18 Except for Ken, who will be up in the first,
19 and then will come back and speak to
20 construction issues regarding his separate
21 pieces of testimony. And the other one who I
22 mentioned earlier, Bob Varney, who has one
23 environmental issue to talk about, I believe
24 that's air impacts, and then also separately

[Prehearing conference]

1 Bob speaks to some orderly regional development
2 issues. So, those are the only witnesses who
3 will come back, and they will come back only
4 for discrete purposes, not as follow-up.

5 MS. MANZELLI: Thank you.

6 PRESIDING OFCR. IACOPINO: Ms.

7 Fillmore, and then -- I'm sorry? Oh, okay.

8 Why don't we go with Ms. Fillmore
9 first.

10 MS. FILLMORE: Thank you very much.

11 I have a bit of a confusion. Aren't both those
12 subjects that Mr. Varney is speaking to, aren't
13 those both Track 2 subjects?

14 MR. NEEDLEMAN: Correct.

15 PRESIDING OFCR. IACOPINO: But he
16 might be on two different panels in Track 2, I
17 think is what Mr. Needleman is saying.

18 MR. NEEDLEMAN: Correct.

19 MS. FILLMORE: Okay. Understood.

20 Thank you very much.

21 PRESIDING OFCR. IACOPINO: Yes, sir.

22 MR. BERGLUND: Erick Berglund,

23 Deerfield abutters. We're getting a little

24 wrapped around the axle here, I think, with two

[Prehearing conference]

1 exhibit lists, and trying to figure out what
2 has to be in each one based on the sequence.

3 What if we had just one exhibit list,
4 which could be, really, the sum of the two.
5 And, if it's in 2, and we need it for 1, it's
6 still there. So, we don't get caught with
7 having to put a particular discussion in both
8 exhibit lists, because we want to cover 1 and
9 2.

10 PRESIDING OFCR. IACOPINO: Well, I
11 don't think any exhibit has to be listed more
12 than once. What we were doing is, because of
13 the manner, for instance, the Department of
14 Transportation stuff came in last night, okay?
15 There may be exhibits that people want to put
16 together, and that's all in Track 2. And the
17 whole reason for the tracks was so that people
18 could properly prepare.

19 So, I wouldn't want to say "okay, get
20 your exhibit lists in, you know, tomorrow, for
21 everything", because I don't think that would
22 be fair to everybody. Do you understand what
23 I'm saying?

24 MR. BERGLUND: I wasn't suggesting

[Prehearing conference]

1 that we speed things up.

2 PRESIDING OFCR. IACOPINO: Okay.

3 MR. BERGLUND: We're moving pretty
4 quick right now. But just to simplify it, it
5 seems like, if you put it in Track 2 or Track 1
6 list, it's there, it's an exhibit for across
7 the whole board.

8 PRESIDING OFCR. IACOPINO: Yes. And
9 I don't disagree with you on that.

10 MR. BERGLUND: Okay.

11 PRESIDING OFCR. IACOPINO: You don't
12 have to -- you don't have to list the exhibits
13 separately if you're going to use them in both
14 tracts. In fact, you don't start with new
15 numbers. On Track 2, you're just going to pick
16 up with the last number you used on your first
17 exhibit list and continue through.

18 MR. BERGLUND: So, we, in effect,
19 have one exhibit list.

20 PRESIDING OFCR. IACOPINO: Right.
21 It's just coming in multiple parts so that you
22 could properly prepare.

23 MR. BERGLUND: Thank you.

24 PRESIDING OFCR. IACOPINO: Ms. Saffo.

[Prehearing conference]

1 Use a microphone please.

2 MS. SAFFO: I didn't think I should
3 close this discussion without noting two
4 things. One is that we still have a Motion to
5 Continue pending that we haven't gotten an
6 order on yet. So, I didn't want to like close
7 this and make it sound like we didn't object to
8 this proposal, when this motion is still
9 pending, we're waiting for an order on it.
10 That's along the line of what you just said.
11 You noted that the Department of Transportation
12 is all in Track 2. Our concern is, we felt
13 being able to review the track -- Department of
14 Transportation track was important to Track 1
15 topics as well.

16 So, we're finding it hard to prepare
17 for Track 1 topics without information, which
18 includes proposed route selection and public
19 safety. And, so, the DOT review has been
20 really important. We haven't had a chance to
21 look at it yet.

22 So, I just -- and I believe, for
23 right now, I'm just stating this for the
24 record, you know. But I just felt that it was

[Prehearing conference]

1 important to go on the record as saying that we
2 feel that, especially DOT review, which I
3 believe was due yesterday, and I suspect, you
4 just indicated that is available, we don't
5 feel --

6 PRESIDING OFCR. IACOPINO: Oh, I
7 didn't say "it's available". It came in last
8 night.

9 *(Presiding Officer Iacopino*
10 *conferring with Admin. Monroe.)*

11 PRESIDING OFCR. IACOPINO: Okay.
12 Apparently, it has gone -- it has been sent
13 out.

14 MS. SAFFO: Yes. No -- yes, it isn't
15 on the website yet, but I'm sure it will be
16 shortly.

17 PRESIDING OFCR. IACOPINO: Yes.

18 MS. SAFFO: And just that's -- and
19 just again, I can state that for the record
20 right now, and we could address it later, if
21 you would like.

22 PRESIDING OFCR. IACOPINO: Okay. Let
23 me take what you mention in two points first.
24 You have a Motion to Continue or Postpone

[Prehearing conference]

1 pending, I believe there are at least two other
2 ones, those will be ruled on by the Presiding
3 Officer at some point between now and the start
4 of the hearings. There are a number of other
5 motions, some motions to compel, and various
6 other motions. Those will be ruled on as well.
7 There are some recently filed motions. We will
8 try to get those ruled on as well.

9 With respect to your objection, I
10 understand that you're just -- that you object
11 to this going forward, because you haven't had
12 the opportunity to review the DOT materials
13 yet. That's not something that we can resolve
14 here today. And I know you understand that,
15 but just so the other folks in the room
16 understand that. That would all be considered
17 in the course of your motion -- the resolution
18 of your Motion to Continue.

19 MS. SAFFO: Okay. Great.

20 PRESIDING OFCR. IACOPINO: But, in
21 terms of your other question about DOT, I'm
22 going to look at the Applicant for a minute.
23 Is there anybody on your -- the so-called
24 "Track 1" witnesses that intends to address the

[Prehearing conference]

1 Department of Transportation petitions,
2 conditions, or the area that they are expected
3 to provide information on or have provided
4 information on that we've not yet had a chance
5 to review?

6 MR. NEEDLEMAN: No. We view those as
7 Track 2 issues related to the construction and
8 design.

9 PRESIDING OFCR. IACOPINO: Okay. So
10 I think, Ms. Saffo, one of the things that you
11 might -- if you ask questions about those
12 things of Track 1 witnesses, and I'm just going
13 to lay this out, I would expect that there
14 might be an objection from the Applicant, and
15 that would have to be -- the propriety of the
16 question would have to be determined by the
17 Presiding Officer at that time, assuming that,
18 of course, that your Motion to Continue is
19 denied. So, if we start on the 13th or the
20 14th like we're supposed to, that may be a
21 situation that you're in, so you may want to
22 just prepare for that. In other words, if you
23 think that a witness on one of their panels in
24 Track 1 has information that they can answer,

[Prehearing conference]

1 and you want to ask them the questions, you go
2 right ahead and ask the questions. I assume
3 there will be objections, and just like any
4 other trial, the Presiding Officer will make a
5 determination.

6 MS. SAFFO: A follow-up please?

7 PRESIDING OFCR. IACOPINO: Yes.

8 MS. SAFFO: And if there's a question
9 about whether something is in Track 1 or Track
10 2, in previously hearings, for example, there's
11 been some concerns that there were some topics
12 that aren't included in either, for example.
13 Should we just file a motion on that or what do
14 you recommend we do?

15 I'm trying to make -- I'm trying to
16 make things go as smoothly as possible. So, I
17 want to make sure I don't, myself, think
18 something's a Track 2 thing, and then to hold
19 off asking it, and then get to Track 2 and
20 someone say "you should have asked that
21 earlier." You know what I mean? So, I just
22 want to go in and not mucky up the process with
23 a lot of objections and discussions over
24 whether something is Track 1 or Track 2 or

[Prehearing conference]

1 other.

2 PRESIDING OFCR. IACOPINO: Okay.

3 Well, that's one of the things that we're here
4 today --

5 MS. SAFFO: Okay. Good.

6 PRESIDING OFCR. IACOPINO: -- to talk
7 about.

8 MS. SAFFO: Thank you.

9 PRESIDING OFCR. IACOPINO: And, also,
10 just generally, at any point, for everybody
11 going forward, if you have questions like that,
12 you can ask Pam or myself, or you can talk to
13 the other parties, of course. Usually, you
14 know, the applicant has their application in
15 here. It usually makes sense to talk to the
16 Applicant and say "well, what is your
17 intention?" Because that might clear up your
18 concern.

19 And the same thing, as we move
20 forward, if you have a concern about what, for
21 instance, the Counsel for the Public's witness
22 might be testifying about, you can always ask
23 them as well, and that may clear up any
24 concerns.

[Prehearing conference]

1 Ultimately, as always, if there is
2 something that is unresolvable, you should file
3 a motion.

4 MS. SAFFO: Thank you.

5 PRESIDING OFCR. IACOPINO: Ms.
6 Pastoriza.

7 MS. PASTORIZA: Kris Pastoriza,
8 Easton Conservation Commission. I just want to
9 object as well. The central municipals has a
10 Motion to Delay. Already I think I'm not the
11 only person in deep confusion as to how the two
12 tracks are going to work out. As we move
13 forward, the confusion is only going to
14 increase. And it's putting the small people at
15 a huge disadvantage, because we don't have the
16 resources the Applicant has, to deal with the
17 issues of what track is what track.

18 Right now, the Track 2 people are
19 having to prepare to redo everything on the
20 basis of DOT response to NPT new spec sheets
21 that we also have to look at. So, we don't
22 even have time to see if there's something in
23 Track 1 perhaps we should be looking at.

24 So, the two-track thing is still --

[Prehearing conference]

1 it's mind-boggling that we're proceeding this
2 way.

3 PRESIDING OFCR. IACOPINO: Ms.
4 Pastoriza, you have counsel, Easton
5 Conservation Commission has counsel in this
6 matter, and I subject that you raise those
7 concerns with her. Thank you for airing them.
8 Ask that you speak with her to make sure
9 there's no confusion about what that particular
10 intervenor group's choice of decisions to make
11 is.

12 Is there -- Ms. Fillmore.

13 MS. FILLMORE: Thank you. Christine
14 Fillmore, for Municipal Group 2. There is a
15 motion pending, as Ms. Pastoriza has noted.
16 But, on the subject of confusion about what's
17 in Track 1 and Track 2, there are two questions
18 that others may have that I have. One is,
19 where does decommissioning fall in the tracks?
20 And the second is, Samuel Johnson is not listed
21 as a Track 1 witness. And there was a little
22 bit of confusion about whether he was or he was
23 not?

24 PRESIDING OFCR. IACOPINO: Let me

[Prehearing conference]

1 turn both of those questions over to
2 Mr. Needleman, since he's presenting these
3 witnesses.

4 MR. NEEDLEMAN: So, let me pick up on
5 something you said a moment ago, Mike. To the
6 extent that people have these sorts of
7 questions, they should not be shy about coming
8 and speaking to us. We would be happy to try
9 to clarify these things and work them out with
10 folks.

11 With respect to Christine's
12 questions, I think that, to the extent we are
13 talking about the financial aspects of
14 decommissioning, I believe that is addressed in
15 Mike Ausere's initial and supplemental prefiled
16 testimony, and that is a Track 1 issue. I
17 can't recall -- right, with respect to
18 construction issues and physical aspects of
19 decommissioning, I believe that is contained in
20 Mr. Bowes' Track 2 construction testimony.

21 And one of the things that I would
22 encourage people to do, which may help to
23 clarify their issues, is to actually look at
24 the testimony that witnesses have put in,

[Prehearing conference]

1 because I think that would be helpful for
2 understanding this.

3 With respect to the question about
4 Sam Johnson, he is not a Track 1 witness. We
5 have listed our Track 1 witnesses.

6 PRESIDING OFCR. IACOPINO: Does that
7 answer your -- sorry. Does that answer your
8 question, Ms. Fillmore?

9 MS. FILLMORE: I think so, for now.
10 Although I note that the Forest Society is
11 concerned.

12 PRESIDING OFCR. IACOPINO: I will get
13 to them. Jason.

14 MR. ROTH: I -- I'm sorry.

15 MR. REIMERS: I have a question. So,
16 will Sam Johnson be a Track 2 witness? And, if
17 so, what topics does he fit under?

18 MR. NEEDLEMAN: Sam Johnson will be
19 in Track 2 with the construction panel. And he
20 will testify to everything that's in his
21 initial and supplemental testimony.

22 PRESIDING OFCR. IACOPINO: Mr. Roth.

23 MR. ROTH: And maybe this is a point
24 of clarification for Attorney Needleman. But,

[Prehearing conference]

1 as I understood it, Mr. Bowes and Mr. Johnson
2 submitted testimony last October -- or,
3 October 2015. And, then, if I'm not mistaken,
4 did Bowes submit supplemental as well?

5 MR. NEEDLEMAN: Yes. And I can
6 elaborate on that a little bit, and hopefully
7 it will clarify --

8 MR. ROTH: Well, if I can finish the
9 question. And I think the Decommissioning Plan
10 came in summertime, something like that?

11 MR. NEEDLEMAN: I don't remember.

12 MR. ROTH: And I don't believe it was
13 at that point sponsored by any particular
14 testimony. Did somebody's supplemental or was
15 there testimony submitted with the
16 Decommissioning Plan that, in fact, at that
17 time sponsored it?

18 MR. NEEDLEMAN: It certainly wasn't
19 done at the time.

20 MR. ROTH: Okay. And did -- so, was
21 the supplemental sponsoring the Decommissioning
22 Plan, other than the Ausere, which I understand
23 covered the financial side of it?

24 MR. NEEDLEMAN: Yes. I believe so.

[Prehearing conference]

1 I believe that Ken Bowes' supplemental -- well,
2 yes. Ken Bowes' supplemental construction
3 testimony has not yet been filed. It's not due
4 until, --

5 MR. ROTH: Okay.

6 MR. NEEDLEMAN: -- I think,
7 April 17th. So, I think that may be the
8 confusion.

9 PRESIDING OFCR. IACOPINO: Does that
10 answer your question, Mr. Roth?

11 MR. ROTH: Yes. Thank you.

12 PRESIDING OFCR. IACOPINO: Okay.

13 MS. MANZELLI: Can I --

14 PRESIDING OFCR. IACOPINO: Ms.
15 Manzelli.

16 MS. MANZELLI: Just to clarify, I
17 want to make sure I'm not misunderstanding.
18 So, when Mr. Bowes' supplemental testimony
19 comes in, which, you know, I agree it's not
20 due. So, it will be timely filed later this
21 month. That will formally -- he will formally
22 be the witness who has, as a supporting
23 material to his testimony, the Decommissioning
24 Plan?

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: The
2 construction aspects of the Decommissioning
3 Plan is what I think I heard the Applicant say.
4 But why don't you answer the question for Ms.
5 Manzelli.

6 MR. NEEDLEMAN: That's correct. The
7 construction aspects of the Decommissioning
8 Plan.

9 PRESIDING OFCR. IACOPINO: So, just
10 so everybody is aware, if you're going to deal
11 with the financial aspects of the
12 Decommissioning Plan, that is going to be the
13 witnesses that are coming up in Track 1 on
14 financial capability.

15 So, Ms. Saffo, you had a question?

16 MS. SAFFO: Yes. I think this is a
17 really good example of some real confusion in
18 this process. We have decommissioning under --
19 the interpretation of the Applicant is
20 decommissioning goes under Track 1 and Track 2,
21 depending on whether you talk about financial
22 aspects separate or whether you talk about
23 construction aspects.

24 That certainly wasn't my

[Prehearing conference]

1 understanding. I just thought it wasn't
2 included, and that was one of the issues we
3 were raising today.

4 So, I think that's one of the big
5 issues, is there's a real lack of clarity as to
6 what's Track 1 and Track 2, that I'm sure we'll
7 deal with today. But I think that's a really
8 good example of people operating under
9 different presumptions. So, we could really be
10 asking the wrong questions at Track 1 and
11 inadvertently waiving our right to that.

12 PRESIDING OFCR. IACOPINO: And that's
13 why we're here. And that's why you now know
14 that the financial aspects of decommissioning
15 are going to be addressed by Mr. Ausere, I
16 believe, at least that's the Applicant's plan.
17 And they can put on the witnesses that they
18 choose to put on.

19 And the construction aspects, like
20 what's going to be left in the ground after
21 decommissioning, would be addressed by
22 Mr. Bowes in his Track 2 testimony.

23 MS. SAFFO: But I guess I'm kind of
24 concerned that the Applicant is basically

[Prehearing conference]

1 saying "this is how we're going to do it", but
2 we're not getting notice of that. So, it's
3 like the Applicant -- we've just decided that
4 financial aspects are going to be dealt with in
5 Track 1, and not financial aspects are going to
6 be dealt in Track 2, with no discussion on it,
7 it's just the Applicant said so, and now that's
8 what we're doing.

9 I just find that to be a difficult
10 way to proceed. And, again, I know you have an
11 agenda. So, I don't know if you're discussing
12 this later on in the agenda. I don't want to
13 be like one of those students in class that
14 asks a question that you're addressing later on
15 in a lecture.

16 PRESIDING OFCR. IACOPINO: You're not
17 a gunner. Don't worry.

18 MS. SAFFO: So, you can interrupt me
19 at any time. You will not hurt my feelings.
20 But I think that's exactly it. We are
21 completely operating under different
22 presumptions. And, okay, so now we would just
23 address decommissioning. What else is out
24 there that the Applicant think are going to be

[Prehearing conference]

1 addressed that some intervenors might agree
2 with the Applicant, some intervenors may not.
3 We just don't know.

4 PRESIDING OFCR. IACOPINO: And just
5 so you understand, that's what we're doing
6 right now in here. That's what the agenda is
7 right now. "Clear up confusion concerning
8 phasing and what it means."

9 MS. SAFFO: Yes. But --

10 PRESIDING OFCR. IACOPINO: Okay? So,
11 if you have questions about whether -- if you
12 think there's something else that's missing or
13 you have a question about what's going to be
14 presented through what witness, now is the time
15 to raise those questions.

16 MS. SAFFO: Okay.

17 PRESIDING OFCR. IACOPINO: With
18 respect to the Track 1 specifically.
19 Obviously, there's going to be some discussion
20 of Track 2 here, but with respect to Track 1
21 specifically.

22 MS. SAFFO: I just -- so, for the
23 record, on the issue of decommissioning, I
24 don't think that should be a Track 1 issue at

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1 all. I have not prepared for that to be a
2 Track 1 issue. And, so, that's just, for the
3 record, my request is that decommissioning be
4 dealt with in one discussion, and it be part of
5 Track 2.

6 You could disagree with me,
7 obviously. That's just my position.

8 MR. ROTH: Mike, if I could --

9 PRESIDING OFCR. IACOPINO: There is
10 supplemental testimony regarding the financial
11 aspects of decommissioning.

12 MR. ROTH: Yes. Mr. Ausere covered
13 that, I believe.

14 PRESIDING OFCR. IACOPINO: Yes. That
15 was filed by the 24th by Mr. Ausere. And Mr.
16 Ausere is anticipated, I understand, to be a
17 Track 1 witness.

18 Mr. Roth, and then Ms. Birchard.

19 MR. ROTH: This may be a helpful
20 suggestion, maybe, maybe not. But, in light of
21 Attorney Saffo's comment, perhaps it wouldn't
22 be a bad idea for people's witness lists, and I
23 guess that would include the Track 1 witnesses
24 that have already been disclosed, to identify,

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1 at least in, you know, sort of Twitter-type of
2 description, what it is that their subject
3 matter is that they're going to be offered for.

4 And I don't know whether -- you know,
5 I haven't looked at the witness list carefully
6 enough to know whether people have done that,
7 and maybe some have, some haven't.

8 But that could perhaps kind of put
9 some light on the mystery about who's expected
10 to say what.

11 PRESIDING OFCR. IACOPINO: Anybody
12 else have anything to say about Mr. Roth's
13 comment? Mr. Bilodeau.

14 MR. BILODEAU: I'm sorry.
15 Mr. Bilodeau. It's not about Mr. Roth's
16 comment.

17 PRESIDING OFCR. IACOPINO: Oh, yes.
18 Let me just stick with Mr. Roth for a minute,
19 because then I'm going to go to Ms. Birchard
20 after that. But I'm asking this, because I
21 actually think that this is a pretty good idea.
22 And I'm not even thinking about you people out
23 there. I'm thinking about my Committee. And
24 it may be good for them to have a nice little

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1 snapshot to remind them about what the next
2 witness panel is going to testify about when
3 they have their witness lists.

4 So, that's why I'm just throwing this
5 out. Ms. Manzelli.

6 MS. MANZELLI: Thank you, Mike. I
7 think it's a very helpful suggestion. And I
8 think it would be -- there would be great
9 efficiency if parties would do this on their
10 own behalf. I think many parties, the Forest
11 Society has done this, you know, trying to
12 characterize other people's testimony.

13 But I have two sort of pointers
14 within that. To the extent that we do this, we
15 should all try to use either the language in
16 the statute or the tracks as they have been
17 described in the order setting up the track
18 system. And, then, two, I think we should have
19 an understanding, and it would be helpful if
20 this was documented in the prehearing order,
21 that it need not be an exhaustive list. You
22 know, it's sort of a high-level overview. So,
23 if you have some little comment about another
24 topic, you're not going to be excluded from --

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1 you know, that topic won't be excluded. Thank
2 you.

3 PRESIDING OFCR. IACOPINO: And I
4 would prefer it to be less than the
5 140-character Twitter limit, too.

6 Ms. More.

7 MS. MORE: Can you hear me?

8 PRESIDING OFCR. IACOPINO: No.
9 You're going to need a microphone. Do you wish
10 to address Mr. Roth's suggestion?

11 MS. MORE: I do.

12 PRESIDING OFCR. IACOPINO: Thank you.

13 ADMIN. MONROE: There's a table up
14 here with a mike, Ms. More.

15 MS. MORE: No, it's fine.

16 PRESIDING OFCR. IACOPINO: She's got
17 a mike there.

18 MS. MORE: I was just going to say
19 that, for my -- I think that, for those of us
20 who are trying to keep up with all the
21 material, that before things begin, the
22 adjudicative process begins, it would be
23 helpful to have an integrated list of what's
24 going to be coming. You may be planning to do

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1 that, and that's what I'm taking away from
2 Mr. Roth's suggestion. Is something that is a
3 roadmap of who's going to be presenting and on
4 what topics. It can be in a table form,
5 something that people can continually refer to.
6 And I think that that will go a long way to
7 keeping us all organized and orderly.

8 PRESIDING OFCR. IACOPINO: There will
9 be such a list that comes out of this hearing
10 today.

11 In addition, this wonderful lawyer to
12 my right is in the process of putting together
13 all of your exhibit lists into a single
14 document, so that they can be -- so everybody
15 has a single thing to refer to.

16 And, then, as the hearing goes along,
17 our wonderful court reporter, to the extent
18 there are additional exhibits that come in sort
19 of randomly, he will make sure that they are
20 all reflected in the transcripts of the
21 proceedings as well.

22 Anybody else want to address
23 Mr. Roth's suggestion? Does the Applicant have
24 any objection to that?

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1 MR. NEEDLEMAN: In the end, if people
2 would find it helpful, we'll find a way to do
3 that. What I would say to folks is, unlike a
4 regular trial, where witnesses stand up and the
5 first time you know what they're going to say
6 is when they take the stand, one advantage of a
7 proceeding like this is that everything a
8 witness is going to say is in their prefiled
9 testimony. And, so, I would -- if people have
10 confusion, I would encourage them to read it,
11 and I would hope that that would resolve it.

12 PRESIDING OFCR. IACOPINO: I agree
13 with that point. And, look, there's no
14 question but that everybody's witnesses in this
15 room, the first substantive question in most of
16 these prefiled testimonies is "what is the
17 purpose of your testimony?" And, then, the
18 purpose of the testimony is laid out in the
19 answer. That's the way I think everybody in
20 this room has pretty much proceeded.

21 However, I think it would be a good
22 idea, especially from -- and I'm thinking of
23 the Committee members, because it's sort of
24 like a snapshot, it just reminds them where

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1 we're at.

2 So, you may see that in the
3 prehearing order.

4 MR. NEEDLEMAN: Well, if the
5 Committee would find it helpful, of course,
6 we'll do it.

7 PRESIDING OFCR. IACOPINO: Thank you.
8 Ms. Birchard. Sorry.

9 MS. BIRCHARD: I agree with
10 Mr. Roth's suggestion, but subject to the
11 condition that it not necessarily be considered
12 exhaustive. And, excuse me, in that vein, I
13 guess, you know, given that Mr. Bowes is the
14 only witness who is intended to appear in both
15 segments of the testimony, you know, my concern
16 is that anything within the written testimony
17 of any one of these individuals who appears in
18 Track 1, but who will not appear in Track 2,
19 should be fair game for cross-examination.

20 So, any objection to a question being
21 raised would have to be based on the scope of
22 their written testimony, not on the scope of
23 Track 1, as it has been defined in a memo. But
24 that those objections would be based on the

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1 substance of the testimony, and that we can
2 address anything in the substance of that
3 testimony, if the witness is only planning to
4 appear once. Is that correct?

5 PRESIDING OFCR. IACOPINO: I am not
6 hearing anybody suggesting anything other than
7 that. So that, if it's in the witness's
8 prefiled testimony, it's subject to
9 cross-examination by the other parties. And
10 that goes for everybody's witnesses, not just
11 the Applicant's. If it's in your witness's
12 prefiled testimony, it's generally going to be
13 fair game, unless there is some other order
14 that issues from the Chair for
15 cross-examination.

16 MS. BIRCHARD: Thank you. And, to be
17 clear, my concern is that we may characterize
18 things differently from each other, and that,
19 you know, is not something that can be defined
20 in this short list of Track 1 issues that's
21 been identified in a footnote.

22 PRESIDING OFCR. IACOPINO: I don't
23 really disagree with you on that. So, --

24 MS. BIRCHARD: Thank you.

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1 MR. CUNNINGHAM: Art Cunningham --

2 PRESIDING OFCR. IACOPINO: Let me
3 just try to get these questions answered. In
4 the back there, sir. Please identify yourself.

5 MR. PALMER: Yes. My name is Walter
6 Palmer. I'm the --

7 PRESIDING OFCR. IACOPINO: Oh,
8 welcome, Mr. Palmer.

9 MR. PALMER: Thank you. I'm the
10 spokesman for the Middle Abutters Group along
11 the underground portion of the proposed route.

12 I'd just like to echo some of the
13 other people's concerns in the room about this,
14 the whole idea of bifurcation of testimony. As
15 an intervenor group, we do not have the luxury
16 of having a counselor representing us. You
17 suggested to Ms. Pastoriza that she "speak to
18 counsel", we can't afford a counsel. We're
19 working on our own. And we are having a
20 difficult time determining what is in Track 1
21 and what is in Track 2, especially for the
22 underground portion of the route, which many of
23 the issues seem to overlap into both tracks.

24 So, I would like to ask agreement

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1 from the group that everything having to do
2 with the underground portion of the route be
3 considered part of Track 2, or even the Track 3
4 topics that you mentioned earlier. In order to
5 simplify our work, so that we don't have to try
6 to guess whether we're in Track 1 or Track 2.

7 I'm concerned that this bifurcation
8 process is going to result in disallowing a lot
9 of testimony that the Subcommittee should be
10 hearing.

11 PRESIDING OFCR. IACOPINO: Well, no
12 testimony is going to be disallowed unless
13 there's an objection to it and the ruling is
14 made by the Chair. So, that's a concern that
15 you might have regardless of how we proceed.

16 But, aside from that, the other thing
17 I want to clear up is, when I talk about "Track
18 3", that's everybody, other than the Applicant.
19 It wasn't meant to be a delineation by issues.

20 So that, when I talk about "Track 3",
21 it's just the Applicant is going to put their
22 witnesses -- Track 1 witnesses on first, then
23 they're going to put their Track 2 witnesses
24 on, and then Track 3 is everybody else about

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1 everything else. So, I don't know if you were
2 here when we had that discussion, but that's
3 what we spoke about at the beginning of the
4 conference.

5 So, Ms. Saffo.

6 MS. SAFFO: I think the concern,
7 though, is that we understand that you can't
8 guarantee what's going to be admissible or not,
9 what's going to be deemed material and
10 relevant, but we don't want to lose on a
11 technicality. So, I think that's the concern
12 that people have in the room, is that, because
13 we didn't raise it under Track 1, we're now
14 barred from raising it.

15 If we're barred because it's not
16 material and relevant, that's just the rules.
17 That's fine. But barred because we made the
18 mistake of not asking it earlier, I think
19 that's what you're speaking to, back in the
20 back.

21 MR. ROTH: Mike, if I may?

22 PRESIDING OFCR. IACOPINO: Let me
23 hear from Ms. Pacik first. She had her hand
24 raised, okay? Ms. Pacik.

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1 MS. PACIK: This might be a good
2 opportunity, in terms of being required to
3 identify documents and exhibits by topic, I
4 know there is a question about rebuttal
5 exhibits and impeachment exhibits. And I
6 didn't know if now is a good time to talk about
7 it. But, I think, as Melissa raised, to the
8 extent we know what documents we want to use,
9 we can try to identify the topic area. But
10 there may be documents that come up, that we
11 weren't expecting to need, that we would like
12 to reserve the right to introduce.

13 PRESIDING OFCR. IACOPINO: Okay. I
14 think that that question would move us on down
15 the agenda, but I think there may be still some
16 things we need to address with respect to the
17 phasing issues, and make sure everybody
18 understands what we're discussing here, in
19 terms of the phasing, because I sense that
20 there's still some confusion.

21 Mr. Roth.

22 MR. ROTH: It seems to me, and I
23 share some of this concern, although I haven't
24 fully articulated my position on it, there are

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1 two motions right now that are pending with
2 respect to the -- kind of the due process
3 issues surrounding the underground route. And
4 this is kind of showing up in the -- in a
5 perception of this bifurcation between Track 1
6 and Track 2, and are you asking the right
7 question of the right witness at the right
8 time? And that it's confusing, people don't
9 want to be prejudiced by making the wrong
10 choice.

11 And it strikes me that, if the
12 Applicants were willing to make available any
13 of the so-called "Track 1 witnesses" in Track
14 2, with respect to the construction panel, that
15 might resolve the issue. So that people didn't
16 have to sort of predict about, you know,
17 whether a particular question was related to
18 construction or not, and whether they needed to
19 ask it now, when Mr. Quinlan, Mr. Bowes, Mr.
20 Ausere were testifying, or could they ask
21 Quinlan and Bowes questions during the
22 construction panel?

23 I haven't -- I don't know myself
24 whether I would ask Quinlan and Bowes

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1 construction-related or underground-related
2 questions. But it seems to me that that's --
3 what I'm hearing is there's a concern about
4 that, and maybe that's the way to address it.

5 PRESIDING OFCR. IACOPINO: Mr.
6 Needleman, I'd like you to respond to
7 Mr. Roth's question. But, also, is there any
8 intention to put on underground testimony,
9 about the underground portion of the route, in
10 Track 1?

11 MR. NEEDLEMAN: Certainly nothing at
12 all having to do with underground construction.
13 That's all Track 2. There are issues
14 associated with cost of underground
15 generically, and I think those are things that
16 both Mr. Quinlan and Mr. Bowes have spoken to
17 at a high level. And, so, to the extent, I
18 think -- I have two thoughts on this. One is,
19 I really do think that, if people focused on
20 the testimony that people have filed, you will
21 see what they're going to cover. And I suppose
22 the other way to deal with this is, if any
23 questioner has any doubt about an issue, ask
24 the witness the question. And the witness will

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1 either be able to answer or they won't.

2 But I really think, if people focus
3 on the substance of the testimony that
4 witnesses have filed, it should resolve this.

5 PRESIDING OFCR. IACOPINO: Well, I
6 think the starkest question, when I look at the
7 tracks, okay, is public health and safety.
8 Because, obviously, safety issues that come
9 with the undergrounding of the route. Is it
10 your intention that those are going to be
11 covered by your Track 2 witnesses or your Track
12 1 witnesses?

13 MR. NEEDLEMAN: I think, if you're
14 talking about things like traffic management,
15 for example, as a public health and safety
16 issue, plainly, that's Track 2. That would Ms.
17 Farrington. If you are talking about
18 mechanisms for underground construction and how
19 that will be accomplished in a safe manner,
20 plainly, that's Track 2. Those are underground
21 construction issues.

22 There is an entirely separate aspect
23 of health and safety that has nothing to do
24 with those issues, that would be sound and EMF.

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1 Those are plainly Track 1 issues. So, that's
2 the way we're thinking about it. And I think
3 that's what the testimony reflects.

4 PRESIDING OFCR. IACOPINO: All right.
5 We're going to take a ten minute break. Be
6 back at 25 of.

7 *(Recess taken at 10:24 a.m. and*
8 *the prehearing conference*
9 *resumed at 10:43 a.m.)*

10 PRESIDING OFCR. IACOPINO: Okay. So,
11 the way that I look at this, at our agenda
12 here, I think that we have dealt with, I don't
13 know if it's to everybody's satisfaction, but
14 we've dealt with the confusion around the track
15 schedule. I am confident that the way we're
16 going to proceed is the way that we have
17 discussed. We will not be putting on Counsel
18 for the Public and the Intervenor witnesses
19 until all of the witnesses, both Track 1 and
20 Track 2, from the Applicant have testified.

21 If there's any -- if you, at any
22 point in time, on the hearings coming up for
23 which we have witnesses lists now -- or, for
24 the witness list we have from the Applicant,

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1 everybody in the room should have a copy of it.
2 It is on the website.

3 ADMIN. MONROE: It's not on the
4 website.

5 PRESIDING OFCR. IACOPINO: It will be
6 on the website. Excuse me.

7 ADMIN. MONROE: Well, I did want to
8 clarify that. I did not post all of the
9 witness lists, the amended witness lists,
10 because my concern was that it would cause a
11 problem.

12 So, my plan was, and those were
13 shared with all the parties, once we have the
14 final prehearing memorandum that establishes
15 everything, that will be posted. So, I just
16 want to clarify that.

17 PRESIDING OFCR. IACOPINO: Well, we
18 should get the Applicant's list up, only
19 because what I'm going to say to you is if
20 anybody has any questions about what they can
21 or cannot ask these witnesses, look at the list
22 of witnesses, go to their prefiled testimony,
23 see what they testify about. And, if you have
24 questions about what's in that prefiled

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1 testimony or their supplemental prefiled
2 testimony, some of them have already filed some
3 supplemental prefiled testimony, you should
4 feel free to ask it. And, with respect to the
5 one witness, I believe, that's going to be in
6 the second track, again, Mr. Bowes, at that
7 point you might be told "well, that question is
8 better left to when he comes back with that
9 panel", but be prepared to ask any questions
10 that you want, as long as it's contained within
11 their prefiled testimony. That's probably the
12 best way to prepare for those witnesses. And,
13 if there's an objection to it, we will deal
14 with the objections as we go along.

15 So, let's move on to --

16 MR. ROTH: Mike, before we do
17 that, --

18 PRESIDING OFCR. IACOPINO: Yes, sir.

19 MR. ROTH: Peter Roth, for Counsel
20 for the Public. During the break, I spoke with
21 a couple of parties. And there was one idea
22 that I had that I'd like to float and see if it
23 sails.

24 Given there's confusion about Track

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1 1, Track 2, and now Track 3, does it -- would
2 it help or make sense to have an additional
3 prehearing conference and deadlines for Track
4 3? That is -- so, that's the basic question.

5 PRESIDING OFCR. IACOPINO: I was kind
6 of -- later on in the agenda I was going to
7 actually suggest that we do it at the Track 2,
8 the April 28th -- at the April 28th prehearing
9 conference, that we plot out what is everybody
10 else's witnesses as well. That's what I was
11 going to suggest when we got down to that.

12 But when is it that you would
13 anticipate that such a third prehearing
14 conference would occur?

15 MR. ROTH: Once we know when the
16 Applicant's Track 2 people are reasonably
17 expected to be finished. Because it has always
18 struck me that the number of hearings days that
19 have been scheduled is somewhat conservative,
20 or maybe "not conservative", depending on how
21 you use the term, but --

22 PRESIDING OFCR. IACOPINO: Less days
23 than there should be.

24 MR. ROTH: Yes. It's probably not

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1 going to be enough. And what I don't want to
2 have happen is for the Track 3 to be staring at
3 the wrong end of the last, you know, six
4 hearing days. And, so, I think, you know, that
5 is a possibility.

6 But that's not what I'm trying to get
7 at with this suggestion, however. But I'm just
8 trying to, in terms of clarity, it would be
9 perhaps useful to have a third prehearing
10 conference, after the Applicant's Track 2
11 witnesses have been completed or appear to be
12 about to be completed.

13 PRESIDING OFCR. IACOPINO: Mr.
14 Needleman is that something that the Applicant
15 is considering or that you are in agreement
16 with?

17 MR. ROTH: And I would have liked to
18 have discussed it with him during the break,
19 but I just simply didn't have time. I
20 apologize.

21 MR. NEEDLEMAN: I think it's a good
22 idea. I think, when we get a clearer sense of
23 when the Applicant's case is approaching its
24 end, I think we should schedule it.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: Anybody in
2 the room disagree?

3 *[No verbal response.]*

4 PRESIDING OFCR. IACOPINO: Okay.
5 We'll put -- okay. Now, I think nobody's
6 disagreeing, and all of a sudden three hands go
7 up. Mr. Whitley.

8 MR. ROTH: They all want to agree.
9 That's it.

10 MS. WHITAKER: Stephen Whitley for
11 various municipal groups.

12 In principle, I agree and I like that
13 approach. And I'm only raising a partial
14 objection, because I'd rather have it be a
15 prehearing conference that is separate and
16 apart from the Track 2 prehearing conference.
17 That's the only suggestion that I might raise.

18 MR. ROTH: That's what I had in mind.

19 PRESIDING OFCR. IACOPINO: That's
20 what the suggestion is.

21 MR. WHITLEY: Well, you had mentioned
22 doing it during Track 2. And, so, I just
23 wanted to kind of make my preference clear on
24 the record.

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1 PRESIDING OFCR. IACOPINO: Well, I
2 think, if everybody agrees with Counsel for the
3 Public, the way the prehearing conference will
4 come out, as long as it's okay with the
5 Presiding Officer, and I don't see that that's
6 something that he would object to, because it
7 doesn't affect his calendar, is that -- that's
8 why I'm asking the question. If there's no
9 disagreement, that's likely to show up in the
10 order out of this hearing.

11 MS. WHITAKER: Okay. Thank you.

12 PRESIDING OFCR. IACOPINO: Ms.
13 Manzelli -- I'm sorry, Mr. Boldt, you were
14 first. Sorry, Amy.

15 MR. BOLDT: Not a problem.

16 PRESIDING OFCR. IACOPINO: Okay.
17 Amy.

18 MS. MANZELLI: I just wanted to say
19 that we agree with that. And the Track 3
20 prehearing conference would also be a good
21 opportunity to determine if there were enough
22 days of trial left to accommodate, you know,
23 what needed to be done for all the intervenor
24 witnesses.

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1 PRESIDING OFCR. IACOPINO: Just so
2 everybody in the room is aware, we will have
3 this hearing go for as many days as it takes to
4 have everybody's witnesses heard. And, you
5 know, just because we have certain days blocked
6 out now doesn't mean that there won't be
7 additional days. Our calendar is primarily a
8 function of the calendars of the five people
9 who sit -- seven people who sit on the
10 Subcommittee, five of whom have State jobs
11 during the day, and two of whom also are trying
12 to make a living, you know, other than being on
13 the Site Evaluation Committee.

14 So, just because there may not seem
15 to be enough days doesn't mean that there won't
16 be enough days. And everybody's witnesses will
17 be heard. We're not going to stop because
18 we've run out of time. That's never been the
19 case. I've been representing the Site
20 Evaluation Committee for quite a few years now,
21 and we've never stopped a case because "well,
22 we just don't have enough time."

23 But, with respect to the issue of
24 having a third prehearing conference, I suspect

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1 that will come out in the order which comes out
2 of this prehearing conference.

3 PRESIDING OFCR. IACOPINO: Mr. Boldt.

4 MR. BOLDT: I'm in favor of that idea
5 of having a third prehearing conference for the
6 intervenors. I am also wanting to suggest
7 that, if we have that, we scrap the
8 Intervenors' exhibit lists, witness lists, that
9 are currently in multi-fashion numbers right
10 now. And I would respectfully request that we
11 be clear that our cross-examination exhibits
12 need to be premarked prior, but not necessarily
13 listed. I would think that would be a great
14 relief to the smaller intervenors, and to the
15 municipals, for that matter.

16 But it's definitely one where that
17 removes a lot of the fear that appears to be
18 driving some folks on being caught "Are we
19 Track 1? Track 2? Which witnesses are we
20 going?"

21 Would be a suggestion that I would
22 ask the Applicant and the Counsel for the
23 Public, as well as yourself, to consider.

24 PRESIDING OFCR. IACOPINO: Mr.

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1 Needleman.

2 MR. NEEDLEMAN: It's certainly not
3 our intention to have anybody trapped. And, if
4 there's anything about managing this that helps
5 to clarify for people when they can use
6 exhibits and when they should be put in, that's
7 fine with us. That doesn't mean we may not
8 object to the substance of the exhibit, but we
9 don't want procedural hurdles to get in the way
10 of people using exhibits that they believe
11 they're entitled to try to use.

12 PRESIDING OFCR. IACOPINO: Mr.
13 Bilodeau.

14 MR. BILODEAU: Philip Bilodeau, 140
15 Nottingham Road, in Deerfield. Thank you very
16 much, Mr. Iacopino. I'm probably the least
17 knowledgeable of the practice of law in this
18 procedure in the room, and the confusion that's
19 taking place now.

20 But I'm looking at your agenda
21 handout that you provided us earlier this
22 morning. And Item Number 1 is "Offers of
23 settlement". I would like, for the record, to
24 indicate that we have reached out to the

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1 Applicant for some resolution or settlement on
2 our behalf, and we have yet to be successful to
3 date. Thank you.

4 PRESIDING OFCR. IACOPINO: Thank you.
5 Anybody else wish to address? Ms. Saffo, go
6 ahead.

7 MS. SAFFO: Does that mean that --
8 does that mean that our earlier Track 1 witness
9 lists and exhibit lists previously filed are
10 kind of null and void? That we're going to
11 resubmit a Track 3 witness list and exhibit
12 list?

13 PRESIDING OFCR. IACOPINO: I would
14 prefer, personally, for the sake of the
15 Committee, that you just add on to those
16 witness lists, as opposed to retracting them.
17 You know, I can't believe that what's on those
18 lists right now wouldn't be used by each of the
19 parties. You thought it was important enough
20 to put it on your list. So, I would ask that
21 it's just that anything that you're going to
22 add to that listen be added on the date that
23 the -- I don't really want to call it "Track
24 3", but on the date that the Counsel for the

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1 Public and the Intervenors' exhibit lists are
2 determined to be due. So, in other words, I
3 forget how many exhibits you had, 1 through 16,
4 or whatever, --

5 MS. SAFFO: Yes.

6 PRESIDING OFCR. IACOPINO: -- for
7 Grafton County, so that, when you file the
8 witness list before the next -- before the last
9 prehearing conference, it starts at 17 and goes
10 through 23, or whatever it is that you're going
11 to do.

12 MS. SAFFO: Okay. That's fine. But
13 now that we're at Track 3, are we supposed to
14 still file -- will the order outline if we're
15 supposed to still file --

16 PRESIDING OFCR. IACOPINO: Your --

17 MS. SAFFO: -- witness lists for
18 Track 2?

19 PRESIDING OFCR. IACOPINO: I'm sorry.
20 Yes. The order will outline when witness lists
21 for Track 2 and exhibit lists for Track 2, and
22 I suppose Track 3, as well if you want to call
23 it "Track 3". But, for the rest of the
24 Applicant's witnesses, those are in Track 2,

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1 and then for the Counsel for the Public and the
2 Intervenors' witnesses, if we want to call that
3 "Track 3".

4 MS. SAFFO: So, the idea of "topics"
5 are kind of not the determining factor anymore,
6 but rather, for Track 2, I would be submitting
7 the exhibits I want to use to cross-examine
8 Track 2 witnesses. And, then, for Track 3
9 would be the exhibits that I would add on for
10 my own witnesses, which are really what I've
11 already filed, by the way.

12 PRESIDING OFCR. IACOPINO: Right.

13 MS. SAFFO: And I won't retract it.
14 I don't mind providing stuff early. But just
15 to make sure we understand we can add things up
16 until the Track 3 prehearing conference?

17 PRESIDING OFCR. IACOPINO: Yes.

18 MS. SAFFO: Thank you.

19 PRESIDING OFCR. IACOPINO: And one of
20 the things that we're also going to discuss
21 later on today is what happens, somebody raised
22 it before, is "well, what happens if it turns
23 out that there's an exhibit that you found out
24 about, forgot to mark, or whatever?" We will

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1 address what to do in those circumstances.

2 Understand is that there's going to
3 be a lot of exhibits. If you've look at the
4 exhibit lists already, you understand that.
5 One of the key things we try to do is keep it
6 all organized.

7 MS. SAFFO: Uh-huh.

8 PRESIDING OFCR. IACOPINO: For both
9 the purposes of deliberation of the Committee,
10 because, after you're all done, the Committee
11 sits up here and tries to, in public, sit here
12 and understand and deliberate and speak to each
13 other, they're going to have those exhibits in
14 front of them, and they're going to be
15 discussing them. So, we want to have it
16 organized for the purposes of deliberation.
17 And also for the purposes of appellate review,
18 if indeed anybody chooses to take an appeal
19 from whatever the Committee decides.

20 MS. SAFFO: Yes.

21 PRESIDING OFCR. IACOPINO: So,
22 that's, you know, where we're coming from, with
23 respect to the exhibit lists and having them
24 premarked.

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1 I know that there is some concern out
2 there about the issue of impeachment exhibits,
3 and things like that. We'll get to that in a
4 moment. Okay?

5 But Mr. Bilodeau had started us down
6 another road, which I think we should address.
7 I don't think it's going to take too long.
8 Under the statute, we are required to consider
9 whether there are any -- whether we can
10 identify whether there are issues in dispute
11 and issues not in dispute. Generally, the way
12 this Committee operates is, when we speak about
13 "issues", we talk about the issues that are
14 contained in RSA 162-H, Section 16, which are
15 the criteria that the Site Evaluation Committee
16 has to consider in determining whether to grant
17 or deny a certificate.

18 Having sat through a whole lot of
19 technical sessions and spoken to a lot of you,
20 I have not seen too many issues where there are
21 stipulations or agreement. Is anybody aware of
22 any areas where there are stipulations amongst
23 any subset of the parties or any agreements
24 amongst any subset of the parties that you

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1 would like to put out there here at this
2 hearing today?

3 MR. NEEDLEMAN: I can start with
4 that, if you'd like.

5 PRESIDING OFCR. IACOPINO: Thank you,
6 Barry.

7 MR. NEEDLEMAN: The Applicant has
8 reached out to, I believe, all of the
9 municipalities along the route and inquired
10 whether they would be interested in having a
11 discussion about stipulations. We have
12 received a range of responses. And I can't
13 tell you what the number is, but we are engaged
14 in some kind of discussions with a fair number
15 of those municipalities trying to come up with
16 some stipulations. I don't expect that any of
17 that would be done or the vast majority would
18 probably not be done before the proceeding
19 commenced. But it's the goal, consistent with
20 how it's been done in other proceedings, to
21 try, town by town, to take as many issues off
22 the table as we can. So, that is one thing
23 we're working on.

24 To the extent that there are any

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1 other parties in the docket that are not
2 municipalities that are interested in talking
3 with us about trying to come up with some
4 stipulations, we're happy to do that with
5 anyone. And I can't recall whether that's
6 happening at the moment, but we're certainly
7 open to that.

8 PRESIDING OFCR. IACOPINO: Does
9 anybody in the room think they have a
10 stipulation or agreement with the Applicant
11 that Mr. Needleman has not mentioned?

12 *[No indication given.]*

13 PRESIDING OFCR. IACOPINO: Okay. Are
14 there any -- Mr. Palmer.

15 MR. PALMER: Just a quick question
16 there. Is it necessary for parties to have a
17 discussion with the Applicant about
18 stipulations? Can we not just submit
19 stipulations directly to the SEC?

20 PRESIDING OFCR. IACOPINO: Stipu-
21 lations, by their definition, are agreements
22 amongst the parties. So, generally, the
23 Applicant is involved in those agreements.
24 Although, I'm sure I could envision some

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1 agreements from parties who are not the
2 Applicant. But I don't know why they would be
3 submitted to the Site Evaluation Committee,
4 unless it's over something procedural, like,
5 you know, "we agree that we're going to combine
6 our intervenor groups" or something like that.

7 MR. PALMER: Right. I may not be --
8 I may not be using the right terminology then.
9 But can we not submit conditions that we would
10 like to see in the final permit directly to
11 SEC?

12 PRESIDING OFCR. IACOPINO: Yes. And
13 you'll be encouraged to do that before the end
14 of the proceedings.

15 But, when we speak of "stipulations",
16 we're talking about things that are "agreed
17 upon".

18 MR. PALMER: Okay.

19 PRESIDING OFCR. IACOPINO: Not
20 something that you wish to see.

21 MR. PALMER: Right.

22 PRESIDING OFCR. IACOPINO: Not
23 requests for relief or conditions, but
24 agreements.

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1 MR. PALMER: Okay.

2 PRESIDING OFCR. IACOPINO: Okay. We
3 have, for the Applicant's witnesses, the
4 Applicant has indicated that they intend to
5 call Mr. Quinlan on April 13th. They
6 anticipate that Mr. Bowes and Mr. Ausere will
7 testify from the 14th through the 17th, those
8 days. That a panel including William Bailey,
9 Gary Johnson, and Doug Bell will testify on the
10 18th. And that Robert Andrew will testify on
11 the 19th.

12 What I would like to do at this point
13 in time is to address the order of
14 cross-examination for those witnesses.
15 Generally, we will set up an order of
16 cross-examination, and we'll probably stick to
17 that throughout all of these. We won't be
18 changing that order, generally, for each
19 witness.

20 So, I'm going to first turn to --
21 obviously, the Applicant is putting these
22 witnesses on. I'm going to turn first to
23 Counsel for the Public. Counsel for the Public
24 plays a very important statutory role, and

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1 generally we allow Counsel for the Public to go
2 last, in terms of cross-examination, if he so
3 chooses, or go first, if he so chooses, or
4 third, fourth, fifth. So, what is your
5 preference in this proceeding, Mr. Roth?

6 MR. ROTH: Our preference at this --
7 in this proceeding is to go first.

8 PRESIDING OFCR. IACOPINO: Okay. So,
9 that will be the beginning of the order of
10 cross-examination. It's now open for a
11 discussion, in terms of how we follow up
12 Counsel for the Public.

13 So, anybody want to go second?

14 MS. MANZELLI: Oh. I thought you
15 were going to say "Does anybody have a
16 suggestion?" Can I answer that question?

17 PRESIDING OFCR. IACOPINO: Sure.

18 MS. MANZELLI: I think that the order
19 of inquiry following Counsel for the Public
20 that we used for the technical session --

21 *[Court reporter interruption.]*

22 MS. MANZELLI: Sorry. I suggest we
23 use the order of inquiry that we used for
24 technical sessions. Because we've all gotten,

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1 I think, relatively comfortable with that order
2 of inquiry. And, you know, there's no perfect
3 way to order the parties. So, that's all I was
4 going to suggest, Mike. Thank you.

5 PRESIDING OFCR. IACOPINO: Did we
6 have that written down somewhere because my
7 understanding -- my recollection of the
8 technical sessions is we did Counsel for the
9 Public, and then "anybody else have questions?"

10 ADMIN. MONROE: No. The first round,
11 and I'm looking for it. So, let me pull it up.

12 PRESIDING OFCR. IACOPINO: Okay.
13 That may be a good suggestion. So, we'll wait
14 for Ms. Monroe to pull it up.

15 MR. ROTH: I just would make this
16 comment while she's looking for that. I think
17 it perhaps goes without being said that at some
18 level we would want to be flexible to
19 accommodate people's schedules. If being last
20 means they can't conduct their
21 cross-examination, then maybe we bump them up a
22 little bit.

23 PRESIDING OFCR. IACOPINO: Oh. I'm
24 sure we will be flexible. The thing is,

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1 though, is people have to ask. You can't
2 expect that the Chair is going to know that you
3 have a problem on any particular day. You have
4 to make us aware of it. And, if we can
5 accommodate, we will. There's a large number
6 of you in this room. And it's -- you know,
7 sometimes we're not going to be able to
8 accommodate everybody. But what I would like
9 to do is have at least the general order of
10 inquiry, and that's what we'll use, so that we
11 don't have to set up a separate order of
12 inquiry for every witness or every panel of
13 witnesses. And, then, if anybody says "Look, I
14 need to leave at, you know, two o'clock today,
15 because I'm going to go get a root canal. Can
16 I move up in the order?" That's something that
17 generally, quite frankly, has usually been
18 worked out by the parties.

19 MR. ROTH: Some people will do
20 anything to get out of this case.

21 ADMIN. MONROE: So, for those of you
22 that have the website up, it was -- the initial
23 technical session agenda was published on
24 August 5th. And the order was Counsel for the

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1 Public; Municipal Group 1-North; Group 1-South;
2 Group 2, Group 3-North, Group 3-South, City of
3 Franklin and Berlin; Grafton County
4 Commissioners; followed by the Forest Society;
5 the -- I guess we'll call them the
6 "Environmental NGOs", Ms. Birchard; NEPGA; then
7 Mr. Thompson's group; Ms. Percy, the Abutting
8 Property Owners, Dummer, Stark, and
9 Northumberland; Mr. Van Houten for the Abutting
10 Property Owners, Whitefield, Dalton, and
11 Bethlehem; Mr. Palmer, for the underground
12 section, Bethlehem to Plymouth; Ms.
13 Kleindienst, for the Ashland, Northfield,
14 Canterbury, Allenstown, and Concord; the
15 Deerfield group, following Ms. Kleindienst;
16 Mr. Bilodeau; Mr. Baker, for the Non-Abutting,
17 and this is, again, things could have changed,
18 I'm just reading of from -- Non-Abutting
19 Property Owners, Clarksville and Stewartstown;
20 Ms. More, Non-Abutting Property Owners, Stark,
21 Lancaster, Whitefield, Dalton, and Bethlehem;
22 we have a group that we have never had a
23 spokesperson named, nor have I had any
24 correspondence from them. That's the

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1 Non-Abutting Property Owners, Bethlehem to
2 Plymouth; then we have Ms. Crane on behalf of
3 the Non-Abutting Property Owners, Ashland to
4 Deerfield; Ms. Williamson, who I'll call the
5 "Historic NGOs"; Mr. Raff, on behalf of the
6 "Economic Groups" I'll call them; Wagner
7 Forest, Mr. Novello, who I don't believe has
8 asked any questions at the technical sessions;
9 closed by Mr. Stamp for the Pemigewasset Local
10 Advisory Committee.

11 That's the lineup we had for the
12 technical sessions.

13 PRESIDING OFCR. IACOPINO: Ms. Pacik.

14 MS. PACIK: One modification I would
15 request is that I know certain intervenors have
16 taken positions in favor or opposed to the
17 project. And, to the extent that there's
18 groups that are in favor of it, we'd actually
19 request that they go after Counsel for the
20 Public. So that, if there's follow-up, the
21 intervenors who have opposed the Project could
22 then address those questions.

23 PRESIDING OFCR. IACOPINO: Let me ask
24 Counsel for the Public, if you would prefer

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1 that those intervenors go before you go?

2 MR. ROTH: Yes. We would like the
3 parties that support the Project to go ahead of
4 us in cross-examination. It has occurred to me
5 that it's a bit unusual to have their testimony
6 and participation be mixed in with the other
7 intervenors, many of whom are -- or, all of
8 whom, apparently, oppose the Project. My
9 office, of course, not taking a position on the
10 Project.

11 But I think that, at a minimum, that
12 would be the way to manage that.

13 PRESIDING OFCR. IACOPINO: And, quite
14 frankly, it's the way that we've done most of
15 these in the past.

16 Mr. Cunningham. Please use the mike.
17 Thank you.

18 MR. CUNNINGHAM: My question is, if
19 the exhibits are going to be organized in
20 accordance with your memorandum to the parties,
21 if they're going to be organized that way, why
22 not conduct cross-examination in the same
23 order?

24 I think that would be a much more

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1 coherent way to keep track of the exhibits.

2 PRESIDING OFCR. IACOPINO: Well, much
3 to the chagrin of the wonderful lawyer to my
4 right, that may not be the order in which the
5 exhibits -- the final Exhibit List actually
6 gets set up. We'd probably do it based on
7 whatever the order of witnesses -- the order of
8 inquiry is that we adopt here today, if we
9 adopt one.

10 But, either way, and, quite frankly,
11 from my standpoint, I would prefer to leave it
12 to Counsel for the Public, given his statutory
13 role.

14 So, I guess, when we talk about the
15 parties who you think would go before you
16 Mr. Roth, I assume you're talking about
17 Mr. Raff's group, Mr. Boldt's group, Wagner
18 Forest Management, and --

19 UNIDENTIFIED SPEAKER: The Balsams.

20 *[Court reporter interruption.]*

21 ADMIN. MONROE: Be Mr. Raff, would
22 be --

23 PRESIDING OFCR. IACOPINO: Mr. Boldt,
24 and Wagner Forest Management.

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1 ADMIN. MONROE: Well, the Balsams is
2 included in the "Business Organizations with
3 Economic Interests".

4 MR. ROTH: And that includes the Coos
5 County --

6 ADMIN. MONROE: -- Business and
7 Employers Group, North County Chamber -- North
8 Country Chamber, Dixville Capital, Balsams
9 Resort Holdings. That is the Business with
10 Economic Interests, and then Wagner Forest.
11 So, there's three I count.

12 PRESIDING OFCR. IACOPINO: So, in the
13 order of inquiry for cross-examination then
14 would be those three, and then we would start
15 with Counsel for the Public. And my -- I
16 actually like Ms. Manzelli's suggestion, that
17 we then use the order that we used at the
18 technical sessions.

19 But I want to ask a question, because
20 that order has many of the intervenor groups
21 that are not represented by counsel sort of at
22 the end. So, I do want to hear from them, if
23 they have a preference one way or another about
24 that. I think that, in some ways, it can be

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1 helpful to you, because you've -- you know, the
2 lawyers have taken their crack already, and it
3 may take some of the burden off of what you've
4 got to ask. But I don't know what your
5 feelings are.

6 So, Ms. Schibanoff, if you could
7 speak to that.

8 MS. SCHIBANOFF: Yes. Susan
9 Schibanoff. Yes. It would be very helpful to
10 learn from the lawyers. But what I'm concerned
11 about is that we could get ruled out as
12 repetitious.

13 PRESIDING OFCR. IACOPINO: Well, if
14 you are repetitious, in other words, if you are
15 asking the same questions as the lawyers asked,
16 that probably would be what the ruling would
17 be, assuming it -- I mean, obviously, there are
18 some questions that are always, you know,
19 there's always going to be some repetition.
20 But, if it's repetition to the point where the
21 Chair of the proceeding believes that it's
22 simply going over the same -- the same
23 material, that's, you know, it will be ruled
24 out. I mean, that's one of the things that the

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1 Chair's responsibility is, is to determine
2 whether questioning is unduly repetitious.

3 MS. SCHIBANOFF: So, I think what
4 you're advising us then, if we go last, is to
5 make very sure that we are asking a question in
6 a different way or don't ask it?

7 PRESIDING OFCR. IACOPINO: Yes. Or,
8 if you have a question about whether something
9 is repetitious or not, to raise it with the
10 Chair first. That's always a good way to do
11 things for folks who are not represented, is,
12 if you have a question, when it's your turn,
13 stand up and turn to him and say "Mr. Chairman,
14 I have a question about" -- "I have questions
15 about this. I am concerned you might consider
16 them to be unduly repetitious." And, you know,
17 and then there will probably be a discussion
18 about what you're planning on asking.

19 But, in my experience, it's really
20 only when -- people have not been cut off at
21 this Committee willy-nilly. I mean, it's only
22 been when it's something that has been,
23 usually, repeated more than once, before
24 there's any kind of action by the Chair.

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1 And, of course, if you come at a
2 particular issue from a different angle, that's
3 not unduly repetitious, and the Chair will
4 usually allow those questions. And, if he asks
5 me, as Counsel to the Committee, he'd be told
6 "yes, I think you should allow that question."

7 But, you know, there is, obviously,
8 pros and cons to every decision that folks
9 make. And, so, what I'm saying to the
10 intervenor groups that are not represented by
11 counsel, one of the benefits of going at the
12 end is some of the burden on you may be lifted,
13 because those questions will get asked by the
14 lawyers for the parties who are represented.
15 And the disadvantage is that they may ask all
16 the questions you wanted to ask. But that
17 might not be a disadvantage. That's a personal
18 decision, I guess, at that point.

19 Over at the Pemi, I'm sorry, I forgot
20 your name, ma'am.

21 ADMIN. MONROE: Ms. Draper.

22 PRESIDING OFCR. IACOPINO: Ms.

23 Draper, sorry.

24 MS. DRAPER: I'm Gretchen Draper,

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1 from PRLAC.

2 PRESIDING OFCR. IACOPINO: Thank you.

3 MS. DRAPER: And we're quite happy to
4 be last. We like that, getting in the last
5 word.

6 PRESIDING OFCR. IACOPINO: There will
7 be no pizza just because you're last.

8 *[Laughter.]*

9 MS. DRAPER: As long as you promise
10 that we end at a reasonable time.

11 PRESIDING OFCR. IACOPINO: Oh, we're
12 going to get to that issue, too, as we move
13 down the list.

14 MS. DRAPER: All right. Well, thank
15 you.

16 MR. SAMSON: I have one.

17 PRESIDING OFCR. IACOPINO: Com-
18 missioner. Sorry.

19 MR. SAMSON: Thank you.

20 PRESIDING OFCR. IACOPINO: Ms.
21 Monroe, am I to understand --

22 *[Court reporter interruption.]*

23 PRESIDING OFCR. IACOPINO: Oh, I'm
24 sorry. Please identify yourself.

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1 MR. SAMSON: Rick Samson, spokesman.
2 Rick Samson, spokesman, for Municipal Group
3 1-North.

4 Ms. Monroe, is the North Country
5 Chamber listed in the intervenors supporting
6 this Project group?

7 PRESIDING OFCR. IACOPINO: It's on
8 the list that she read. But understand that
9 list was from months ago.

10 MR. SAMSON: Okay.

11 ADMIN. MONROE: And I believe at one
12 point we did receive a letter from them, it's a
13 little fuzzy, but they're currently listed
14 there.

15 MR. SAMSON: Because it's my
16 understanding that they were neither opposed
17 nor in favor of the Project.

18 ADMIN. MONROE: Yes.

19 MR. SAMSON: Okay. Thank you.

20 PRESIDING OFCR. IACOPINO: Mr. Judge.

21 MR. JUDGE: I just want to put a
22 different wrinkle on this. I represent
23 McKenna's Purchase. You read out "Michelle
24 Kleindienst" as the spokesperson for the

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1 Ashland to Allenstown Group. I don't represent
2 that group. I don't anticipate that Michelle
3 Kleindienst is going to be speaking for that
4 group. The remainder members of that group are
5 *pro se*, and they will be speaking for
6 themselves.

7 PRESIDING OFCR. IACOPINO: There will
8 only be one person from the group doing the
9 cross-examination of each witness. The next
10 thing we're going to do, after we get the order
11 of inquiry, is I'm going to go around, for each
12 witness, to each group and ask who will be
13 doing the cross-examination of that witness or
14 that panel. And -- because we're not going to
15 have multiple people from the same intervenor
16 groups asking questions.

17 So, I don't know how your particular
18 group pans out, Mr. Judge. But, if
19 Ms. Kleindienst is not planning on
20 participating, you may want to speak with her,
21 and the other members of your group, about
22 letting you do the questioning with respect to
23 that group.

24 But that's, you know, there's only

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1 going to be -- we're not -- every person in
2 every intervenor group is not going to have the
3 opportunity to cross-examine every witness.

4 MR. JUDGE: I think this is something
5 that bears a lot more discussion. I don't
6 believe that there is any authority for the SEC
7 to order me to represent people who don't want
8 to be represented by me. And I think it's a
9 due process issue if McKenna's Purchase isn't
10 allowed to proceed by their counsel.

11 But I'll leave it at that for the
12 moment.

13 PRESIDING OFCR. IACOPINO: You were
14 combined under the statute as a group. And
15 it's up to the group to consider how they're
16 going to proceed. You should speak to Ms.
17 Kleindienst about that.

18 MR. JUDGE: I represent --

19 PRESIDING OFCR. IACOPINO: I'm sorry,
20 you should speak to the other -- you represent
21 her. You should speak to the other members of
22 your group about that.

23 MR. JUDGE: And I asked the other
24 members of the group if they wanted me to

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1 represent them, and they said "no". So, --

2 PRESIDING OFCR. IACOPINO: Well, the
3 group is going to designate a spokesperson who
4 will be the person who's cross-examining,
5 that's what the order says. And that's the way
6 we're going to proceed. So, --

7 MR. JUDGE: Just for the record, we
8 filed a Motion to Reconsider on that order.
9 That motion was denied. I think it's still
10 alive, as far as an appeal is concerned.

11 And I'll just repeat, I don't think
12 you can order me to represent people who don't
13 want me to represent them. And I don't think
14 you can tell McKenna's Purchase that they can't
15 be represented by their counsel.

16 PRESIDING OFCR. IACOPINO: I
17 understand your objection.

18 Mr. Palmer, did you have a question?

19 MR. PALMER: Yes. I have a
20 logistical question. Again, representing an
21 intervenor group, which is probably going to be
22 at the end of the questioning -- the end of the
23 order. What's going to happen if, in the
24 earlier part of the cross-examination, things

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1 take a lot longer than anticipated, and we
2 don't get to our part of the cross-examination
3 order until late in the day? Are we going to
4 be running until midnight every night or are we
5 going to be pushing things back and rearranging
6 the schedule every time this happens?

7 PRESIDING OFCR. IACOPINO: See, I'm
8 not going to be the Chair. So, you won't be
9 running to midnight every night. But, no.
10 We're going to discuss a stopping time later in
11 our proceeding today. There's been a
12 suggestion from the Forest Society about that
13 in the memo that they filed last -- yesterday
14 or the day before, I forget when it was filed.
15 But -- and nobody will not get a chance to
16 cross-examine a witness because we've run out
17 of time. And, presumably, we will not be going
18 into unreasonable hours. So, that's all I can
19 say about that at this point in time.

20 Somebody -- Ms. Pacik.

21 MS. PACIK: Just a couple items.
22 First, in terms of the spokesperson, my
23 understanding from the order was that, if you
24 were the spokesperson for a group, and you

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1 refused or chose not to ask a specific question
2 that dealt with another party in your group,
3 then that party would have the right to ask
4 those questions.

5 PRESIDING OFCR. IACOPINO: To ask
6 permission to ask those questions, yes.

7 MS. PACIK: Okay.

8 PRESIDING OFCR. IACOPINO: You are
9 correct about that.

10 MS. PACIK: And, along those same
11 lines, the municipal groups are all full
12 intervenors. So, I represent Concord, Stephen
13 represents Deerfield. If he has Deerfield
14 questions, I assume he can ask those questions
15 when he's dealing with, for example, a group
16 that he represents, like Municipal Group
17 1-North, would that -- or, 1-South, would that
18 be fair?

19 PRESIDING OFCR. IACOPINO: You lost
20 me in the question.

21 MS. PACIK: So, Deerfield --

22 PRESIDING OFCR. IACOPINO: Because
23 you represent separate intervenor groups, what
24 you're asking is "can I be designated as a

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1 spokes" -- let's say for Mr. Quinlan, can you
2 be designated as a spokesman for questions that
3 pertain to your town, and he asks questions
4 with respect to a separate intervenor?

5 MS. PACIK: For example, if he's
6 dealing with a different group that doesn't
7 include Deerfield, he can still ask Deerfield
8 questions when he's the spokesperson for that
9 group?

10 PRESIDING OFCR. IACOPINO: Oh.

11 MS. PACIK: There's no limitation on
12 the questions that we can ask?

13 PRESIDING OFCR. IACOPINO: Right. He
14 represents more than one -- well, yes.
15 Actually, there's no limitation on the
16 questions you can ask, other than those that
17 are in RSA 541.

18 MS. PACIK: Okay.

19 PRESIDING OFCR. IACOPINO: That they
20 be relevant to issues. I mean, just because
21 Deerfield might not have an issue, for
22 instance, with, I don't know, air quality,
23 doesn't mean that -- actually, Deerfield is
24 probably the only one that does, but there's --

[Prehearing conference]

1 doesn't mean that they can't ask questions
2 about it. If Deerfield doesn't have, for
3 instance, the wetland that's up in
4 Northumberland that might be damaged, doesn't
5 mean they can't ask questions about that
6 wetland impact.

7 MS. PACIK: Okay.

8 PRESIDING OFCR. IACOPINO: They
9 certainly can.

10 Ms. Birchard. Okay. I'm sorry,
11 Steve. Go ahead, Ms. Birchard.

12 MS. BIRCHARD: Thank you. Melissa
13 Birchard, for the NGO Intervenors.

14 So, it seems to me, if I can just get
15 a little bit further clarity, that there may be
16 three situations to consider. One would be
17 when there's a conflict or potential
18 disagreement among the parties within one
19 intervenor grouping. And you've just addressed
20 that, I believe, in saying that, if there is
21 such a conflict or disagreement, then you would
22 request permission to speak separately on
23 behalf of your organization.

24 Then, there's also the situation

[Prehearing conference]

1 where a witness panel extends over two or three
2 days. And, for example, if I can make it on
3 Monday, but I can't make it on Tuesday, could
4 we then, you know, switch off as necessary?

5 PRESIDING OFCR. IACOPINO: I really
6 want to discourage that. Obviously, if it's
7 something that is necessary, we'll discuss it.
8 And we're not inflexible. But we really don't
9 want to be in a situation where we keep
10 adjusting the schedule, because people may not
11 want to be there that day. I think we need
12 to -- you know, we're going to have a schedule.
13 The witnesses that are going to be there are
14 the witnesses that are going to be there. And,
15 if you want to cross-examine them, you should
16 probably be there to do it, you know?

17 And I also encourage you to be there
18 for the cross-examinations performed by other
19 parties, so that you know whether you're
20 asking, when it's your turn, when you're up,
21 that you know what's been asked of the witness.
22 I don't think that just because "I don't want
23 to come to all the hearings" is going to be a
24 good enough excuse.

[Prehearing conference]

1 MS. BIRCHARD: I'm sorry. So, just
2 to clarify, what I'm saying is that, if there
3 are two attorneys working with one intervenor
4 grouping, --

5 PRESIDING OFCR. IACOPINO: Oh. I'm
6 sorry. Okay.

7 MS. BIRCHARD: -- and on one day I
8 cannot attend, can the other attorney speak on
9 behalf of the group on that day?

10 PRESIDING OFCR. IACOPINO: Yes. My
11 goal in this is just to know who is going to --
12 who from each group is going to be the
13 spokesperson. We have said to everybody that,
14 if you wanted to break up the issues, and this
15 is primarily for the *pro se* intervenor groups,
16 if you wanted to break up the issues so that
17 one member of your group might deal with water
18 quality and one might deal with public safety,
19 that we allow, and have allowed traditionally
20 in the past, because it let's people break up
21 the -- all the work that needs to be done.

22 MS. BIRCHARD: Okay. You know,
23 actually, that gets to my third question, which
24 was, if there's one, you know, Applicant's

[Prehearing conference]

1 witness who speaks to three different issues,
2 and, you know, I'm best at addressing two of
3 them, and Bill, sitting next to me here, is
4 best at addressing the third, could we then
5 take that opportunity to transition to a new
6 attorney during the course of
7 cross-examination?

8 PRESIDING OFCR. IACOPINO: We would
9 prefer that you didn't. But, if it's done in
10 an organized fashion, I doubt that there's
11 going to be a whole lot of objection to it.

12 MS. BIRCHARD: Thank you very much.

13 PRESIDING OFCR. IACOPINO: Mr.
14 Whitley, sorry.

15 MR. WHITLEY: That's okay. You
16 indicated before -- Stephen Whitley, for the
17 municipal groups. You indicated before, in
18 answering Danielle's question that, if a
19 spokesperson declined to answer [ask?]
20 questions, that another person from the group
21 could ask for permission to then do the
22 questioning. And I'm looking for some
23 clarification about, in terms of ruling on that
24 request, what is going to be considered by the

[Prehearing conference]

1 Presiding Officer in making that determination?

2 PRESIDING OFCR. IACOPINO: Probably
3 whether -- I mean, I would imagine, I can't
4 speak for the Presiding Officer, but, given the
5 issue that comes up, I would imagine it's
6 whether that individual, who was in that
7 intervenor group and has a disagreement with
8 the spokesperson about what to ask, whether or
9 not they have a right or interest, a claim that
10 somehow not being protected by the questioning
11 done by the spokesperson. I would imagine that
12 that would be it.

13 The language from the order that
14 we're discussing says that "Any individual
15 intervenor, however, if unable to agree with
16 the group, has a right to file a motion stating
17 its disagreement and a motion for alternate
18 relief." Obviously, the alternate relief would
19 be requesting to continue the
20 cross-examination.

21 MR. WHITLEY: And I think, and to
22 use, I think, we're Group 3-South is what
23 Concord and Deerfield are in, I think the
24 disagreement would stem from the fact that I'm

[Prehearing conference]

1 representing Deerfield and Ms. Pacik is
2 representing Concord. And, so, when there are
3 issues that relate specifically to Deerfield,
4 you know, I think we would both prefer that I
5 would be the one handling those questions and
6 those topical areas. And I'm hoping that that
7 satisfies that language in the order of a
8 "disagreement", and that there will be no
9 objections, but that the Presiding Officer will
10 understand why we want to handle it in that
11 fashion.

12 PRESIDING OFCR. IACOPINO: I can't
13 speak for whether there will be any objection,
14 and I can't speak for the Presiding Officer on
15 what he would decide. Although, if it's done
16 in an organized fashion, I can't imagine
17 there's going to be a lack of flexibility for
18 you.

19 MR. WHITLEY: And I guess the kind of
20 corollary to this issue is, is there going to
21 be a similar limitation on the Applicant's
22 handling of witnesses? Are they going to be
23 limited to one attorney to particular
24 witnesses, topical areas?

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: That's the
2 way that we've -- that's the way that we've
3 proceeded, and I don't know why we wouldn't do
4 it for the Applicant as well.

5 Do you have an objection to that,
6 Mr. Needleman?

7 MR. NEEDLEMAN: A minor one. I think
8 the answer is, generally, that's how we intend
9 to proceed. There are several unique
10 circumstances where we intend to carve up the
11 questioning for particular witnesses, based
12 exclusively on topic area, as we did in the
13 technical sessions.

14 PRESIDING OFCR. IACOPINO: So, then,
15 I assume you don't have any objection when
16 other parties do that as well?

17 MR. NEEDLEMAN: Actually, no.
18 Stephen gave a good example. I think that, if
19 he has very specific Deerfield questions, which
20 are distinct from Concord questions that
21 Danielle may have, I would expect we probably
22 would not object to that.

23 What we would object to is, if one of
24 them had started off talking with the witness

[Prehearing conference]

1 about methodology, and then the other
2 overlapped with that, at that point, I think
3 that would probably be a problem for us.

4 PRESIDING OFCR. IACOPINO: Doesn't
5 seem like you're going to have an objection to
6 that, from the Applicant at least.

7 Anybody in the room who would object
8 to the scenario set forth by Mr. Whitley?

9 *[No indication given.]*

10 PRESIDING OFCR. IACOPINO: I don't
11 see any hands raised. So, --

12 MR. ROTH: Mike, this isn't really an
13 objection, as much as it is maybe an
14 observation and a comment.

15 I think that the mischief that this
16 discussion is designed to address is a sort of
17 a tag-team approach. And I know that, during
18 the tech sessions, there's been a fairly
19 free-flowing back-and-forth, both on my side
20 and on the Applicant's side.

21 I think, for purposes of the tech
22 sessions, that that works well enough, and we
23 sort of, you know, get along. But I'm
24 concerned that the tag-team approach in the

[Prehearing conference]

1 actual hearing is going to be less smooth and
2 more problematic.

3 And I guess I'd like to have some
4 understanding that, if there's going to be more
5 than one attorney examining a witness, that
6 there be some, I don't know how to put it
7 exactly, be some limits on that or that it be,
8 you know, really ample -- amply clear to
9 everybody what's going to happen. Because the
10 sort of free-form, back-and-forth, I don't
11 think is going to work that well at the
12 hearing.

13 MR. NEEDLEMAN: Mike, if I could? I
14 agree with Peter on that. I think that the
15 tag-teaming style approach at the tech sessions
16 would not be appropriate for the hearings. And
17 what I would envision is, to the extent that a
18 party, for some good reason, had two attorneys
19 questioning a witness, the first attorney would
20 do their questioning, and they would be
21 finished, and then the second attorney would do
22 their questioning. And they would not be
23 allowed to come back and revisit. It's not
24 meant to be a tag-team event.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: I didn't
2 even consider anything other than that. I
3 mean, I'm not going to have people just chiming
4 in. And I think that it would have to be, as
5 Mr. Roth has indicated, would have to be some
6 clear delineation on what you're changing. And
7 the other thing that I think the Committee
8 appreciates is that, when it's your turn to
9 cross-examine, you explain, "Mr. Chairman, I'm
10 going to begin the cross-examination. I'm
11 going to ask the witness about Items A, B, and
12 C, and then my colleague is going to ask about
13 Exhibits D, E, and F." And that way we all
14 know what to expect. And that's what I would
15 expect, that all of the -- that, in any case
16 where you have more than one attorney, or if
17 some of the intervenors have broken up their
18 work that way, that they do that as well.

19 I think the Deerfield group actually
20 did a very nice job of that during the course
21 of the technical sessions. And, so, they can
22 give you guidance on how to do it. So -- but I
23 think that we've sort of gotten this idea down
24 now.

[Prehearing conference]

1 Okay. What I would like to do is
2 turn to identification for each group, who you
3 anticipate doing the cross-examination of these
4 witnesses that we know are going to be called
5 between April 13th and April 19th.

6 Starting off with Mr. Quinlan, and I
7 guess we'll go -- Yes. Mr. Raff, would you be
8 the person who's going to question Mr. Quinlan,
9 if there are any questions for your group?

10 MR. RAFF: For the time being, but
11 with the right to change that --

12 PRESIDING OFCR. IACOPINO: You need a
13 microphone, my friend.

14 MR. RAFF: Yes. For the time
15 being --

16 ADMIN. MONROE: Please identify
17 yourself first for the --

18 MR. RAFF: Alan Raff, for the
19 Business Intervenor Group. And, for the time
20 being, I will be the spokesperson. And, if
21 that changes, I will be sure to let you guys
22 know.

23 PRESIDING OFCR. IACOPINO: And there
24 is nobody here from Wagner?

[Prehearing conference]

1 *[No indication given.]*

2 PRESIDING OFCR. IACOPINO: And,
3 Mr. Boldt, I assume --

4 MR. BOLDT: Chris Boldt, for the City
5 of Berlin. Primarily, it will be me. There
6 may be times that I cannot be here, and my
7 junior partner, Eric Maher, will be here,
8 M-a-h-e-r.

9 PRESIDING OFCR. IACOPINO: Counsel
10 for the Public?

11 MR. ROTH: I think I can shortcut a
12 little bit here, and say, with respect to all
13 of the witnesses that are on the calendar for
14 April, --

15 MR. PAPPAS: Track 1.

16 MR. ROTH: -- Track 1, it will be
17 either Mr. Pappas or me, to be determined at
18 the time of the hearing.

19 PRESIDING OFCR. IACOPINO: Do you
20 anticipate any examples where you may split up
21 a witness due to -- in other words, one of
22 these witnesses, one does some issues and
23 other --

24 MR. ROTH: I can't identify anything

[Prehearing conference]

1 in particular at the moment. It's possible.
2 And we'll make that clear at the time of the
3 cross.

4 PRESIDING OFCR. IACOPINO: So,
5 Municipal Group 1-North?

6 MR. SAMSON: Mr. Chairman, I believe
7 that Steve Ellis not being here today, I will
8 appoint him as the spokesman.

9 *[Laughter.]*

10 PRESIDING OFCR. IACOPINO: Good idea.
11 Is that for all the witnesses, too?

12 MR. SAMSON: Yes, it is.

13 PRESIDING OFCR. IACOPINO: Okay. Mr.
14 -- I'm going to go back to Mr. Raff for a
15 minute, because -- do you anticipate that
16 you'll be on all of these witnesses for the
17 Applicant between the 13th and the 19th, it
18 will be you for your group?

19 MR. RAFF: I honestly would think
20 that it's possible that Attorney Beliveau might
21 want to ask more questions in that stretch.
22 But I'm happy to be the primary for right now.
23 And should we need to do what you were speaking
24 about prior about, you know, "Attorney Raff is

[Prehearing conference]

1 going to discuss issues A, B, and C. Attorney
2 Beliveau is going to discuss, you know, X, Y, Z
3 issues." But --

4 PRESIDING OFCR. IACOPINO: If you
5 guys could confirm and get back to me at some
6 point before we start?

7 MR. RAFF: Yes. Absolutely. Thank
8 you.

9 PRESIDING OFCR. IACOPINO: Municipal
10 Group 1-South?

11 MR. WHITLEY: Steven Whitley, for the
12 Municipal Groups. I'll be handling the
13 questioning for Group 1-South.

14 PRESIDING OFCR. IACOPINO: Okay. And
15 would that be true for all of these witnesses?

16 MS. WHITAKER: For all the witnesses
17 in Track 1, yes, from Group 1-South.

18 PRESIDING OFCR. IACOPINO: Muni Group
19 2?

20 MS. FILLMORE: That would be me,
21 Christine Fillmore. Or, depending on
22 availability, possibly my colleague, Shawn
23 Tanguay, from my firm, for all of the witnesses
24 on behalf of Municipal Group 2.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: Municipal
2 Group 3-South?

3 MS. PACIK: Danielle Pacik, for all
4 the witnesses. You want to know about 3-North?

5 PRESIDING OFCR. IACOPINO: I'm sorry?

6 MS. PACIK: Would you like to know
7 about 3-North?

8 PRESIDING OFCR. IACOPINO: Didn't I
9 just ask about it? Oh, did I skip it? Yes,
10 3-North?

11 MS. PACIK: Who is that?

12 MR. WHITLEY: Steven Whitley,
13 spokesperson for 3-North. I'll be handling the
14 questioning for all witnesses of Track 1 on
15 behalf of 3-North.

16 PRESIDING OFCR. IACOPINO: Lara, I
17 assume you will be questioning for the
18 commissioners?

19 MS. SAFFO: Yes. Thank you.

20 PRESIDING OFCR. IACOPINO: And that's
21 for all three of the Track 1 witnesses -- all
22 four days of the Track 1 witnesses, four
23 sittings?

24 MS. SAFFO: Yes. I have some

[Prehearing conference]

1 scheduling conflicts. So, I might have to
2 appoint somebody else in my stead. But,
3 obviously, due to my unavailability.

4 PRESIDING OFCR. IACOPINO: Thank you.
5 Clarksville/Stewartstown Abutting and
6 Non-Abutting Property Owners -- oh, I'm using
7 the wrong one? Who's next?

8 ADMIN. MONROE: It would be Forest
9 Society?

10 MR. REIMERS: Yes. I'm Jason
11 Reimers. I will be questioning
12 Messrs. Quinlan, Bowes and Ausere. And Beth
13 Boepple, B-o-e-p-p-l-e, will be questioning
14 Mr. Bailey, Johnson, Bell, and Andrew.

15 PRESIDING OFCR. IACOPINO: Ms.
16 Birchard?

17 MS. BIRCHARD: I anticipate
18 representing the NGO intervenors for the
19 witnesses scheduled in April. Thanks.

20 PRESIDING OFCR. IACOPINO: Thank you.
21 Is anybody here from NEPGA?

22 *[No indication given.]*

23 PRESIDING OFCR. IACOPINO: Okay.

24 ADMIN. MONROE: Combined group of

[Prehearing conference]

1 intervenors, Mr. Thompson?

2 MR. THOMPSON: Yes.

3 ADMIN. MONROE: It would be you and
4 only you?

5 MR. THOMPSON: So, I'm the spokesman,
6 and I'll be representing our group. But we do
7 have other participants. And I don't know if
8 that's what you're looking for. Like Attorney
9 Steve Nix, or is he just a witness?

10 ADMIN. MONROE: He's a witness. So,
11 what we're looking for are who would be
12 questioning the Applicant's witnesses for
13 April?

14 MR. THOMPSON: Me.

15 ADMIN. MONROE: Okay.

16 PRESIDING OFCR. IACOPINO: And, then,
17 Ms. Percy's group, the Abutting Property Owners
18 from Dummer, Stark, and Northumberland?

19 MR. CUNNINGHAM: Art Cunningham.
20 I've talked to Susan. And my expectation is
21 that I would cross-examine Quinlan, Bowes, and
22 Ausere. But I haven't talked to Bob about it,
23 Bob Baker, because he has a couple clients
24 involved in that group as well.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: What do
2 you have to say about that, Mr. Baker?

3 MR. BAKER: I would defer to Art, and
4 let him take the lead on any cross-examination.
5 If there's a problem with attendance, which I
6 will have coming up, for Art, I will be happy
7 to step in and do the examination.

8 PRESIDING OFCR. IACOPINO: So, we
9 should anticipate Mr. Cunningham, though, for
10 the most part?

11 MR. CUNNINGHAM: Yes. Thanks, Bob.

12 ADMIN. MONROE: So, Mr. Cunningham,
13 you said "Quinlan, Bowes and Ausere"?

14 MR. CUNNINGHAM: Yes.

15 ADMIN. MONROE: What about the
16 Bailey, Johnson, Bell, and Andrew?

17 MR. CUNNINGHAM: I probably won't
18 have questions for them. But I can talk it
19 over with Susan. She may. But my interests
20 wants Quinlan, Bowes and Ausere.

21 PRESIDING OFCR. IACOPINO: If there
22 are questions for the other four, that would
23 most likely be Ms. Percy?

24 MR. CUNNINGHAM: I assume so. But I

[Prehearing conference]

1 will have to discuss it with her, Mike.

2 PRESIDING OFCR. IACOPINO: Thank you.
3 Abutting Property Owners Whitefield to
4 Bethlehem (Overhead portion), Mr. Van Houten's
5 group?

6 *[No indication given.]*

7 PRESIDING OFCR. IACOPINO: Is there
8 anybody here?

9 *[No indication given.]*

10 PRESIDING OFCR. IACOPINO: Let's move
11 on to Mr. Palmer's group, the Abutting Property
12 Owners Bethlehem to Plymouth (Underground)?

13 MR. PALMER: This is Walt Palmer.
14 I'll be asking most of the questions. Or, I
15 will be acting as the spokesperson, but I
16 reserve the right to substitute other people
17 in, which we will agree with the chairperson
18 ahead of time.

19 PRESIDING OFCR. IACOPINO: Next is
20 Abutting Property Owners from Ashland to
21 Concord. The group's spokesperson is listed as
22 Ms. Kleindienst. Mr. Judge?

23 MR. JUDGE: I'm going to sound like a
24 broken record here.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: Uh-huh.

2 MR. JUDGE: I have filed an
3 appearance in this proceeding for McKenna's
4 Purchase, and only for McKenna's Purchase. I
5 know that there are other members of this
6 group -- and let me just add that McKenna's
7 Purchase is a condominium association that has
8 nothing in common with any other members of the
9 group. I know there are other members of the
10 group that have questions.

11 Until I looked at Mr. Quinlan's
12 testimony -- supplemental testimony, I didn't
13 think I had any Track 1 questions. But he is
14 proposing some sort of economic makeup that's
15 really not very clear regarding some property,
16 which is not very clear. So, I think I will
17 have questions for Mr. Quinlan.

18 That order on intervention can be
19 modified at any time and it's supposed to
20 protect the due process interests of the
21 intervenors. I don't have anything to do with
22 the other intervenors in this group. And we'll
23 have to cross that bridge or burn it when we
24 come to it.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: Do you
2 know if your group has designated anybody to
3 cross-examine the other witnesses other than
4 Quinlan?

5 MR. JUDGE: No. I asked the rest of
6 the group if they wanted me to represent them,
7 and they said "no", and that's the end of the
8 conversation.

9 PRESIDING OFCR. IACOPINO: Ms. Lee,
10 is it your intention to ask questions of the
11 Track 1 witnesses for the Applicant?

12 MS. LEE: Is this on?

13 PRESIDING OFCR. IACOPINO: Yes.

14 MS. LEE: I had -- as I understand
15 it, Track 1 would include --

16 PRESIDING OFCR. IACOPINO: I can tell
17 you their names: Mr. Quinlan, Mr. Bowes, Mr.
18 Ausere, Mr. Bailey, Mr. Johnson, Mr. Bell, and
19 Mr. Andrew. Those are the Track 1 witnesses.

20 MS. LEE: Only if they address health
21 and safety I would have a question. And, as
22 I'm *pro se*, and it's a very difficult
23 understanding of my group being Ashland to
24 Allenstown. Mr. Judge represents McKenna's

[Prehearing conference]

1 Purchase. And, during the tech sessions, I've
2 been representing myself. And I believe
3 there's no real concern or overlap between
4 living in a condo of 150 plus people and living
5 in a very remote, little town of Northfield.
6 I've been speaking for myself.

7 So, I would hope that, if the witness
8 has a turn to ask any questions that have to do
9 with Track 1, during Track 1, I would be able
10 to say to Mr. Judge "Mary Lee go". And I'm
11 trying to understand what you just explained,
12 which means only one spokesperson, even though
13 we don't have the same issues. But it's not
14 exactly a disagreement. And I also had
15 submitted as a place marker Taras -- Taras
16 Kuchman [sic]?

17 ADMIN. MONROE: Kucman.

18 MS. LEE: Taras Kucman's name as a
19 witness, because we share a health and safety
20 issue. And I had submitted his name so that,
21 when it came my turn to discuss health and
22 safety, I would just turn it over to him. He
23 has a slight different take on the health and
24 safety.

[Prehearing conference]

1 So, I'm kind of confused, and I'm
2 thinking due process wouldn't allow me as a *pro*
3 *se* to have my two cents.

4 PRESIDING OFCR. IACOPINO: Well,
5 you're a member of an intervenor group, just as
6 I discussed with Mr. Judge. What we're looking
7 for is "who within that intervenor group is
8 going to conduct the cross-examination of these
9 witnesses?" What I think I'm hearing you say
10 is that Mr. Kucman might have questions for
11 cross-examination, sounds at least you and him
12 might be on the same page about that.

13 MS. LEE: Yes.

14 PRESIDING OFCR. IACOPINO: Do you
15 know which witness it is that you would be
16 anticipating that to occur? And, Mr. Kucman,
17 if you know, chime in. And identify yourself
18 first.

19 MR. KUCMAN: Yes. My name is Taras
20 Kucman. I'm an intervenor from Concord.

21 I would have issues with those
22 individuals that have a direct engineering
23 discussion about the transmission lines.

24 PRESIDING OFCR. IACOPINO: Okay.

[Prehearing conference]

1 What I'm going to ask you to do, at least to
2 the extent that at least two members of your
3 group here are in agreement on that, is if you
4 and Ms. Lee would look at the prefiled
5 testimony filed by these witnesses.

6 MR. KUCMAN: Uh-huh.

7 PRESIDING OFCR. IACOPINO: And if you
8 could let the Administrator, Ms. Monroe, know
9 which witnesses you, Mr. Kucman, may have
10 questions for, I think that would be the
11 easiest way to do that. Okay?

12 MR. KUCMAN: Thank you. I'll do
13 that.

14 PRESIDING OFCR. IACOPINO: And, you
15 know, Mr. Judge, obviously, you've made your
16 objection. I can't rule on it. And it's
17 already been ruled on by the Chair.

18 Okay. Who's the next group?

19 MR. SAMSON: Mr. Iacopino, if I may
20 please?

21 PRESIDING OFCR. IACOPINO: Yes, sir.

22 MR. SAMSON: We have a late arrival
23 here.

24 PRESIDING OFCR. IACOPINO: Oh-oh.

[Prehearing conference]

1 Who's here?

2 MS. PERCY: Susan Percy, and I'm
3 always late. So, I apologize. But I
4 understand that I represent Stark, Dummer, and
5 Northumberland as the spokesperson for the
6 group?

7 PRESIDING OFCR. IACOPINO: That's
8 what we have you down as.

9 MS. PERCY: Okay. And did you have a
10 question?

11 PRESIDING OFCR. IACOPINO: Yes.
12 Well, Mr. Cunningham indicated that he was
13 designated to ask questions of Mr. Quinlan,
14 Mr. Bowes, and Mr. Ausere in that -- in that
15 first group of witnesses.

16 That leaves Mr. Bailey, Mr. Johnson,
17 and Mr. Bell, who are going to testify as a
18 panel, and Mr. Andrew, who is going to testify
19 separately.

20 And the question for your group was,
21 who, if anybody, is going to cross-examine
22 those witnesses? Because Mr. Cunningham said
23 he did not -- he was not designated to do that.

24 MS. PERCY: Okay.

[Prehearing conference]

1 PRESIDING OFCR. IACOPINO: Would it
2 be you, because that's what I wrote down?

3 MS. PERCY: Okay. That sounds like a
4 plan.

5 PRESIDING OFCR. IACOPINO: All right.
6 That's what Mr. Cunningham said as well. Thank
7 you.

8 MS. PERCY: Great. Thank you.

9 PRESIDING OFCR. IACOPINO: Okay. So,
10 Mr. Cote, on behalf of the Deerfield abutters,
11 or Ms. Menard?

12 MS. MENARD: Thank you. Jeanne
13 Menard, Deerfield abutters. I'll be prepared
14 to question Mr. Quinlan. And Jo Anne Bradbury
15 will cover the panel of Mr. Bailey, Mr. Bell,
16 and Mr. Johnson.

17 And it would be our preference, as an
18 abutter group, to have Bob Cote question Mr.
19 Ausere and Mr. Andrews. However, I do need to
20 confirm his availability for that. And, so, in
21 the event that he is not able to, it will
22 either be Jo Anne or myself.

23 PRESIDING OFCR. IACOPINO: Thank you.

24 MS. MENARD: But we're hoping that he

[Prehearing conference]

1 is indeed the spokesperson for that time, those
2 topics.

3 PRESIDING OFCR. IACOPINO: Who's next
4 here? Mr. Bilodeau, actually, will Mr. Hogan
5 be here or will you be --

6 MR. BILODEAU: I will make myself
7 available as much as I can, and Mr. Hogan will
8 make himself as much available as he can.

9 PRESIDING OFCR. IACOPINO: Okay. All
10 right. Mr. Baker, for the Non-Abutting
11 Property Owners Clarksville and Stewartstown?

12 MR. BAKER: That group has been
13 combined with the abutting property owners in
14 those towns.

15 PRESIDING OFCR. IACOPINO: Yes.

16 MR. BAKER: So, my job as
17 spokesperson for that group has been merged out
18 of existence.

19 PRESIDING OFCR. IACOPINO: Lucky you.
20 Is there anybody here for the Non -- did I miss
21 one? Oh, Ms. More, for the Non-Abutting
22 Property Owners Stark to Bethlehem?

23 MS. MORE: I would be the
24 spokesperson, but we do not anticipate asking

[Prehearing conference]

1 any questions.

2 PRESIDING OFCR. IACOPINO: Thank you.
3 The Non-Abutting Property Owners for the
4 underground portion from Bethlehem to Plymouth.
5 This is the group that Ms. Monroe indicated
6 before we don't have a spokesperson for. Is
7 anybody here from that group?

8 *[No indication given.]*

9 PRESIDING OFCR. IACOPINO: Let's turn
10 now to the Non-Abutting Property Owners for the
11 overhead portion for Ashland to Deerfield. I
12 understand Mr. Foulkes is here for them?

13 MR. FOULKES: I am. The personal
14 designate to question Mr. Quinlan, Bowes,
15 Ausere, Bailey, Johnson, and Bell will be
16 Maureen Quinn.

17 PRESIDING OFCR. IACOPINO: And, Mr.
18 Foulkes, just identify yourself so that the
19 stenographer has your name down.

20 MR. FOULKES: Tom Foulkes, designated
21 spokesman for Ashland to Deerfield
22 non-abutters.

23 PRESIDING OFCR. IACOPINO: Thank you.

24 ADMIN. MONROE: So, we have Quinlan,

[Prehearing conference]

1 Bowes, and Ausere are you, Mr. Foulkes?

2 MR. FOULKES: No. That will be --
3 the questioning will be done by Maureen Quinn.
4 And that also applies to Bailey, Johnson, and
5 Bell.

6 PRESIDING OFCR. IACOPINO: Thank you.
7 Is there anybody here from the Historical NGOs?

8 *[No indication given.]*

9 PRESIDING OFCR. IACOPINO: And, then,
10 bringing up the rear, the Pemi?

11 MR. DRAPER: Here we are.

12 MR. STAMP: Yes. Max Stamp, Pemi
13 River Group. We've been operating with a
14 division of labor format. And we are going to
15 have to have a conference, and we'll do that
16 soon, if we could. And we'll get back to you
17 fairly shortly with who in our group will
18 question what witness.

19 PRESIDING OFCR. IACOPINO: Okay. All
20 right. It's about five of twelve. Why don't
21 we take a lunch break.

22 When we come back, we're going to
23 discuss exhibits, exhibit lists, if anybody has
24 questions about where they're going to sit or

[Prehearing conference]

1 presentation of exhibits, things like that. We
2 need to discuss the site visits that are
3 scheduled. And we also need to discuss
4 generally starting and stopping times.

5 And, Amy, I think there was one other
6 thing you had raised in your memo that I
7 haven't addressed that --

8 MS. MANZELLI: Confirming -- it may
9 be moot now, based on the 1, 2, 3 track
10 considerations, but confirming --

11 *[Court reporter interruption.]*

12 MS. MANZELLI: Confirming when the
13 historic and public interest standards would be
14 addressed.

15 PRESIDING OFCR. IACOPINO: Okay.

16 MS. MANZELLI: Whether we might
17 anticipate the scheduling of any additional
18 hearing dates in particular in May. The
19 conclusion of the hearing days, the time. I
20 thought that we were going to go over the
21 technology, you know, --

22 PRESIDING OFCR. IACOPINO: We were
23 going to do that last.

24 MS. MANZELLI: Okay. Marking of

[Prehearing conference]

1 illustrative exhibits. When public comment
2 might occur. And I thought it would be helpful
3 to talk about a couple Track 2 issues,
4 including when we might -- if we should
5 anticipate any additional hearing days, you
6 know, if there are any experts that already
7 have blocks of unavailability, it might be
8 helpful if that was stated now, if it's known.

9 PRESIDING OFCR. IACOPINO: Yes.

10 Okay. So, we'll address those issues as well
11 when we come back after lunch, at one o'clock.
12 Thank you.

13 MS. MANZELLI: Thank you.

14 (Lunch recess taken at 11:54
15 a.m. and concludes the **Morning**
16 **Session** of the Prehearing
17 Conference. The Prehearing
18 Conference continues under
19 separate cover in the transcript
20 noted as **Afternoon Session**
21 **ONLY.**)
22
23
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