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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

June 23, 2017 - 1:48 p.m. DAY 19
49 Donovan Street Afternoon Session ONLY
Concord, New Hampshire

{Electronically filed with SEC on 07-10-17}

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.
(Hearing on the merits)

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:
Chrmn. Martin P. Honigberg Public Utilities Comm.
(Presiding as Presiding Officer)

Cmsr. Kathryn M. Bailey Public Utilities Comm.
Dir. Craig Wright, Designee Dept. of Environ. Serv.
Christopher Way, Designee Dept. of Resources &
Economic Development
William Oldenburg, Designee Dept. of Transportation
Patricia Weathersby Public Member
Rachel (Whitaker) Dandeneau Alternate Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq., Counsel to the SEC
(Brennan, Caron, Lenehan & Iacopino)
Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

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

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I N D E X

WITNESS PANEL: DENNIS MAGEE
 ROBERT VARNEY
 LEE CARBONNEAU
 SARAH BARNUM
 JACOB TINUS

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AFTERNOON SESSION

(Hearing resumed at 1:38 p.m.)

CHAIRMAN HONIGBERG: Mr. Cote,
are you ready to go?

MS. BRADBURY: Can I go first
before Mr. Cote?

CHAIRMAN HONIGBERG: Sure.

MS. BRADBURY: Thank you, Mr.
Chairman.

CROSS-EXAMINATION

BY MS. BRADBURY:

Q. Okay. I have some questions for you, Ms.
Carbonneau. You testified a number of times
that there are Best Management Practices for
construction activities in and around
wetlands; is that right?

A. (Carbonneau) Yes, that's right.

Q. Okay. So, in November of 2016, this past
November, you received an e-mail from Craig
Rennie at DES bringing a complaint from a
concerned citizen in Deerfield about the
geotechnical boring work that was being done
by Eversource personnel out at the Deerfield
Substation expansion area; is that right?

1 A. (Carbonneau) Yes. I'm not sure the work was
2 being done by Eversource personnel. It was
3 the geotechnical subconsultants working for
4 Eversource.

5 Q. Right. Well, someone was out there --

6 A. (Carbonneau) Yes.

7 Q. -- with a drilling rig?

8 A. (Carbonneau) Yes.

9 Q. Okay. So there was a Normandeau scientist
10 out there reflagging the wetland boundaries
11 along the existing access road before that
12 work started; is that right?

13 A. (Carbonneau) That's right.

14 Q. You were that scientist?

15 A. (Carbonneau) I was not.

16 Q. Were you on site?

17 A. (Carbonneau) I was not.

18 Q. Okay. Do you happen to know if the wetland
19 boundaries, those flags were pink?

20 A. (Carbonneau) Yes, I believe they were.

21 Q. Okay. Well we'll get back to that in a
22 minute.

23 So you weren't there. You didn't see
24 the flagging being done; right?

1 A. (Carbonneau) Right.

2 Q. Okay. So the heavy machinery working out
3 there at the substation had crossed a
4 wetland; right?

5 A. (Carbonneau) Yes, there is an existing access
6 path through the wetland that the machinery
7 was meant to traverse in that location.

8 Q. All right.

9 MS. BRADBURY: So can we get
10 those pictures of that.

11 BY MS. BRADBURY:

12 Q. I believe I have been told by Mr. Johnson
13 that that he believes is a drill rig. Have
14 you seen one of those before?

15 A. (Carbonneau) I have.

16 Q. Yeah, that was one of the machines. And then
17 we have the Morooka rig. Not actually sure
18 what the Morooka does. Do you know? It's
19 got the big tracks on it.

20 A. (Carbonneau) I'm not sure what specifically
21 that machine was for.

22 Q. Okay. So the wetland was initially dry.
23 Rubber mats were laid at the wetland
24 crossing; correct?

1 A. (Carbonneau) Correct.

2 Q. And then it started to rain.

3 A. (Carbonneau) Yes, once they had started
4 getting their equipment back in to the
5 locations where they needed to drill.

6 Q. Yes. And the contractor continued driving
7 the heavy rig through the wetland; correct?

8 A. (Carbonneau) Yes.

9 Q. And the wetland got increasingly damaged and
10 rutted; correct?

11 A. (Carbonneau) Where the rubber mats were, it
12 was not rutted. But on either end
13 approaching those where those mats were, then
14 rutting was occurring, yes.

15 Q. Okay. So you can -- okay.

16 MS. BRADBURY: So just go back to
17 that first picture, Jeanne.

18 BY MS. BRADBURY:

19 Q. So it was -- there was a Normandeau
20 representative or contractor out there. I
21 believe it was a Normandeau representative
22 that instructed the contractor driving the
23 rig to deploy some additional matting; right?

24 A. (Carbonneau) That's right.

1 Q. Okay. And that additional matting consisted
2 of rubber mats and plywood boards; right?

3 A. (Carbonneau) Yes.

4 Q. Okay. And was Normandeau aware that rubber
5 mats and plywood boards were going to be used
6 by the contractor to cover the wetlands so
7 that the heavy drilling rig could ride
8 through it?

9 A. (Carbonneau) Not initially, although at the
10 time the work had begun, it seemed reasonable
11 at the time, because having just gone through
12 a summer drought it was really dry and hard
13 out there at the time.

14 Q. Yeah, okay. But there was a geologist out
15 there; right?

16 A. (Carbonneau) I believe that's true, yes.

17 Q. Was the geologist working for Normandeau or
18 someone else?

19 A. (Carbonneau) No, it was not a Normandeau
20 employee.

21 Q. Okay. And the geologist, that day when it
22 was raining, tried to reposition those mats,
23 those rubber mats, and the plywood boards
24 several times to try to protect the wetlands;

1 right?

2 A. (Carbonneau) That's my understanding.

3 MS. BRADBURY: Okay. So can I
4 get the second photo up there now?

5 BY MS. BRADBURY:

6 Q. Okay. So would you agree that use of rubber
7 mats and plywood boards is not Best
8 Management Practices for protecting wetlands
9 from heavy equipment?

10 A. (Carbonneau) In this situation, it was
11 considered not adequate. That's correct.

12 Q. Thank you.

13 MS. BRADBURY: Can we get the
14 third picture up there?

15 BY MS. BRADBURY:

16 Q. And do you agree that it is the
17 responsibility of Eversource to ensure that
18 Best Management Practices are being observed
19 by its contractors?

20 A. (Carbonneau) Yes. The Applicant, in this
21 case, Northern Pass, that would be their
22 responsibility.

23 Q. Okay. And contractors should follow the
24 BMPs; right?

1 A. (Carbonneau) Right.

2 Q. Otherwise, all the work you've done and many
3 other people have done would be for naught;
4 would you agree?

5 A. (Carbonneau) Yes. The idea of Best
6 Management Practices is that they're
7 followed.

8 Q. Right. And it is their, the contractor's,
9 responsibility to actively protect the
10 wetlands when they're working with that heavy
11 equipment; right?

12 A. (Carbonneau) It's their responsibility to
13 come up with Best Management Practices that
14 accomplish the goals. And in some cases they
15 need to revise the exact methods that they're
16 using to adjust for changing environmental
17 conditions.

18 Q. Right. So would you agree that the
19 contractor should have put the timber mats in
20 place before crossing the wetland?

21 A. (Carbonneau) Not necessarily. I think their
22 initial approach was satisfactory for the
23 conditions at the time. But as the
24 conditions changed, then clearly a different

1 method was needed.

2 Q. Right. So would you agree that Best
3 Management Practices require stopping work to
4 obtain the timber mats to protect the
5 wetlands once the rain comes?

6 A. (Carbonneau) Work was stopped until the
7 timber mats were placed once the rutting was
8 observed to have become a problem on the
9 site.

10 Q. Okay. But it was you who instructed the
11 contractor to deploy timber mats to cover the
12 ponded and rutted portions of the wetland in
13 the access road; right?

14 A. (Carbonneau) Yes.

15 Q. And that was done three days after the damage
16 was done; is that correct? On the 15th or
17 something --

18 A. (Carbonneau) I'm not sure of the exact dates,
19 but there had been some rutting that took
20 place prior to the timber mats being
21 deployed, yes.

22 Q. Right. So in order for the --

23 MS. BRADBURY: Can we get that
24 picture, the first picture back up again,

1 Jeanne?

2 BY MS. BRADBURY:

3 Q. In order for that kind of rutting to take
4 place, he would have driven through there a
5 number of times while it was raining or soon
6 thereafter; right?

7 A. (Carbonneau) It looks like it could have
8 taken a couple of trips for that, yes.

9 Q. Yeah. Okay. So you agree that reliance on
10 contractors to observe Best Management
11 Practices is at the heart of this project?

12 A. (Carbonneau) No, I don't agree with that. I
13 think it's a combination of having training
14 for the contractors and having monitors
15 available to help make those decisions and
16 having the appropriate materials available in
17 a timely manner.

18 Q. So would it normally be a geologist who's
19 expected to reposition those mats while the
20 drilling contractor is running through there?

21 A. (Carbonneau) It could be anyone who is so
22 delegated that authority who would be
23 responsible. But it would need to be
24 somebody who has some experience with

1 implementing Best Management Practices.

2 Q. Okay. So the geologist must have some idea
3 because he did try to reposition them; right?

4 A. (Carbonneau) I don't know. I don't know the
5 individual myself. I don't know his
6 qualifications. But I would assume that he
7 had some involvement.

8 MS. BRADBURY: Okay. So can I
9 get the second picture back up, Jeanne? I told
10 you I mixed those up.

11 BY MS. BRADBURY:

12 Q. All right. So you see the matting there.
13 Would you agree that something like that,
14 that kind of matting --

15 MS. BRADBURY: Let me have the
16 other picture, too, the next picture after that,
17 Jeanne.

18 (Discussion off the record)

19 BY MS. BRADBURY:

20 Q. Okay. Well, those kinds of mats to support a
21 heavy drill rig -- plywood, rubber -- you
22 would not expect that to support a heavy
23 drill rig in a rainy situation, would you?

24 A. (Carbonneau) It depends on what the substrate

1 is like. In a rainy situation, it's
2 preferable to have timber mats.

3 Q. Yes.

4 A. (Carbonneau) And those were eventually
5 brought in.

6 Q. Right, after everything was done. You
7 then --

8 A. (Carbonneau) Not after everything was done,
9 no. The work was still ongoing at that
10 point.

11 MS. BRADBURY: I'm going to need
12 that letter.

13 BY MS. BRADBURY:

14 Q. I have an exhibit here that shows your
15 response to the complaint that was forwarded
16 to you by the DES. And you describe what
17 we've just been through in the paragraph
18 that's marked with a big bracket. And then
19 the next paragraph you note that, even though
20 the geologist was trying to reposition all
21 those mats while the contractor was running
22 back and forth, ruts are now extending beyond
23 that. And that was -- you spoke to the
24 contractor on the 15th, which is the date of

1 your e-mail; is that correct? According to
2 the next paragraph after the bracketed
3 paragraph --

4 A. (Carbonneau) Yes, that would be correct then.

5 Q. Okay. So that the damage in the photo that
6 was taken on the 12th happened before you
7 called in the rubber -- the timber mats;
8 correct?

9 A. (Carbonneau) Yes.

10 Q. All right. Thank you. Okay. Moving right
11 along.

12 MS. BRADBURY: Jeanne, can I have
13 Deerfield Abutter 109.

14 BY MS. BRADBURY:

15 Q. This is a complaint that was filed on the
16 12th of December, about a month or so after
17 the incident with the drill rig. And there
18 was a complaint made by a concerned citizen
19 about some logging that took place out at the
20 substation. Are you familiar with the
21 logging that took place out there in early
22 December last year? Have you been out there?

23 A. (Carbonneau) If it was associated with
24 actually accessing the locations for the

1 geotechnical work, that would be my
2 understanding of what was needed so that they
3 could actually get to the geotechnical boring
4 sites with their drill rig. It's a forested
5 site, so they might have needed to cut some
6 trees down. I don't know if this is exactly
7 what's referenced in this e-mail --

8 Q. Well, he, with this --

9 (Court Reporter interrupts.)

10 A. So with his e-mail he also forwarded some
11 photographs.

12 MS. BRADBURY: So I'd like to put
13 the first one up there. I'd like to see the wet
14 area at the bottom of the photograph.

15 Q. Okay. This was taken, this photo was taken
16 on December the 4th.

17 MS. BRADBURY: Okay. Now, can
18 you pull that down a little, Jeanne, so we can
19 see the top. We're going to reference a big
20 rock up there and those towers.

21 BY MS. BRADBURY:

22 Q. Okay. So you're not specifically familiar
23 with it. You weren't out there observing or
24 supervising any of that being done?

1 A. (Carbonneau) I believe the label on the
2 bottom of this photo referenced the C129
3 line.

4 Q. Yes.

5 A. (Carbonneau) That does not overlap this
6 project area for Northern Pass.

7 Q. Okay. That's all right. So you weren't out
8 there because it wasn't Northern Pass. But
9 it is logging that took place out there. And
10 the complaint refers to the logging that took
11 place out there.

12 A. (Carbonneau) I'm not familiar with that.

13 Q. Okay. So you're not familiar with it. Can
14 you then -- okay. So I'd like you to note
15 the area of water at the bottom of that
16 photograph. So you see the water there. So
17 now turning to the next photograph that was
18 taken seven days later, it is the same
19 wetland, and you see that the wetland is
20 filled there --

21 MS. BRADBURY: No, that's not it.
22 Not it.

23 (Pause in proceedings)

24 MS. BRADBURY: So you can put

1 that one up, Jeanne.

2 BY MS. BRADBURY:

3 Q. Okay. So that's the same photograph. You
4 might recognize that same rock up there near
5 the top and the towers up there. But you...
6 you can see that's been covered over, filled,
7 that wet area down there. It's -- can you
8 see that?

9 MS. BRADBURY: Yeah, let's go
10 back to the week before. Yeah, that's the week
11 before right there.

12 BY MS. BRADBURY:

13 Q. So you can see the wet area there. Okay.
14 And if you -- you can see top of that. You
15 can see the big rock, okay.

16 MS. BRADBURY: So let's go to the
17 next week.

18 BY MS. BRADBURY:

19 Q. The week later we can see that the loggers
20 have filled that in; correct?

21 CHAIRMAN HONIGBERG: Okay. Can
22 you tell me what's happening here? What are you
23 doing?

24 MS. BRADBURY: I'm asking her if

1 she can see --

2 CHAIRMAN HONIGBERG: I haven't
3 heard an "ask" of any sort about these pictures.

4 MS. BRADBURY: Okay. I asked her
5 if she could see that the loggers had filled
6 that in.

7 BY MS. BRADBURY:

8 Q. Can you see that in the photo?

9 A. (Carbonneau) I can't tell exactly what I'm
10 looking at in this photo, if that's a
11 filled-in wetland or not.

12 CHAIRMAN HONIGBERG: Let alone
13 who may have filled it in.

14 MS. BRADBURY: Sorry?

15 CHAIRMAN HONIGBERG: Let alone
16 who may have filled it in.

17 MS. BRADBURY: Let's go back to
18 the complaint.

19 BY MS. BRADBURY:

20 Q. Okay. So you see there the complaint made on
21 December 12th by a concerned citizen, and
22 he's describing what he found out there
23 and --

24 CHAIRMAN HONIGBERG: Wait. She's

1 trying to read it.

2 MS. BRADBURY: Okay.

3 CHAIRMAN HONIGBERG: I can tell
4 she's trying to read it. So why don't you let
5 her read it.

6 MS. BRADBURY: All right.

7 (Witness reviews document.)

8 A. (Carbonneau) I've read it.

9 Q. Okay. So it describes logging that took
10 place out there between the 4th and the 11th
11 of December; correct?

12 A. (Carbonneau) That's what it purports, yes.

13 Q. Okay. And he notes that the wetland has been
14 filled in.

15 A. (Carbonneau) That's what is noted in here.

16 Q. Yes. Okay. So can you agree that filling a
17 wetland is not Best Management Practices?

18 A. (Carbonneau) Unless the filling of the
19 wetland is associated with a permit of some
20 kind, then it is likely not Best Management
21 Practices. Whether or not having some
22 organic material go into the wetland, I can't
23 say that's necessarily an impact. But I'm
24 not familiar with on the field exactly what

1 happens. So I have to only assume that this
2 person has an accurate assessment of what's
3 going on out there, and I don't --

4 Q. Okay. I'll go on to my next --

5 (Court Reporter interrupts.)

6 MS. BRADBURY: So can I get the
7 fifth, pardon me, the sixth photograph in
8 that...

9 BY MS. BRADBURY:

10 Q. Have you been out to the substation to see
11 that? Have you seen that crushed culvert?

12 A. (Carbonneau) No.

13 Q. You haven't seen it. Okay.

14 MS. BRADBURY: Let me get you the
15 next photo, the grease container.

16 BY MS. BRADBURY:

17 Q. Have you seen that out there by the
18 substation?

19 A. (Carbonneau) I have not been out there
20 recently.

21 Q. So you were there in November; right?

22 A. (Carbonneau) No, that was not me, as I
23 testified.

24 Q. Okay, okay. So you didn't see it. Okay.

1 MS. BRADBURY: All right. Let me
2 get to the next photograph, the silt fencing.

3 BY MS. BRADBURY:

4 Q. Okay. So you haven't seen it in person. But
5 when you -- isn't a silt fence supposed to be
6 upright to protect wetlands? Is that a silt
7 fence?

8 A. (Carbonneau) I don't know if that's a silt
9 fence. If it's supposed to be a silt fence,
10 then it is not doing its assigned job.

11 Q. So anyone out there with heavy equipment
12 shouldn't knock them down; right?

13 A. (Carbonneau) If they're still meant to be
14 operational, then they should be standing.

15 MS. BRADBURY: Okay. Now can I
16 get to the pink flagging?

17 BY MS. BRADBURY:

18 Q. Is that the kind of pink flagging that you
19 use to flag a wetland?

20 A. (Carbonneau) That's possible. It looks like
21 surveyor's flagging. In some cases we use
22 pink flagging that says "wetland boundary" or
23 "wetland delineation" on it, and we would
24 normally label it with a flag number.

1 Q. So when you flag a wetland, you expect it to
2 be an area that they don't run their heavy
3 machines through; correct?

4 A. (Carbonneau) Not necessarily. It's to mark
5 the boundary of the wetland in the event that
6 work is being conducted near it or through
7 it, in which case, if there is a flag that's
8 in the path that needs to be taken, then it
9 could be knocked down during the construction
10 process. But its goal is to alert the
11 contractors that they are at the wetland edge
12 and they need to recognize that.

13 Q. Okay. So would you agree that what
14 transpired as described in the complaint made
15 on the 12th of December out at the
16 substation -- that would be the 12th of
17 December 2016 -- that that is troubling,
18 given the efforts that you made to try to
19 resolve the situation that had just occurred
20 out there in November?

21 MR. WALKER: Objection. Mr.
22 Chairman, I've been patient here, and there has
23 been really very little foundation for this.
24 And I understand that the rules of evidence do

1 not apply, but now she's asking questions on an
2 unrelated matter where Ms. Carbonneau has
3 explained that she has no -- she hasn't been out
4 there, hasn't seen this area.

5 CHAIRMAN HONIGBERG: Not clear to
6 me what the question here was going to be. What
7 question were you about to ask?

8 MS. BRADBURY: The question was
9 whether Ms. Carbonneau found it troubling that
10 other events at the wetland only a month after
11 she had tried to resolve a situation at the
12 substation had taken place.

13 CHAIRMAN HONIGBERG: As you've
14 just phrased it, that's pretty objectionable.
15 Do you want to ask her, if something happened
16 like was described in that e-mail just a month
17 later, would that, along those lines --

18 MS. BRADBURY: Yes.

19 CHAIRMAN HONIGBERG: -- because
20 when you're asking her to -- when you do it the
21 way you want to do it, you're asking her to
22 basically confirm an understanding that she
23 doesn't have. It's apparent she doesn't have
24 it.

1 MS. BRADBURY: Okay.

2 CHAIRMAN HONIGBERG: So if you
3 want to ask her about how these things are
4 supposed to work, ask her how it's supposed to
5 work, and if something like that happened, would
6 that be a good thing, a bad thing or something
7 else in her view. You understand what I'm --
8 where we're going?

9 MS. BRADBURY: Yes. Yes, I'm
10 just trying to remember it.

11 CHAIRMAN HONIGBERG: Let me try
12 for you.

13 Ms. Carbonneau, you remember
14 the e-mail from -- that was signed I think by
15 Mr. Page?

16 WITNESS CARBONNEAU: Yes.

17 CHAIRMAN HONIGBERG: He described
18 an incident. But you don't know if that
19 happened or not; right?

20 WITNESS CARBONNEAU: Right.

21 CHAIRMAN HONIGBERG: If that
22 happened, which I understand was about a month
23 after you had had a conversation with someone
24 out there, would that cause you concern?

1 WITNESS CARBONNEAU: If what
2 happened was something that was not covered
3 under a permit, then perhaps that would be
4 something to be concerned about. But I don't
5 know that.

6 CHAIRMAN HONIGBERG: You'd want
7 to know more about the situation.

8 WITNESS CARBONNEAU: Absolutely.
9 I don't know enough about it to know if that's
10 concerning or not.

11 BY MS. BRADBURY:

12 Q. With respect to equipment anywhere along the
13 right-of-way, Mr. Bradstreet testified that
14 equipment will be washed down and at times
15 produce polluted water. I don't know if
16 you're reading the transcripts, but this was
17 from an earlier panel, a construction panel.

18 So have you provided any opinions with
19 respect to the disposal of the polluted
20 water?

21 A. (Carbonneau) I have not. I'm assuming that
22 Best Management Practices for washing down
23 equipment that might have potential
24 contaminants would need to be followed.

1 Q. Okay. But you haven't been asked to offer
2 that opinion to anyone except today; right?

3 A. (Carbonneau) Right.

4 Q. Do you agree that wetlands should be avoided
5 in the selection of the sites where they wash
6 down the equipment?

7 A. (Carbonneau) Yes. Typically you would not
8 want to wash your equipment down in a
9 wetland.

10 Q. Okay. And you would agree that discarding
11 polluted water could be -- could prove toxic
12 to a wetland.

13 A. (Carbonneau) If the water happened to have
14 hazardous materials in it, then preferably
15 that would not be released to a wetland or a
16 stream.

17 Q. Okay. Last week, in response to a question
18 from Ms. Manzelli for the Forest Society, you
19 noted that Normandeau did everything it could
20 to avoid and minimize impacts to wetlands; is
21 that right?

22 A. (Carbonneau) Yes. Our project design plans
23 include a strong effort to avoid and minimize
24 impacts wherever we could conceivably do

1 that.

2 Q. Also, on Tuesday of this week, you noted
3 that -- you said that every effort was --
4 "Every effort was made to avoid and minimize
5 impacts to wetlands." Do you remember that?

6 A. (Carbonneau) I don't remember my exact words,
7 but probably something along those lines.

8 Q. Okay. Have you reviewed the wetlands maps
9 provided by the Applicant? And those were
10 dated October 8, 2015.

11 A. (Carbonneau) Yes.

12 Q. You have. Did you start, you and your
13 people, start the effort to protect the
14 wetlands along the 192 miles before the
15 October 15th wetlands maps were produced?

16 A. (Carbonneau) Yes.

17 Q. And have you -- you've been over those maps
18 with the construction team?

19 A. (Carbonneau) Yes. We have offered
20 suggestions on several iterations of plans
21 through that period to make some
22 modifications, and even others since then.

23 Q. Okay. And so on multiple occasions you have
24 worked with the construction team, pointing

1 out things you wanted them to do; is that
2 correct?

3 A. (Carbonneau) The engineering team.

4 Q. Okay. All right. And would you say -- how
5 many times would you say that happened, those
6 conversations?

7 A. (Carbonneau) Oh, they're not necessarily in
8 meetings. A lot of this was done by e-mail,
9 lists of locations where we suggested
10 shifting a road, shifting a structure if
11 possible. So, I don't know. Four or five.

12 Q. Four or five --

13 A. (Carbonneau) Iterations I would say.

14 Q. So when was the last time you reviewed the
15 maps and offered an opinion with the
16 engineers then; right?

17 A. (Carbonneau) Right. Well, we've done so
18 quite recently, actually, in regards to rare,
19 threatened, endangered species. So as things
20 come to our attention, maybe changes in
21 what's happening on the ground or additional
22 comments from an agency or from someone else
23 who points out something, we've made changes.
24 So the most recent ones that were submitted

1 to New Hampshire DES I think went in, in
2 January of this year.

3 Q. Would it be accurate to say that once those
4 October 8th, 2015, wetlands maps were
5 published, did you instruct the Project Team
6 to move some of the crane pads and access
7 roads so they would avoid more of the
8 wetlands and vernal pools?

9 A. (Carbonneau) Yes, there have been those types
10 of changes since 2015.

11 Q. And there are what, four or five times you're
12 talking about?

13 A. (Carbonneau) Oh, I meant not four or five
14 since 2015. I mean, in total. We've given
15 them chunks of recommendations over the
16 years. The most recent ones have occurred
17 this winter and...

18 Q. And so six new sheets of wetlands maps dated
19 the 19th of January 2017 were produced. Did
20 you participate in the production of those
21 maps?

22 A. (Carbonneau) We participated in the changes
23 to the design that resulted in those plan
24 sheets. We didn't make the plan sheets

1 ourselves. But, yes, we participated in
2 that.

3 Q. Is six the right number?

4 A. (Carbonneau) I'm not sure, actually.

5 Q. I've been looking. I could only find six.
6 I'm just wondering if you know of more.

7 A. (Carbonneau) I don't know exactly how many
8 sheets changed. Some were done with multiple
9 changes on them. They may have involved
10 wetland avoidance or vernal pool avoidance.
11 Others were done to avoid rare plants. And
12 I'm not sure exactly how many sheets that is.

13 WITNESS CARBONNEAU: Jake, do you
14 have any idea?

15 A. (Tinus) I'm trying to remember. There were
16 two submittals in December and January, so I
17 believe there's some sheets in each follow-up
18 submittal.

19 Q. So, how many?

20 A. (Tinus) I just can't recall the exact number.

21 A. (Carbonneau) They are part of the record
22 though. They've been submitted to the SEC as
23 well.

24 Q. Can you tell me exactly where I might find

1 them?

2 A. (Carbonneau) I think I can.

3 (Witness reviews document.)

4 A. (Carbonneau) I take it back. Maybe I can't.

5 Q. Okay. That's okay. We'll keep looking. If
6 you find them later, is there a way you could
7 let the Deerfield Abutters know where they
8 are? Okay. All right.

9 CHAIRMAN HONIGBERG: Ms.
10 Bradbury, there's people over on that side of
11 the room feverishly looking for it now. I'm
12 guessing that there will be an answer fairly
13 soon.

14 MS. BRADBURY: Okay. Okay.
15 We'll come back to --

16 A. (Carbonneau) January 25th --

17 MR. WALKER: We found at least
18 one of the -- Exhibit 74. Sorry. Applicant's
19 74.

20 MR. IACOPINO: You have
21 reinforcements coming from the back.

22 MR. WALKER: They're not as
23 feverish as we are. Exhibit 74 is the January
24 submittal.

1 MS. BRADBURY: January of 2017.

2 MR. WALKER: Yes. That's

3 correct.

4 MS. BRADBURY: And are there six?

5 MR. WALKER: And the other

6 Exhibit is 72, which is the December submittal,

7 the December 2016 submittal. As far as the

8 number of sheets, I think we'd have look at the

9 exhibits to --

10 MS. BRADBURY: All right.

11 BY MS. BRADBURY:

12 Q. Okay. So were those -- the ones that came
13 out in January of 2017 and in December of
14 2016, are those sites relocating towers your
15 only changes along the 192 miles of the
16 Project?

17 A. (Carbonneau) Since? Since we submitted the
18 Application?

19 Q. No, since -- yeah, since 2015, since
20 October 8th of 2015. We know we have some
21 from January of this year and we know we have
22 some, thank you, from December of 2016. So
23 were those the sheets that showed the only
24 changes that were recommended for moving

1 towers and access roads?

2 A. (Carbonneau) So far, yes. My understanding
3 is there may be a few other sheets in
4 progress now. But as far as being submitted,
5 I think those are the two submittals that
6 have the changes.

7 Q. Okay. If additional maps are going to be
8 published, do you intend to render opinions
9 on them?

10 A. (Carbonneau) Typically the changes that would
11 be occurring on them will be to reduce
12 impacts. So I think, in general, my opinion
13 is going to be that they're favorable. If
14 for some reason there's a change in the
15 design that was to cause additional impacts
16 that we were not anticipating, then I guess
17 -- I'm not sure what you mean by "rendering
18 an opinion."

19 Q. Well, I mean look at them to say, well, I
20 really wanted them to move that farther away,
21 or I wanted them to move it east instead of
22 west --

23 A. (Carbonneau) Oh, sure.

24 Q. -- something like that.

1 A. (Carbonneau) We do look at those plan sheets
2 to make sure that we accurately quantify
3 changes in impact, because we have to let --
4 especially if they're wetland-related, we
5 need to let the New Hampshire Wetlands Bureau
6 know if the impact area has increased or
7 decreased and where that takes place. That
8 has to be done.

9 Q. Well, okay. Okay.

10 MS. BRADBURY: Mr. Chairman, the
11 Deerfield Abutters would like to reserve the
12 right to speak to this panel again when we get a
13 chance to look at those new maps, respectfully.

14 MR. WALKER: We would object.

15 CHAIRMAN HONIGBERG: I think
16 we'll deal with that when it comes.

17 MS. BRADBURY: All right.

18 BY MS. BRADBURY:

19 Q. So I'd like to go through a few maps relating
20 to some wetlands. And I will not go through
21 every map in the Project. I have selected a
22 few. Okay. We'd like to ascertain whether
23 changes have been recommended in these areas.

24 Okay. So this is Map 689 from the

1 October -- can you read the --

2 MS. BRADBURY: Can you bring up
3 the key at the bottom? October 8th, 2015?

4 MS. MENARD: Yes.

5 BY MS. BRADBURY:

6 Q. So can you see that?

7 A. (Carbonneau) I can see the map, yes.

8 Q. Okay. You can see there the magenta, the
9 solid magenta line delineates a vernal pool;
10 is that correct?

11 A. (Carbonneau) It does, yes.

12 Q. And then you see that there's an access road
13 right through the middle of that vernal pool?

14 A. (Carbonneau) Yes, that's what's shown on this
15 plan.

16 Q. And you also see a dotted purple line that
17 encircles the vernal pool that's farther out.
18 Do you see that?

19 A. (Carbonneau) Yes.

20 Q. Okay. Do you agree that the 100-foot line
21 identifies a recommended distance from the
22 edge of a vernal pool to an area of
23 disturbance?

24 A. (Carbonneau) No.

1 Q. So it's on the map. It shows in the key as a
2 100-foot vernal pool buffer. Presumably they
3 had a reason for including that 100-foot
4 vernal pool buffer.

5 A. (Carbonneau) We had a very good reason for
6 it. It was a request specifically by the
7 U.S. Environmental Protection Agency to
8 quantify the area of tree clearing within 100
9 feet of a vernal pool so that we could
10 quantify that as a secondary impact. It's
11 not a state buffer. There's no buffers for
12 vernal pools in the state.

13 Q. We'll get into that in a minute.

14 But if you're going to protect a pool,
15 isn't it better not to have the access road
16 running right through the middle of it?

17 A. (Carbonneau) It is preferable to not run
18 through the middle of it.

19 Q. Did you ask for that map -- that access road
20 to be altered in any of your discussions with
21 the Applicant?

22 A. (Carbonneau) Yes, and it has been moved.

23 Q. So that's going to be one of the maps we're
24 going to get soon?

1 A. (Carbonneau) It's already been --

2 Q. It's in there?

3 WITNESS CARBONNEAU: Is it in the
4 works?

5 MS. BRADBURY: Is it in there
6 or...

7 MR. WALKER: All of those maps
8 have been submitted.

9 MS. BRADBURY: Okay. So we're
10 not expecting any new maps at this point.

11 UNKNOWN SPEAKER: (inaudible)

12 MS. BRADBURY: Yeah. Yeah,
13 that's a -- I wonder, did you submit them to --

14 CHAIRMAN HONIGBERG: Mr. Bisbee.

15 MR. BISBEE: If I may, Mr.
16 Chairman. These were part of the materials that
17 were submitted to DES, one package in
18 December and one in January, December of 2016
19 and January of 2017. And they were submitted to
20 the SEC and other parties then, and they're also
21 on our exhibit list.

22 MS. BRADBURY: Okay. And you can
23 pull it up? You can see it there on your
24 computer? You were able to get it; right?

1 MR. BISBEE: I haven't checked
2 personally, but it is part of the package.

3 MS. BRADBURY: Okay. Well, we'll
4 go looking for it.

5 BY MS. BRADBURY:

6 Q. So you've requested that it be moved. It's
7 been moved you're telling me; right?

8 A. (Carbonneau) Yes.

9 Q. Where is it now?

10 A. (Carbonneau) It goes up towards what I would
11 call on this the top of the page. I believe
12 that's west. I'm not positive about the
13 direction. I think that's west. And it goes
14 sort of over around that rock ledge that you
15 can kind of see there.

16 The reason it was put in the middle to
17 begin with is just due to the constraints of
18 the existing lines. As you can see, the
19 current, the alignment that's shown on this
20 plan weaves between the existing lines that
21 are there. There's a strong preference not
22 to drive a crane under one of the existing
23 lines. It's very dangerous. The existing
24 access road that shows in the background

1 actually goes through the legs of one of the
2 existing structures, so that's not a viable
3 alternative either. But in looking at this
4 further, the engineers have agreed that they
5 will do whatever it takes to get that road up
6 and out of the -- it avoids the wetland
7 entirely, which is the green line. So it
8 avoids the wetland and the vernal pool now.

9 Q. But it does make me curious that -- so there
10 was a problem not only with the vernal pool
11 being damaged by the access road with very
12 heavy equipment going across it, but there
13 was also a problem with lines overhead --

14 A. (Carbonneau) Yes.

15 Q. -- in that area. And there was also a
16 problem with it going right near the base of
17 the towers. So there were multiple problems
18 with that access road there.

19 A. (Carbonneau) Well, there were multiple
20 reasons why it was placed where you see it
21 now. But they have managed to relocate it at
22 this time.

23 Q. Okay. So would it be accurate to say that
24 the -- was it the engineering team that came

1 up with the first set of maps?

2 A. (Carbonneau) Yes, I think that's fair to say.

3 Q. So would it be fair to say that the
4 engineering team, when they did that, missed
5 all those problems with this particular
6 access road?

7 A. (Carbonneau) No. What I'm saying is the
8 reason it was placed where you see it on this
9 was because of those other problems.

10 Q. Okay.

11 A. (Carbonneau) Because of the location of the
12 lines, as you can see, the vernal pools sort
13 of straddle those two lines to run right
14 between them all. It's safer than to go
15 under the lines along the right-of-way. So
16 that's why it was placed there in the first
17 instance. And this is a temporary impact.
18 It would have timber mats laid across the
19 vernal pool and then removed later on.

20 Q. Okay. Well, we'll come back to that.

21 So would you agree that weight and
22 frequency of passage of heavy equipment plus
23 the matting that would have to be placed
24 down, because those yellow areas with the

1 dots indicate matting --

2 A. (Carbonneau) Yes.

3 Q. -- that the weight of the mats and the
4 equipment in and near wetlands, including
5 vernal pools, is going to cause significant
6 damage?

7 A. (Carbonneau) No, I disagree with that.

8 Timber mats are just --

9 Q. Okay. Let's assume we have a 200,000-pound
10 construction crane and whatever number of
11 mats are necessary and -- did I hear you say
12 you don't think that will be damaging,
13 causing significant damage to a vernal pool?

14 A. (Carbonneau) That's correct.

15 Q. Okay. Well, I have some other stuff.

16 So, well, would you agree with me that
17 undergrounding the Project entirely along
18 existing transportation corridors would cause
19 less damage to wetlands?

20 A. (Carbonneau) I would say that's probably
21 likely if it was in the road, already
22 disturbed roadbed.

23 Q. Yes, I should have said "already disturbed
24 roadbed." Absolutely. Thank you.

1 So are you familiar with the document,
2 "Good Forestry in the Granite State,"
3 published by DRED, Division of Forest and
4 Lands?

5 A. (Carbonneau) I'm familiar with it. I don't
6 know it all by heart, though.

7 Q. Can't recite it for us? It's only about 250
8 pages.

9 All right. So I'm going to -- so would
10 you agree in that publication, when they say
11 that vernal pools are unique wetlands that
12 provide critical habitat for several
13 amphibian and reptile species, would you
14 agree with that?

15 A. (Carbonneau) Yes.

16 Q. Okay. Would you also agree that vernal pools
17 offer essential habitat, but it's also the
18 forest surrounding the vernal pool that's
19 important?

20 A. (Carbonneau) Yes, the surrounding habitat is
21 also important for those species.

22 Q. Okay. For example, would frogs,
23 salamanders -- they breed there; right, Ms.
24 Barnum?

1 A. (Barnum) Frogs and some species of
2 salamanders, yes.

3 Q. And they spend -- they breed in the vernal
4 pool, but they spend more than 11 months of
5 the year in the forest nearby; correct?

6 A. (Carbonneau) Yes, that's generally true.

7 Q. Okay. And would you agree, when DRED noted
8 that juvenile wood frogs and salamanders,
9 some species of salamanders, may disperse to
10 vernal pools as far away as a half a mile to
11 several miles away from the vernal pool where
12 they were born, would you agree with that?

13 A. (Carbonneau) I think that's possible, yes.

14 Q. Okay. And would you agree with them when
15 they say that these movements maintain
16 genetic variability and they recolonize sites
17 where the local amphibian populations are
18 gone?

19 A. (Carbonneau) I would say that's possible.

20 Q. Okay. So can we --

21 MS. BRADBURY: Jeanne, can I get
22 the Sheet 658? Oh, you know what? Before we
23 get to 658, Jeanne, I want to go back. I'm
24 doing what you did. Can we go back to Map 657,

1 one of those that you have there?

2 BY MS. BRADBURY:

3 Q. Okay. So you see we got a sticker on there.
4 Do you see that that wetland, which is easy
5 to see because of the yellow with the red
6 dots, that that wetland could be avoided by
7 shifting that crane pad over to the west a
8 little bit to the left?

9 A. (Carbonneau) Well, the crane pad needs to
10 surround where the new structures are going,
11 which the legs of which are indicated by red
12 dots. So it can't completely avoid that
13 wetland by being shifted. And I don't know
14 if the construction team could even erect
15 that structure if it were shifted
16 substantially to the left.

17 Q. Really? So the moving of the tower -- could
18 that tower not be moved a little bit over to
19 the west to avoid that wetland? It couldn't
20 be done?

21 A. (Carbonneau) I don't know if the tower itself
22 could be moved without other ramifications.
23 There's a lot of things that go into the
24 location of a tower. In some cases, moving

1 them requires them to be taller because of
2 the terrain or the span that they have to --

3 Q. Understand. Is that one of the wetlands that
4 you asked them to move the towers a little
5 bit? Because it wouldn't take a very big
6 distance to get away from it.

7 A. I don't recall specifically if this was one.

8 Q. Okay.

9 MS. BRADBURY: Let's go to the
10 next map. That would be 650.

11 BY MS. BRADBURY:

12 Q. Okay. So there you see another crane pad and
13 a tower of course associated with it.

14 Was there a request to the engineers or
15 the map producers to shift that a little bit
16 over to the east, to the right, to get it out
17 of that wetland there?

18 A. (Carbonneau) I don't know specifically. We
19 did have conversations with them to minimize
20 impacts to wetlands wherever they could. If
21 it was not something that we specifically
22 brought up to them, we asked them to do that.
23 Again, they likely had a very good reason,
24 but I couldn't tell you exactly what it was

1 in this particular structure as to why it is
2 where it is.

3 But again, those are temporary impacts
4 associated with a construction pad, which in
5 a wetland would be timber mats --

6 Q. Right. But with --

7 A. (Carbonneau) -- and if during the
8 construction the contractors are able to
9 tweak the size of the matting or to, you
10 know, not have it exactly to be a square --
11 we have to make some assumptions during the
12 design plans -- then they will do that. And
13 whatever minimization can be accomplished in
14 the field will also be done and documented.

15 Q. So you're pretty sure that you did not ask
16 them to move it over to the east a little
17 bit?

18 A. (Carbonneau) I didn't say that. I said I
19 can't recall --

20 Q. You can't recall.

21 A. (Carbonneau) -- specifically on this
22 particular structure.

23 Q. Okay.

24 A. (Tinus) And can I add something? In this

1 particular location, I believe this is a
2 location where you have a steeply sloped
3 terrain to the right and that was a limiting
4 factor. You have these situations that occur
5 where you're trying to balance all of the
6 things. And Lee mentioned a couple of them.
7 Raising a structure height brings up other
8 issues --

9 Q. Yes, but it was Ms. Carbonneau that had said
10 repeatedly that the environmental team did
11 everything you could to avoid and minimize
12 damage to wetlands. I'm just trying to
13 explore whether that was everything you could
14 do to avoid and minimize the damage to the
15 wetlands we've been looking at this
16 afternoon. And we know it's steep. And we
17 have seen that you guys can -- well, not you
18 guys, but the construction team can build in
19 pretty steep areas. We have seen that again
20 and again.

21 MS. BRADBURY: Okay. What number
22 is that?

23 A. (Tinus) And I think I would just add, in this
24 case, because it is where it is, in

1 reflection of the steep slope there, the best
2 bet for potentially minimizing this would be
3 to reduce that crane pad size. But that's
4 ultimately up to what the contractors can
5 determine in the field, if they have enough
6 room there to work off. But that is an
7 ongoing effort that will continue.

8 Q. And will the landowners and other
9 participants in these proceedings get an
10 opportunity to see those new mats if it's
11 ongoing and there will be -- are you saying
12 that there will be new mats produced or not?

13 A. (Carbonneau) We are required to document very
14 carefully what the impacts are associated
15 with the Project during construction. When I
16 say "we," I mean the Applicant. So one of
17 the requirements of New Hampshire DES in the
18 permit conditions of their approval is that
19 we continue to, during construction, identify
20 locations where the impacts are different
21 from what is shown on the plans. And in most
22 cases this is going to be a reduction. We
23 use some conservative estimates on the size
24 of the matting and the location of the

1 matting and the width of the access roads to
2 make sure that we didn't have to run back to
3 them for every 2 square feet of additional
4 impact. So if that can be done, and whether
5 there's a shift in the location of the
6 impact, that all has to be documented to New
7 Hampshire DES. It's a requirement. And
8 they'll be expecting that report.

9 Q. They will, but we won't get to see that; is
10 that right?

11 A. (Carbonneau) I don't see why not. I mean,
12 it's a public agency. And to the extent that
13 any of our reporting to DES is available to
14 the public, it's certainly available to the
15 public.

16 Q. So is that -- will there be a notice that the
17 new ones have come out --

18 A. (Carbonneau) I have no idea.

19 Q. -- so that we would know when to go ask for
20 them? Or is that something we should ask for
21 once a week or once a month?

22 A. (Carbonneau) It's a requirement of the
23 construction process. So, assuming once
24 construction is done, an as-built plan set

1 showing where any changes occurred is
2 available, that's when it would become
3 available.

4 Q. But my question is how often do you suggest
5 we go and request the DES provide us with
6 that information? How often do you suggest?

7 A. (Carbonneau) I believe they're requiring us
8 to report this every six months or quarterly.
9 I can't recall exactly what the permit
10 conditions says. But it's so they can also
11 track and make sure that the mitigation is
12 sufficient for any impacts on the Project.
13 So, during construction, I would say at least
14 every six months there will probably be some
15 kind of documentation sent to New Hampshire
16 DES. So I would say you can check with them
17 every six months after construction begins.

18 Q. Okay. Six months after construction begins,
19 do you think there's a chance we could get a
20 tower moved?

21 A. (Carbonneau) If you have -- if you know that
22 there's a tower that you want to have moved
23 now, I would suggest you don't wait until
24 construction starts.

1 Q. Okay. Thank you. All right.

2 MS. BRADBURY: So, Jeanne, could
3 I get -- now going back to Sheet 658.

4 BY MS. BRADBURY:

5 Q. This is the high-quality vernal pool located
6 in Deerfield, just east of Thurston Pond
7 Road. And that has been moved. According to
8 Mr. Bowes, the tower is now being moved to
9 the west. Do you know precisely where?

10 A. (Carbonneau) I don't.

11 Q. What about the access road and the
12 right-of-way? Will that remain immediately
13 adjacent to that vernal pool on the left
14 bank, left southern bank of that vernal pool?

15 A. (Carbonneau) I have not seen the redesign of
16 a new structure location here. This reflects
17 a shifting of the work pad.

18 Q. Yes.

19 A. (Carbonneau) So I have not seen a new plan
20 yet.

21 Q. Okay. So if they -- so we don't know whether
22 that access road is going to be moved. And
23 right now, that access road is within inches
24 of that vernal pool, the edge of that vernal

1 pool; right?

2 A. (Carbonneau) I don't know if I'd say inches.
3 It's very close to the edge of the vernal
4 pool.

5 Q. Okay. I'll take that. All right. And you
6 don't know if it's going to be moved.

7 Okay. So if it's not moved, Northern
8 Pass will have excavation and heavy
9 construction equipment weighing as much as
10 200,000 pounds within a few inches or right
11 next to the vernal pool; correct?

12 A. (Carbonneau) Yes.

13 MS. BRADBURY: Okay. So, Jeanne,
14 can I get the pictures, No. DA 71 and 72.

15 (Discussion off the record)

16 BY MS. BRADBURY:

17 Q. Okay. So Jeanne's putting up a picture of
18 that very vernal pool, okay. That's
19 Deerfield Abutter 71. That's looking west.
20 You can see the power lines, existing power
21 lines?

22 MS. BRADBURY: And now let me
23 have Deerfield Abutter 72, the next picture,
24 Jeanne.

1 BY MS. BRADBURY:

2 Q. And you see that's just also looking west,
3 down at the end of the vernal pool. And that
4 is right where that access road is showing on
5 the wetland map we were just looking at,
6 right there where those pieces of wet area
7 are.

8 So would you agree that construction
9 equipment running through there, even though
10 the tower's been moved and the pad has been
11 moved, that the construction equipment
12 running right through there will cause ruts
13 in the soil and will compact that area right
14 next to the vernal pool? Would you agree
15 with that?

16 A. (Carbonneau) Not if timber mats are used in
17 that location.

18 Q. Wouldn't timber mats, the weight of the mats
19 plus a 200,000-pound crane compact it?

20 A. (Carbonneau) Possible. I don't know for
21 sure. But if they do compact it, then
22 regrading would happen to try to uncompact
23 it. So there may be a minor amount of
24 compaction, but it would be difficult to

1 tell. Typically the timber mats really do a
2 very good job of spreading the weight around.

3 Q. Well, it can't spread it to the right,
4 looking at that photo, because that's the
5 vernal pool, where the main body of that
6 vernal pool is. So it's got only one
7 direction, and that's off to the left. So
8 that timber mat is not likely to truly
9 protect that vernal pool, is it?

10 A. (Carbonneau) As I recall, looking at the
11 other map, that showed the access road did
12 not cross the wetland either, so my
13 understanding is that little point there,
14 that the wetland mat is going to be
15 further -- or the access road is going to be
16 even further away than what's shown in that
17 photo because it's avoiding the wetland as
18 well. So it's going to be in the upland area
19 where you see trees are being cleared.

20 Q. Okay. So they are going to move that access
21 road. You're sure of that now.

22 A. (Carbonneau) I'm telling you that the way the
23 access road is shown on this plan, it does
24 not go through that wetland at all. Not the

1 vernal pool or the wetland.

2 Q. You see that it goes right next to the vernal
3 pool.

4 A. (Carbonneau) It goes right next to the
5 wetland line at that point. I think what the
6 photo showed was that little point, that
7 wetland that extends beyond the magenta
8 vernal pool line, and that's where you saw
9 those ruts.

10 Q. Okay. So --

11 A. (Carbonneau) You can almost see them on this
12 aerial photo as well. The access road that
13 is proposed for this project is not going to
14 follow that route. It's going to be further
15 into where the trees are now. Those trees
16 will be trimmed.

17 MS. BRADBURY: Okay. Jeanne,
18 could I have DA 63, which is "Good Forestry in
19 the Granite State," Page 4.

20 CHAIRMAN HONIGBERG: Off the
21 record.

22 (Discussion off the record)

23 CHAIRMAN HONIGBERG: Thank you,
24 Ms. Bradbury. You may continue.

1 MS. BRADBURY: Down at the bottom
2 of that page, Jeanne, I want the bottom starred
3 bracket.

4 BY MS. BRADBURY:

5 Q. Can you take a look at that bottom starred
6 bracket? This is in the DRED document, "Good
7 Forestry in the Granite State." They're
8 discussing vehicle ruts next to a vernal
9 pool.

10 Do you agree that ruts at any distance
11 from a pool can cause breeding traps for
12 amphibians? You'd agree they're concerned
13 about ruts any distance from a vernal pool.

14 A. (Carbonneau) I see that's what it says. In
15 our experience, we've actually found some
16 ruts that are in the North Country from
17 logging operations that are pretty
18 substantial, and they actually function as
19 pretty good vernal pools.

20 Q. Okay. Well, DRED is concerned about it. And
21 you agree --

22 A. (Carbonneau) Yes.

23 Q. So do you disagree with them? Or you
24 think --

1 A. (Carbonneau) I don't disagree with them --

2 Q. -- because they didn't add the qualification
3 to their --

4 (Court Reporter interrupts.)

5 CHAIRMAN HONIGBERG: Both of you,
6 one at a time. I know you're thinking
7 conversation. Think question and answer, not
8 conversation right now.

9 BY MS. BRADBURY:

10 Q. DRED didn't qualify it, did they?

11 A. (Carbonneau) Well, they did say, "most ruts
12 dry too quickly."

13 Q. Yeah. Okay.

14 A. (Carbonneau) Ruts can reduce the length of
15 time.

16 Q. Right.

17 MS. BRADBURY: So can we turn to
18 Page 5 of that document.

19 BY MS. BRADBURY:

20 Q. This is still the DRED document, "Good
21 Forestry in the Granite State." And if you
22 look at -- would you read the two starred --
23 the double-starred, not single-starred, I'm
24 not doing that one again, the two

1 double-starred, checked, bracketed areas.

2 A. (Carbonneau) "Within 200 feet of a vernal
3 pool, limit the activity of heavy equipment.
4 Locate main skid trails and truck roads
5 outside this buffer."

6 Q. Okay. So, given DRED's recommendation of
7 limiting the activity of heavy equipment
8 within 200 feet of a vernal pool, 200,
9 wouldn't you agree that keeping heavy
10 equipment at least 100 feet away from a
11 vernal pool would be a good idea?

12 A. (Carbonneau) Well, under normal
13 circumstances, I would say yes. But
14 construction on this project, the access to
15 these construction areas has to be limited to
16 the right-of-way unless permission from a
17 landowner to go outside of that right-of-way
18 is granted. Particularly in the case of the
19 map that you showed, there's really no way to
20 get past that vernal pool and be 200 feet
21 away. So the options are limited. I'm not
22 saying it's not aspirational to do that. But
23 in this situation, it's just not possible.

24 Q. Well, I think we've found something we can

1 agree on: That vernal pool is in the way.

2 Okay. I got -- are you familiar with a
3 situation where when blasting occurred a
4 basement filled with carbon monoxide?

5 A. (Carbonneau) I'm sorry. No, I'm not familiar
6 with that.

7 Q. All right. That's all I have. Thank you.

8 CHAIRMAN HONIGBERG: Mr. Cote,
9 why don't we have you go for a bit and then
10 we'll take a break.

11 MR. COTE: Robert Cote, Deerfield
12 Abutters. And Dawn, could you please turn on
13 Apple TV? My questions are mostly intended for
14 Mr. Tinus.

15 CROSS-EXAMINATION

16 BY MR. COTE:

17 Q. Welcome back. And the subject for most of my
18 questions is the EPA stormwater permit for
19 construction activity. Do you see the
20 exhibit that I have up here?

21 A. (Tinus) Yes.

22 Q. And you agree that it's a National Pollutant
23 Discharge Elimination System Permit?

24 A. (Tinus) Yes. This is the most recent permit

1 that came out, on the 16th.

2 Q. Okay. And with relation to construction
3 activity, what would you -- how would you
4 explain what "discharge" relates to in the
5 context of this permit?

6 A. (Tinus) Construction-related discharges.

7 Q. Stormwater?

8 A. (Tinus) That's right.

9 Q. Okay. And in the case of construction
10 activities, what would typical pollutants be
11 that you might encounter?

12 A. (Tinus) Typical pollutants in stormwater
13 would be potentially eroded materials from
14 exposed surfaces.

15 Q. Okay. Going to look at this. It's Deerfield
16 Abutter 99. And this is from the Notice of
17 Intent, which is essentially the Application
18 for coverage under the stormwater permit.
19 Does it look familiar?

20 A. (Tinus) Yes.

21 Q. And I realize you'll be submitting this
22 electronically and not in paper format. But
23 if you look at this document, at the upper
24 left you see the column that says "Point of

1 Discharge"?

2 A. (Tinus) Yes, I do.

3 Q. Okay. How many discharge points do you
4 anticipate itemizing when you -- when the NOI
5 is prepared?

6 A. (Tinus) I don't know. It hasn't been done
7 yet.

8 Q. Do you have any rough idea?

9 A. (Tinus) I do not. The contractors are going
10 to be preparing all this information. They
11 will be filing the Notice of Intent.

12 Q. Going to bring up... this is Applicant's
13 Exhibit 1, Appendix 2. And I'm looking at
14 what I've highlighted, the number of water
15 bodies along the route of the Project. And
16 you can see there's -- if you include all
17 categories, there's over 2,000 water bodies
18 along the route of the Project. And if the
19 water body intersects the right-of-way, it
20 would have two boundaries. Each water body
21 could essentially have as many as two
22 boundaries with upland areas adjacent to the
23 water bodies. Do you agree?

24 A. (Tinus) Sure. Yes.

1 Q. And if there's construction activity
2 occurring adjacent to those water bodies and
3 storm events occur, you would likely have
4 runoff into the adjacent water bodies. Is
5 that accurate?

6 A. (Tinus) You would if you didn't have Best
7 Management Practices in place. The
8 contractors are going to be required to
9 manage stormwater by using various BMPs:
10 Silt fence, straw waddles, diversion dams,
11 temporary settling basins and the like.

12 Q. But are you saying the Best Management
13 Practices are going to eliminate all
14 stormwater runoff?

15 A. (Tinus) That's the goal.

16 Q. Could you explain to me how a hay bale will
17 provide an impervious barrier to stormwater?

18 A. (Tinus) A hay bale is probably not the best
19 choice. There's other technologies out
20 there. It depends very much on the local
21 conditions, the soils, the topography, the
22 amount of precipitation that's expected,
23 infiltration capacities of the soil, various
24 technical properties. The selection of the

1 Best Management Practices will reflect the
2 local conditions.

3 Q. Isn't a silt fence designed to allow
4 stormwater to flow through it and retain the
5 sediment?

6 A. (Tinus) There is some passage through it.
7 But the primary purpose of a silt fence is to
8 stop the water from flowing across an area
9 and allow the suspended solids to settle out.

10 Q. Do you agree that in submitting the Notice of
11 Intent there may be potentially thousands of
12 discharge points that you would need to
13 identify?

14 A. (Tinus) That number is high. And in terms of
15 discharge points, what you're trying to do in
16 managing stormwater on a site is an active
17 process. You're trying to break up the flow
18 pads of stormwater. You're trying to contain
19 it in small areas. You're trying to keep it
20 from getting to a receiving or near water
21 body or wetland that may be nearby.
22 Ultimately it's dependent on that. And then
23 it's also dependent on the permanent
24 structures that you'll have in place at the

1 facilities, the substations and the like
2 where we're building detention basins,
3 infiltration basins, grassy swales to treat
4 the stormwater in more localized conditions.

5 But the first thing that I mentioned is
6 the active part of construction. So you're
7 trying to keep soil surfaces stabilized by
8 mulching appropriately or getting grass to
9 grow as quickly as possible after you're done
10 working in that area and, as I said,
11 employing various BMPs to keep stormwater
12 from moving in the first place.

13 So whether or not there's thousands of
14 those kinds of points where water could
15 potentially reach another area, I just don't
16 know at this point. Those areas will be
17 determined and included in the SWPP prior to
18 filing the Notice of Intent. We do know
19 where all the wetlands and streams and all
20 those other features that you referenced are,
21 so that's a good starting point.

22 Q. Okay. I'd like to stay on the subject a bit.
23 This is an area of the right-of-way in
24 Deerfield. And it's a little bit hard to

1 see, but in the center of this photo you can
2 see a little structure. And here's a better
3 view of it. This is Deerfield Abutter 100,
4 by the way, Exhibit 100. So, this being in
5 the right-of-way, would you, for example,
6 consider this a discharge point that would
7 need to be identified and listed as part of
8 your Stormwater Application?

9 A. (Tinus) Yes, if it's directly draining to
10 that wetland as you indicated, and it appears
11 as though it probably emerges on the other
12 side, then sure. Contractors need to be
13 aware of that, and we need to have that
14 shown, you know, in the plan, and then it
15 will be decided what the appropriate measure
16 is in that location.

17 Q. This is Pemi Exhibit 21-3, courtesy of Barry
18 Draper. This is a segment of the
19 right-of-way up north. I'm not sure exactly
20 where, but it's part of their exhibit. You
21 see a little bit of running water on the
22 right-of-way. This is right after a storm.
23 Normally that's dry. So that's only flowing
24 when there's -- after a storm event or during

1 a storm event. Would you consider this a
2 discharge point that would need to be
3 identified?

4 A. (Tinus) To the extent that it collects
5 drainage from an active construction area,
6 yes. And to the extent that's within the
7 Project area, yes.

8 Q. Okay. This is Deerfield Abutter Exhibit 34,
9 just a slightly different situation. This is
10 actually our property. This is during
11 construction earlier this year. And I'll get
12 back to this later.

13 But you can see that there are ruts
14 created here. And those ruts, if you turn
15 around, go right down into a wetland.

16 Would you agree that if it rains and
17 water runs down that slope into a wetland,
18 that that would be a discharge point that
19 would be subject to the permit?

20 A. (Tinus) Perhaps, although this is less
21 apparent to me. You know, I don't know the
22 direction. The other photo you could see
23 directly from the point of the stream looking
24 up the hill. But here I don't know if what's

1 behind it drains down to this area. So it's
2 hard to tell I guess is what I'm saying.

3 Q. Okay. Do you know at this point who actually
4 will be developing the Stormwater Pollution
5 Prevention Plan?

6 A. (Tinus) Yeah, the contractors are going to be
7 responsible for doing that, their
8 environmental folks.

9 Q. Earlier this year I sent a letter to
10 Mr. Pelletier of DES asking for clarification
11 on an item in their approval letter. I
12 should probably shift back to that. But let
13 me just look at this while I've got it in
14 front of the group. It says Item 12 of the
15 DES approval letter requires turbidity
16 sampling, and with respect to this
17 requirement, please clarify at what points
18 along the path of the Project did they intend
19 for that requirement to apply. See if I can
20 find...

21 So here's... this is the NHDES March 1st
22 of this year approval or recommendation that
23 the Project be approved. And there is a
24 condition for turbidity sampling. Are you

1 familiar with that?

2 A. (Tinus) Yes, I am.

3 Q. And at what points do you think -- what
4 points do you think that that requirement is
5 intended to address, as far as sampling
6 locations?

7 A. (Tinus) That hasn't been thought out. Again,
8 the contractor is going to be preparing these
9 plans. And as you can see, they're due 90
10 days prior to construction. So, exactly
11 where and the frequency of the sampling has
12 not been determined yet.

13 Q. Are you familiar with the guidance for SWPPs,
14 the yellow highlight?

15 A. (Tinus) I am.

16 Q. Where is that available?

17 A. (Tinus) If you contact Greg Comstock at DES,
18 he can probably send you a copy. I believe
19 it was published on the web site, too, if I'm
20 not mistaken.

21 Q. I did an extensive search actually for it but
22 couldn't find it.

23 A. (Tinus) Maybe it was DOT. Maybe it was DOT's
24 web site. Did you check there, too?

1 Q. I did look there also, yes.

2 So those sampling locations -- let me
3 just reconfirm. The sampling locations are
4 still pending, so we don't know really what
5 that plan is intended to address at this
6 point; correct?

7 A. (Tinus) That's correct. The locations
8 haven't been determined. And they need to be
9 approved by DES, so...

10 Q. Now, this is Deerfield Abutter 33. It's a
11 page from the Construction General Permit.
12 And you see here that there's a requirement
13 to post a Notice of Permit Coverage. And the
14 notice is to be located so that it's visible
15 from the public road nearest to the active
16 part of the construction site.

17 How many notices do you anticipate will
18 need to be posted?

19 A. (Tinus) I don't know. I haven't really
20 thought about that. This is a new
21 requirement that the EPA just put into this
22 generation of the five-year permit. But we
23 haven't thought where those will be located
24 yet -- the contractors haven't.

1 Q. Okay. This is Applicant Exhibit 97. It's
2 your Supplemental Testimony. And do you see
3 the yellow highlighted text?

4 A. (Tinus) Yes.

5 Q. So I'm going to go back to that reference in
6 the DES March 1st letter, Condition No. 9.
7 And the statement says that Condition No. 9
8 requires that Northern Pass submit the SWPP
9 to DES. Doesn't it say there "if requested"?

10 (Witness reviews document.)

11 A. (Tinus) Yes, but we were asked to produce a
12 copy to DES. We were asked to give DES a
13 copy.

14 Q. Okay. It says Condition No. 9 requires it.
15 But that's not exactly what it says there, is
16 it. But you're saying they have requested
17 it.

18 A. (Tinus) They did request that we provide them
19 with a copy.

20 Q. Okay. Does it say "at least 90 days prior to
21 commencing construction activities"? Because
22 the DES letter looks like it says "7 days of
23 receiving a request." Just wondering where
24 that --

1 A. (Tinus) Well, it's not prepared. So what
2 they want you to do is provide it within 7
3 days. If they request a copy of it, when
4 it's been prepared, then they'll get it
5 within a 7-day time frame.

6 Q. So where is the 90-day requirement in
7 connection --

8 A. (Tinus) That was a verbal request --
9 (Court Reporter interrupts.)

10 Q. Where is the 90-day requirement in Item 9 of
11 the DES letter?

12 A. (Tinus) It doesn't state that there. That
13 was a verbal requirement -- or request of me.

14 Q. Are you familiar with the requirements for
15 what needs to be included in a Stormwater
16 Pollution Prevention Plan?

17 A. (Tinus) Yes.

18 Q. So if you take my... just flip through this
19 quickly, just to show that -- this is
20 Deerfield Abutter 33, by the way, and it's an
21 excerpt from the Construction General Permit.
22 But there's six pages of content. Would you
23 say that the requirements are relatively
24 comprehensive?

1 A. (Tinus) Indeed.

2 Q. And this is also from the Construction
3 General Permit. And you can see from the
4 highlighted text that, in designing
5 stormwater controls there are quite a few
6 factors to consider, including the likelihood
7 of precipitation events, the characteristics
8 of the drainage area that the work might be
9 occurring in, how large an area is being
10 drained, what kind of soil conditions there
11 are, the gradient.

12 So would you say that for most areas of
13 the site that the controls that are being
14 designed to implement Best Management
15 Practices are very specific to the different
16 locations along the route?

17 A. (Tinus) I would say there's specific
18 locations, but there's some commonalities in
19 conditions. So you may see a lot of silt
20 fence used or a lot of straw waddles used or
21 a particular measure because it's
22 appropriate for a variety of conditions.

23 Q. But isn't it true that there are -- if you
24 go, for example, to the New Hampshire

1 Stormwater Best Management Practices Manual,
2 you will see quite a few different options of
3 management practices identified.

4 A. (Tinus) That is true.

5 Q. So my follow-up question is maybe a little
6 more for Lee, that there's still a lot of
7 specificity that needs to be developed. I
8 mean, for example, the discharge locations
9 haven't even been identified at this point in
10 time, let alone the specific controls that
11 will be used to manage the water where
12 potential discharges are coming from.

13 So could you explain how in the absence
14 of that kind of information that you're
15 comfortable finding that the Project doesn't
16 represent an unreasonable environmental
17 impact?

18 A. (Carbonneau) I think the quantity of
19 information that we have submitted at this
20 point is more than sufficient to address what
21 we expect the impacts to be. And I think
22 there's plenty of information about where
23 erosion and sedimentation controls are
24 expected to be needed. It's on the current

1 permitting plans.

2 I would say that there are some things
3 like the SWPP, which is typically not
4 submitted until the contractors are on board,
5 that will probably add a little refinement to
6 the information that's already submitted.

7 But that's very standard practice, and I
8 don't think that it's unusual. I think, in
9 fact, it's expected that when a project comes
10 before the SEC, there are some minor details
11 that still need to be worked out. That's
12 very typical in the permitting process. And
13 I don't think there's a lack of information
14 upon which decisions need to be made.

15 I also don't think it's acceptable that
16 the SEC relies in part upon the decisions
17 made by the state agencies, the experts in
18 water quality, for example. And we have
19 received approval from New Hampshire DES for
20 the 401 Water Quality Certificate and the
21 Alteration of Terrain. They clearly had
22 sufficient information to make decisions on
23 this project.

24 Q. Do you think that a 197-mile project is a

1 typical construction project?

2 A. (Carbonneau) The length may not be typical,
3 but the techniques that are being proposed
4 and the actual construction activities are
5 quite typical.

6 CHAIRMAN HONIGBERG: Mr. Cote,
7 let me know when you get to a break.

8 MR. COTE: I'm probably about
9 five or ten minutes from being finished.

10 CHAIRMAN HONIGBERG: Promise?

11 MR. COTE: I think it will be
12 pretty close to that.

13 CHAIRMAN HONIGBERG: Okay. Go
14 ahead.

15 BY MR. COTE:

16 Q. I would like to come back to the question of
17 Best Management Practices. And as I said
18 earlier, this is -- it was an insulator
19 replacement project on the existing 115 kV
20 line. This is a steep slope leading down to
21 one of the wetlands in Deerfield.

22 Would anybody like to comment on whether
23 they think appropriate Best Management
24 Practices were used?

1 A. (Tinus) Again, I think I commented on this
2 previously. It's kind of hard to tell what's
3 going on with snow on the ground and
4 vegetation that's been run over. Looks like
5 it's a slope that leads from the roadway down
6 to, you know, a lower point. But other than
7 that, I don't know what else to say about it.
8 I mean, you truly need to look at these
9 places in the field, to your early points.

10 Q. Can you tell that this is a vehicle that
11 drove into a wetland?

12 A. (Tinus) It looks like there's tire ruts
13 there, sure.

14 Q. So my question is: It's one thing for
15 somebody to develop Best Management
16 Practices, you know, in an office, and it's
17 another thing for a contractor to actually
18 follow them. How do you respond to that
19 difficulty?

20 A. (Tinus) Well, I would just say, as we've said
21 many times over, there's going to be
22 comprehensive oversight of the Project with
23 established environmental monitors and teams
24 from the contractors, teams from Eversource.

1 And I'm sure there's going to be other folks
2 out there looking as well.

3 Q. So I think this is a question more for Lee,
4 or possibly Ms. Barnum, Dr. Barnum. This is
5 Applicant's Exhibit 3, the wetlands map. And
6 this is the wetland in Deerfield. You can
7 see right near the center of the photo
8 there's sort of a tan square or diamond that
9 represents an existing -- the existing 100
10 [sic] kV line. Do you see that?

11 A. (Carbonneau) Yes.

12 Q. And then it's kind of hard to see, but the
13 purple line just to the left of the "G" is
14 where that line is going to be relocated.
15 Can you see that?

16 A. (Carbonneau) Yes.

17 Q. And that pad, that construction pad, it's in
18 a wetland. It's about 100 by 100. So I'm
19 guessing that pole is moving about 30 feet to
20 the north, which would be up in this photo,
21 and about 70 feet to the east, which would be
22 towards the right. Do you see that?

23 A. (Carbonneau) I can't confirm your numbers,
24 but that sounds about right.

1 Q. So here's a photo of that area. And right in
2 the center of the photo you see the existing
3 pole that's going to be moved. So it will
4 move left about 30 feet and away from this
5 picture about 70 feet. And the construction
6 panel's already seen this. But you see the
7 beaver lodge right there?

8 A. (Carbonneau) I do.

9 Q. Did you advise the construction group that
10 that's probably not a good location for a
11 pole?

12 A. (Carbonneau) I did not discuss the beaver
13 lodge specifically with them. However, they
14 do have a little bit of flexibility in the
15 field to shift a structure location by a
16 couple of feet without necessarily impacting
17 the design, and if that's appropriate then
18 they will do that.

19 Q. If the construction pad is approximately 100
20 feet by 100 feet, wouldn't that impact that
21 lodge?

22 A. (Carbonneau) That's possible. If they do the
23 work in the winter, they may be able to avoid
24 that area somewhat by shifting the work pad.

1 But I don't have -- you know, obviously
2 nobody wants to kill beavers in the middle of
3 the winter when they're vulnerable and in
4 their dens. So this is, you know, the kind
5 of flexibility that the Project may need to
6 minimize impacts in the field and make slight
7 revisions here and there either to the access
8 routes or the work pad locations or even a
9 small shift in the structure location.

10 Q. During our cross-examination of the
11 construction panel -- and just to keep to my
12 ten minutes, which I'm running close to, I
13 won't bring up the transcript. But the
14 construction panel indicated that between
15 relocating that existing -- this existing
16 line, disassembling it, moving it and putting
17 up Northern Pass, that construction in this
18 wetland could span from the start of one
19 construction season to the end of another,
20 the next construction season, which would be
21 about an 18-month period. And so the
22 question arose of what happens to their
23 temporary access roads and this wetland if
24 construction is going to be active in an area

1 like this for 18 months.

2 A. (Carbonneau) Well, typically the construction

3 matting across the wetland would not be left

4 for the entire construction period. To the

5 extent possible, they will be placing mats

6 down in the winter, if they can do work

7 during the winter, and then removing them and

8 then placing the mats down again when they

9 next have to do the next phase of

10 construction. So there's typically some site

11 preparation work that takes place and then

12 they move on somewhere else. And then they

13 will need to do, you know, foundation-related

14 work, and then they'll move on. And then

15 they have to put the structures in, and

16 they'll move on again. And eventually they

17 get to string the conductors. So, in between

18 those work efforts, wherever possible, they

19 will remove timber matting from wetlands, or

20 whatever mechanism they're using to cross it,

21 so that they don't have that material down.

22 In fact, they need to re-use it typically in

23 another location. So the mats would not

24 necessarily remain in place during the

1 duration.

2 Q. But they might remain in place?

3 A. (Carbonneau) I think it's unlikely. But it's
4 not my call.

5 Q. Okay. And there's been some discussion about
6 turtles. And if Blanding's turtles were
7 present in this area and the mats were
8 placed -- you can see this is late winter,
9 and it's still not -- it's already -- the ice
10 is definitely not stable enough for equipment
11 to be sitting on top of it.

12 Would overwintering turtles in this
13 wetland possibly be crushed under mats?

14 WITNESS CARBONNEAU: You want to
15 take that?

16 A. (Barnum) Yes, that's a possibility. There's
17 no practical means of locating overwintering
18 turtles in the muck or relocating them, if
19 you could locate them.

20 Q. That concludes my questions. Thank you.

21 CHAIRMAN HONIGBERG: All right.
22 We'll take a ten-minute break.

23 (Brief recess was taken at 3:12 p.m.,
24 and the hearing resumed at 3:30 p.m.)

1 [Mr. Varney not present for remainder of hearing.]

2 CHAIRMAN HONIGBERG: Before we
3 resume with the intervenors, we're going to have
4 questions for Mr. Magee from the Committee so we
5 can finish Mr. McGee's questioning, and then he
6 shouldn't have to come back at that point. Make
7 sense, Mr. Walker?

8 MR. WALKER: Yes. Thank you for
9 that accommodation.

10 CHAIRMAN HONIGBERG: I know that
11 Mr. Oldenburg had some questions for Mr. McGee.

12 WITNESS MAGEE: And again, thanks
13 for the accommodation. Appreciate it very much.

14 INTERROGATORIES BY SUBCOMMITTEE MEMBERS

15 BY MR. OLDENBURG:

16 Q. There's just a few. Not very complicated
17 either. But I figured you're there, I'll ask
18 you questions.

19 So, of the plants that are on the state
20 threatened or endangered list, however that
21 is, that doesn't necessarily mean that
22 they're on the verge of extinction; correct?

23 A. (Magee) No. Many of these plants that are on
24 the state threatened or endangered lists

1 oftentimes are due to a range extension, due
2 to maybe not a lot of population distribution
3 within state. There's various reasons. But
4 it doesn't mean they're imminently in danger
5 of extinction or anything like that.

6 Q. So that was actually my second question was
7 the range. So it's possible that one of the
8 plants that we talked about that was
9 endangered, this is the fringe of its range
10 in New Hampshire.

11 A. (Magee) Right.

12 Q. Are any of those that were listed that we
13 talked about earlier?

14 A. (Magee) Solidago odora, the licorice
15 goldenrod, and the Aristida, the threeawn
16 grass, these are known from other locations.
17 You know, they're not as well known in this
18 state because the numbers are perhaps
19 diminishing due to habitat changes and
20 whatever. But they're certainly abundantly
21 known throughout the region.

22 Q. And my last question is, of the plant species
23 that you studied along the corridor, was
24 there one in particular that you're most

1 concerned about that could be impacted by the
2 Project?

3 A. (Magee) More concerned than others. But I
4 believe that with the avoidance and
5 minimization measures and with the monitoring
6 that we're going to be doing and with the
7 corrections that will be made if necessary
8 that these aren't going to be long-term
9 impacts.

10 MR. OLDENBURG: That's all I had.

11 CHAIRMAN HONIGBERG: Ms.

12 Weathersby.

13 MS. WEATHERSBY: Thank you.

14 BY MS. WEATHERSBY:

15 Q. There was an assertion by I believe someone
16 in Franklin that there may be an endangered
17 species of plant in the area of the Franklin
18 terminal. Was that looked into, and was
19 anything found?

20 A. (Magee) Do you recall what it was that they
21 thought might be in the Franklin --

22 Q. I can, but I would have to put it into -- I
23 think it's a confidential --

24 A. (Magee) And also, I question whether it's

1 truly a state threatened or endangered, or is
2 it simply a listed species? Is it a watch or
3 an indeterminate species?

4 Q. Ms. Carbonneau, it looks like you might have
5 some insight here?

6 A. (Carbonneau) I recall that someone mentioned
7 that. And I have not seen anything specific
8 since then. Certainly if someone had some
9 information that we could review, we would be
10 happy to go out and do that. But I have not
11 received anything specific about what that
12 was and where it was.

13 A. (Magee) Because it makes a big difference if
14 it's a small whorled pogonia that's federally
15 listed or if it's one of the state-listed
16 species --

17 (Court Reporter interrupts.)

18 A. (Magee) If it's a federally-endangered
19 species that makes a big difference as
20 opposed to a even if it's a state-listed,
21 threatened or endangered species, that means
22 something. If it's a state watch or
23 indeterminate species, that has another
24 status. So, knowing what it is is important

1 to answer the question.

2 Q. And Ms. Carbonneau, I think you know the
3 plant I'm referring to. Can you tell him
4 what category that falls into?

5 A. (Carbonneau) I don't. I don't even know what
6 the plant was.

7 Q. I think where I found this, actually, was in
8 a letter from Normandeau in response to this
9 person's concern. And it said that, you
10 know, they were going to look into it or
11 something. I can find that letter. I just
12 didn't know if it had been looked into and if
13 anything was found.

14 A. (Magee) We've looked into any lead that we
15 have. First of all, we went with the NHB
16 listings of element occurrences. We
17 investigated every right-of-way segment that
18 had a right-of-way -- that had an element
19 occurrence within a mile; the
20 federally-listed species we looked into
21 within 5 miles. And so this included watch,
22 indeterminate, threatened and endangered
23 species. So, yes, any records of occurrence
24 we had, we made a thorough search.

1 A. (Carbonneau) But if this was brought up by
2 someone else, I don't recall specifically.
3 And I have a vague recollection of this, so
4 you may be right. And we probably responded
5 that, you know, we would be happy to look
6 into it. I'm not sure if we got any more
7 specific information to help us with that
8 search, so I don't recall that we actually
9 went out in the field after that. But this
10 was some time ago.

11 Q. I think what I'll do then, I'll try to find
12 that letter and then ask you, Ms. Carbonneau,
13 about it later, and we can specifically look
14 at what I'm looking at --

15 A. (Carbonneau) Perfect.

16 Q. -- and follow up rather than me trying to
17 remember.

18 CHAIRMAN HONIGBERG: Commissioner
19 Bailey.

20 BY MS. BAILEY:

21 Q. Mr. Magee, if the line were buried under a
22 wild lupine patch, would that harm the root
23 system, or would that avoid the patch?

24 A. (Magee) I think it would perhaps, from what I

1 understand about burying, the burying
2 process, it would be very well below the
3 rooting surface. The rooting surface is
4 fairly near the surface of the ground, and so
5 if it was buried under the ground, if it was
6 tunneled, then that would certainly be well
7 under the rooting system zone.

8 Q. Okay. And is it possible to dig up a lupine
9 patch and move it someplace else?

10 A. (Magee) I don't have any direct experience
11 with transplanting lupine, but I know it's a
12 hardy species. It does well in open,
13 disturbed conditions. And my initial
14 reaction is that it would do well.

15 Q. So why wouldn't you do that to avoid a wild
16 lupin? Well, it wouldn't avoid the wild
17 lupine patch, but I guess it would mitigate
18 it?

19 A. (Magee) I think we are in the mitigation
20 area, we are seeding and planting lupine.

21 Q. You're seeding. But I didn't hear anything
22 about digging up existing lupine and moving
23 it.

24 A. (Magee) Yeah, the NHB didn't -- we talked

1 about transplanting. And at this point, the
2 NHB said let's not think about that yet.
3 Let's consider this during the two-year
4 monitoring period that we have. If
5 necessary, we'll do something like that. But
6 they didn't jump on that right away.

7 Q. Do you understand why?

8 A. (Carbonneau) I don't. I do know that lupine
9 don't transplant very easily. I think they
10 have a pretty long tap root. They're not
11 that easy, I don't think, to transplant. But
12 I think they are also somewhat adapted to
13 disturbance. And so having construction
14 activities in the right-of-way isn't
15 necessarily a bad thing in all cases for
16 lupine. By scarifying the soil a little bit,
17 it allows the seeds to germinate, can
18 actually help the population in some
19 locations. National Heritage Bureau would
20 prefer that we do to the construction and
21 then monitor afterwards, see how the plants
22 regenerate. And if they're not satisfied
23 that the population is rebounding
24 sufficiently, then they would consider -- we

1 would need to go back and discuss with them
2 what other options should be done. It could
3 just be more monitoring, it could be bringing
4 in seed from somewhere else, but
5 transplanting was not their choice.

6 Q. And is there somewhere in the record that you
7 can refer me to that has correspondence from
8 them, from the bureau?

9 A. (Carbonneau) I don't know that we have
10 anything that specifically says "don't
11 transplant," but we did work out the
12 avoidance and minimization measures with
13 them. So I know we threw out options like
14 bringing in -- collecting seed and then
15 reseeding afterwards. And we discussed that
16 with them. I don't know if the meeting notes
17 specifically go into detail. But that was
18 not something they wanted to do.

19 So what we do have for the avoidance and
20 minimization measures that are on the plan
21 set that were submitted in December or
22 January, this past winter, reflects what the
23 Natural Heritage Bureau wanted to see. They
24 reviewed those. We went through them several

1 times. They made edits, and they accepted
2 what was in the plan set ultimately. So
3 that's probably the best place to find what
4 the Natural Heritage Bureau would like to see
5 us do in those locations.

6 Q. Okay. And it's probably because I'm not a
7 botanist or familiar with plants very much at
8 all, but you said that they have a long tap
9 root. And Mr. Magee, you said they --

10 A. (Magee) Well, reasonably long. You know,
11 it's not -- they can be transplanted. But,
12 again, it wasn't NHB's position. It's got a
13 long tap root, but it can be transplanted.

14 Q. Well, what about tunneling underneath it?

15 A. (Magee) Well, it's not -- when we're talking
16 tunneling underneath, I think they're going
17 to be at least 10 feet below the surface of
18 the ground.

19 Q. Okay. Right.

20 A. (Carbonneau) Right. Trenching would be an
21 impact because you're disturbing the subsoil,
22 you're changing the drainage potentially.
23 Trenching is a little bit different. You
24 have to carefully stockpile and make sure

1 you're stockpiling the soil in a way that
2 those plants and roots wouldn't be disturbed.
3 So there's a possibility that might not work
4 very well, but --

5 Q. But tunneling is different than that?

6 (Court Reporter interrupts.)

7 A. (Carbonneau) Directionally drilling under the
8 ground is less disturbing to the soil surface
9 except at either end where you need to
10 excavate to actually get your equipment down
11 in. But my understanding is that the Project
12 doesn't necessarily have rights to be
13 underground in that area. Their right-of-way
14 rights are for overhead lines.

15 Q. Okay. Thank you. Do you have anything to
16 add, Mr. McGee?

17 A. (Magee) No.

18 CMSR. BAILEY: All right. Thank
19 you.

20 CHAIRMAN HONIGBERG: Mr. Wright.

21 MR. WRIGHT: Thank you.

22 BY DIR. WRIGHT:

23 Q. Mr. Magee, the questioning here kind of got
24 me thinking a little bit. I know in the

1 Concord Pine Barrens they periodically do
2 prescribe burns; is that correct?

3 A. (Magee) Where?

4 Q. In the Concord Pine Barrens.

5 A. (Magee) Yes.

6 Q. Is that to help maintain the lupines?

7 A. (Magee) It's to help main -- well, because
8 it's a fire subclimax community. Pitch
9 pines, scrub oak is maintained under natural
10 conditions by fire. In fact, it reproduces
11 by the -- the cones are sealed by resin that
12 opens under the heat of a fire and they shed
13 their seeds that way. So it's dependent upon
14 fire.

15 Q. Okay.

16 A. (Magee) It's more for the overstory component
17 than it is for the lupine.

18 Q. Okay. Thank you.

19 MS. WEATHERSBY: I found my
20 reference for my question. This was -- it's a
21 public exhibit. It's a letter dated July 18,
22 2016, from Normandeau Associates to Roy D.
23 Gilbreth, the chair of the Franklin Conservation
24 Commission. And you're writing -- it's signed

1 by Ms. Carbonneau. And you're writing in
2 response to his letter, and you state, "We are
3 not aware of wild lupine at the converter
4 terminal site, and this information was not
5 included in data provided by the New Hampshire
6 Natural Heritage Bureau for this location. But
7 please provide us with specific information, and
8 we will investigate this and coordinate as
9 appropriate with NHB."

10 So did you ever receive any
11 more information concerning wild lupine
12 perhaps being present at the Franklin
13 converter terminal site?

14 WITNESS CARBONNEAU: Not to my
15 recollection, but I will go back and doublecheck
16 on that.

17 MS. WEATHERSBY: Thank you.

18 WITNESS MAGEE: And it depends
19 also whether it's -- you know, there's several
20 species of lupine, and it depends upon whether
21 it's *Lupinus perennis* or the other lupine which
22 is invasive.

23 MS. WEATHERSBY: Thank you.

24 CHAIRMAN HONIGBERG: Okay.

1 Anything else from the Committee for Mr. McGee?

2 [No verbal response]

3 CHAIRMAN HONIGBERG: All right.

4 I think we're good. Now the Pemi Group can come
5 on down.

6 CROSS-EXAMINATION

7 BY MS. DRAPER:

8 Q. Hello, I'm Gretchen Draper, and I'm one of
9 the Pemigewasset River Local Advisory
10 Committee. We have Mr. Stamp, Max Stamp,
11 with us, who's been Chairman, and Barry
12 Draper, who was the New Hampton
13 representative. So we represent the
14 Pemigewasset River from Franconia, more or
15 less, right down to Franklin. And I have
16 questions that are mainly related to
17 procedure, procedural things. Mr. Stamp is
18 going to talk more about some of the river
19 crossovers and areas of the river that we're
20 really concerned about, like around Ashland
21 and Plymouth. And Mr. Draper is going to
22 bring on the live show. We like to make sure
23 your Friday afternoons end with something
24 good. And it's going to become a tradition,

1 I think.

2 Okay. So these are some of the things
3 I'm interested in. Has Normandeau been
4 contracted to work with the Northern Pass
5 Project for the next X-number of years? I
6 mean, are you going to see this through
7 post-construction?

8 A. (Carbonneau) We do not have a contract at
9 this point that runs past the end of
10 September.

11 Q. End of September. Hmm-hmm.

12 A. (Carbonneau) But we have been informed that
13 we will likely be involved in some way if the
14 Project is permitted.

15 Q. So it really pretty much depends on whether
16 it's permitted or not, or you just --

17 A. (Carbonneau) Well, once the design portion of
18 the contract is complete, then it's likely
19 that other entities will also be engaged in
20 the Project. We just don't know what our
21 specific role will be going forward.

22 Q. Okay. Thank you.

23 And let's see. I was wondering who
24 Normandeau's forestry expert is. So far, I

1 haven't heard anything about like an arborist
2 or someone who would be concerned with tree
3 cutting. Is there someone on staff that does
4 that?

5 A. (Carbonneau) I don't believe we have a forest
6 expert in-house at Normandeau. We do confer
7 regularly with the arborist for Eversource,
8 Kurt Nelson. He's an excellent arborist.

9 Q. All right. Okay. So now you've worked
10 extensively in sort of the preconstruction
11 and design and setting things up. Have you
12 worked mainly with the construction team or
13 the engineers? Who has been your main
14 contact in all of this?

15 A. (Carbonneau) Well, we've been working with
16 the design team and the Applicant. So it's a
17 mixture of people from Eversource, from the
18 design engineers, Burns & McDonnell
19 personnel, as well as their legal counsel and
20 a variety of other experts as appropriate.

21 Q. Okay. I had a lot of questions thinking you
22 were going to be around for years, so I'm
23 going to have to skip over those. Although,
24 I might ask, if you were in fact going to be

1 continuing to work on the Project, would you
2 expect to be included in, like, hiring
3 environmental monitors or people like that,
4 or would that be something that would go to
5 Eversource or whatever?

6 A. (Carbonneau) I don't know if that would be a
7 role for Normandeau. We certainly have
8 personnel that meet the criteria that Fish &
9 Game or the Natural Heritage Bureau would
10 expect specific monitors to have as they
11 relate to overseeing work around rare plants
12 or implementing the avoidance and
13 minimization measures that are specific to
14 wildlife. But I have no expectation that our
15 role is in, you know, hiring monitors.

16 Q. Okay. Mr. Tinus, now, you're with Burns &
17 McDonnell; right? So you may have a job that
18 extends; is that right?

19 A. (Tinus) No, that's not correct.

20 Q. Okay. Not correct. Okay. You're wondering,
21 too, about after September. Okay.

22 I was -- one of the things that we
23 talked about with the construction panel was
24 the constructability experts. And we were

1 sort of saying, so who are they? And it
2 seemed to me that they're going to be some of
3 your construction monitors; is that right?
4 And many of them are from Burns & McDonnell;
5 right?

6 A. (Tinus) I believe the current thinking is
7 that Burns & McDonnell have a role, but
8 that's not clearly defined yet going on.
9 Parr, the presumed contractor for the
10 Project, if it's permitted, would have the
11 lead role in, you know, anything
12 construction-related, if you will.

13 Q. So we really don't know who these experts are
14 going to be, do we?

15 A. (Tinus) Well, they have to be appropriately
16 credentialed, meaning they have to be wetland
17 scientists, wildlife biologists, certified
18 professionals in erosion and sediment control
19 or erosion control inspectors,
20 stormwater-certified people, professional
21 engineers. There's a lot of different
22 categories of people that could be involved.

23 Q. All right. And we're always interested in
24 how independent these monitors are going to

1 be from the Northern Pass hierarchy. And
2 that seems to be kind of questionable. Would
3 you agree with that, that the Applicant may
4 be hiring these people rather than coming
5 from outside?

6 A. (Tinus) It's the typical arrangement for
7 projects in New Hampshire. Nobody's going to
8 do it for free, so somebody's got to pay.

9 Q. No, I didn't expect for free. I guess I was
10 just wondering who was going to be doing the
11 hiring. It's a question of what's
12 independent is what I'm wondering. Okay.
13 And that's up for grabs, too?

14 A. (Tinus) Well, I mean, we know what we've
15 stated at this point.

16 Q. Okay. Who has authority when you're in the
17 field? So on a construction site you've got
18 your monitors, you've got your construction
19 people, you've got whoever's in charge of
20 that site. Who has the sort of final
21 authority as to what happens day to day?

22 A. (Tinus) I think the construction panel got a
23 little into this and how they view the
24 hierarchy of the field. There's a field

1 supervisor; there's project managers out
2 there; there's staff; there's different leads
3 for different functions for safety, for
4 environmental, for the different kinds of
5 construction activities. So I guess in terms
6 of whatever context you're thinking, there is
7 a different lead person. Ultimately, the
8 Project director at Eversource is
9 responsible. But, you know, it's a whole
10 tiered approach, if you will.

11 Q. And how about, have you ever served as an
12 environmental -- any of you been an
13 environmental monitor on this sort of a
14 construction project?

15 A. (Tinus) I have.

16 A. (Carbonneau) And I have, too.

17 A. (Barnum) I have.

18 Q. I'm interested in what's your experience in
19 those kinds of situations.

20 A. (Carbonneau) Well, I can tell you about some
21 experience I've had on an Eversource project
22 as an environmental monitor after helping a
23 project get through the permitting process
24 and once the construction started and the

1 contractor was brought on board.

2 We had weekly construction meetings that
3 were attended by the Project manager, the
4 health and safety director for the Project,
5 the contractors and the environmental
6 monitors. At every one of those meetings the
7 issues that would be applicable to the work
8 to be conducted that week were discussed;
9 areas of sensitivity were discussed; exactly
10 what was hoped to be accomplished, and what
11 the schedule was was discussed, and then
12 every morning out on the site there was also
13 a tailboard meeting to go over exactly what
14 was going to be done that day. And, you
15 know, everybody sort of got their marching
16 orders.

17 The monitor typically, you know, in the
18 projects I worked on, my job was to make sure
19 the erosion and sedimentation controls were
20 placed as expected based on the plans that
21 had been developed, that they were
22 functional; that there were no turtles or
23 snakes, you know, in front of the equipment
24 as they would move along the area; that

1 timber mats were placed where they needed to
2 be placed on the wetlands. We previously had
3 to re-flag wetland boundaries so they were
4 very obvious in the field. And then
5 photographs and notes were taken,
6 documentation of the actual impacts to
7 wetlands. Any other activities that were out
8 of -- that were not in compliance we were
9 able to discuss with the contractors on site.
10 We would have them stop work if necessary and
11 bring in more materials if appropriate. And
12 then we had to combine all of these into an
13 inspection report that was submitted pretty
14 much weekly to the client and compiled into a
15 monitoring report for New Hampshire DES.
16 It's generally a permit condition.

17 Q. Okay. Thank you. So you were pretty much
18 there every day, is that right, on that site?
19 Or did you travel around to different places?

20 A. (Carbonneau) It depends. There are many
21 situations where we had to be there for a
22 certain amount of time to get the equipment
23 where it needed to be and make sure
24 everything was ready. We weren't necessarily

1 there every day, and we weren't there
2 necessarily all day for the days that we were
3 there. But we identified what those key
4 periods would be, where something new was
5 happening that we needed to watch or some
6 movement was happening, where, you know, if
7 the season was right and we needed to check
8 for snakes and turtles. Or if they were in
9 the process of doing some restoration, we
10 needed to be there for that. So we were not
11 there every day, we were not there all day,
12 but we were there for the key activities that
13 required monitoring.

14 Q. Thank you.

15 Mr. Tinus, is that pretty much your
16 experience?

17 A. (Tinus) Yeah, Lee did a good job describing
18 the process.

19 Q. Good. Now, right now we're in kind of a
20 funny position because it's not really
21 construction time. Would you call this
22 pre-construction? Where does this -- you
23 now, right now, the kind of work going on out
24 in the field, where does that fall? Because

1 you're not -- it's not certified yet.

2 A. (Carbonneau) Well, there are no construction
3 activities directly associated with the
4 construction of the Project. There has been
5 some geotechnical investigations that have
6 taken place under separate permits that were
7 submitted and approved. So right now we're
8 still considering this project to be in a
9 permitting phase.

10 Q. All right. And is there -- are there any
11 monitors on site with the geotechnical boring
12 folks?

13 A. (Carbonneau) There were monitors for
14 geotechnical borings on the Deerfield site,
15 the Deerfield substation expansion,
16 Transition Station 5 in Bethlehem and
17 Transition Station 1 in Pittsburg. And we
18 expect that if we get approval for the test
19 pits that need to be done at Transition
20 Station 1 and at Deerfield, we will have
21 monitors there as well. That's our
22 expectation. It's going to depend on how the
23 permit conditions read. But certainly the
24 Deerfield substation has the potential for

1 Blanding's turtles, so monitors would be
2 appropriate there, at a minimum, and as well
3 as we expect there to be a requirement to
4 make sure that erosion and sedimentation
5 controls and BMPs are employed.

6 Q. All right. And who are the monitors -- who
7 hired the monitors and what sorts of
8 background do they have, the ones who were
9 already at the Deerfield substation and in
10 Pittsburg and Bethlehem?

11 A. (Carbonneau) For Bethlehem and Deerfield,
12 they were Normandeau employees with some
13 experience in monitoring, certainly with the
14 ability to identify snakes and turtles. In
15 Pittsburg, that was done through the
16 contractors. That was done by a different
17 company.

18 Q. Okay. And I guess I'm wondering, too, about,
19 you know, we had the experience there on
20 Route 116 where there was 10-gallon spill.
21 So that would have been monitors from the
22 Company that was doing the work; is that
23 right?

24 A. (Carbonneau) I don't think there were

1 monitors associated with the geotechnical
2 borings along the underground route.

3 Q. Okay. And I guess, you know, we've talked
4 about, Mr. Tinus, in your discussion during
5 the tech session, this is back a ways, you
6 had mentioned something called "field
7 documentation reports" and individual
8 violation reports. Are those still the terms
9 used for accountability or --

10 A. (Tinus) I don't recall those particular
11 terms. But there would be a report and an
12 inspection report that would be written up,
13 as Lee stated. And I don't know where the
14 term "violation report" comes from that
15 you're referring to. You said "violation"
16 something. I don't recall saying that.

17 Q. Okay. Is there something called -- or
18 something that serves that purpose to keep
19 track of violations?

20 A. (Tinus) Well, I mean, the DES, if there was
21 some sort of egregious problem out there that
22 rose to that level, then there could be some
23 sort of violation letter issued by DES.
24 Maybe that's what was the context of that. I

1 don't know.

2 Q. I guess I'm just wondering now what's the
3 accountability, you know, on the ground. So,
4 apparently whatever happened with that
5 10-gallon spilling, that did not rise to the
6 occasion -- or rise to the level of an
7 egregious problem, so that we had Attorney
8 Bisbee's letter to DES.

9 What else would have to -- was there
10 something that would have to happen if it
11 were a bigger problem? I mean, does somebody
12 report those kinds of things regularly? And
13 to whom?

14 A. (Tinus) That's hard to speculate an answer on
15 a speculative question like that. I think
16 the incident you're referring to, though, was
17 looked at very closely by agencies, including
18 DES and DOT and the Forest Service. And they
19 found there was -- there were no violations,
20 and they found that there were no issues
21 there, long-term issues, so...

22 Q. Yeah. And I guess what I'm thinking is that
23 it's not so much -- to me, it's not a
24 speculative kind of question. It's really,

1 you know -- we all know there will be a
2 variety of difficulties happening day by day.
3 So what's the procedure?

4 A. (Tinus) Maybe I can give you an example that
5 I recall from one of the projects I was
6 monitoring in the Groton Wind Farm. This was
7 I don't know how many years ago now.

8 They were on a ridgeline they cleared,
9 and they were grubbing, which means removing
10 the stumps and piling the material up. And
11 there was a particular equipment operator who
12 decided that he needed to move the water out
13 of the way, which was bermed up by a large
14 amount of material. And in doing so, some of
15 it released, you know, very turbid water down
16 into a little stream. So, immediately
17 everything stopped on that site. The
18 contractor's environmental monitor, the guy
19 was a bulldog. I mean, he just took charge
20 and rectified the situation. This operator
21 was kicked off the site. So things like
22 that, you know, would be an egregious
23 violation. And that was dealt with very
24 swiftly and appropriately, in my opinion.

1 Q. Okay. So when something like that happens,
2 is there a report filed that, like, goes up
3 the chain?

4 A. (Tinus) Absolutely. There was a report filed
5 with DES. They were notified. They came out
6 and inspected. They knew all about it. It
7 was part of that day's inspection notes. I
8 wrote them up.

9 Q. Okay. Yeah, that was the kind of -- I was
10 looking for just that kind of a procedure.
11 So that I'm interested...

12 Now, if that had caused some kind of
13 impact to the water, or whatever happened, if
14 it causes an impact to, say, wetlands or
15 water control, how does that get translated
16 back to sort of the whole project when you're
17 talking about temporary versus permanent
18 impacts and things like that?

19 A. (Tinus) Well, in that case, what DES asked
20 for, because it was actually a release of
21 sediment, the sediment was carefully removed
22 from that headwater stream literally by
23 shovel and bucket and rakes. And it took
24 about five or six guys to do that. There was

1 a number of buckets of sediment pulled out of
2 there. And then DES came and looked at it,
3 and it was performed to their satisfaction.
4 So, you know, once that incident happens, it
5 raises the level of awareness on the site,
6 and it comes up every time at every
7 subsequent meeting: Don't let this happen
8 again. There's a level of seriousness
9 involved with this.

10 Q. Okay. I would hope so. Exactly.

11 A. (Tinus) Yeah.

12 Q. I guess I'm also wondering about how does
13 this -- could it ever be something that would
14 get into sort of increasing mitigation or --
15 say you move from, you know, the minimal to
16 the mitigation part and how that gets
17 handled.

18 A. (Tinus) Well, I mean, in that case they want
19 direct restoration, and the restoration meant
20 removing the sediment. And it was a short
21 stretch of the stream. It wasn't several
22 buckets. I don't know exactly how much. But
23 it wasn't a huge, huge amount of material.
24 Typically, I think it's handled on a

1 case-by-case basis. I don't think it would
2 rise to the level where you're going to have
3 to up the mitigation. It just doesn't
4 happen. I mean, you have Best Management
5 Practices in place that are to prevent that
6 kind of thing from happening.

7 Q. Okay. So you really don't expect --

8 A. (Tinus) Not in my experience. It's never
9 happened.

10 Q. Never happened. Okay.

11 I guess I'm interested in what it also
12 means, so what happens if you have something
13 and you've gone along and you're hoping,
14 you're thinking, you're anticipating a
15 temporary impact and something goes wrong and
16 it becomes a permanent impact. What happens
17 in that kind of a case? What would be the
18 bar that would change it from temporary to
19 permanent?

20 A. (Carbonneau) That's a tough one, too. I
21 guess I would have to take that on a
22 case-by-case basis as well and confer with
23 the agencies and make sure that we're in
24 agreement, if that were to happen.

1 Q. All right. Yeah, and so it really would turn
2 out, then, to be something that, something
3 serious like that, you would have to sit with
4 the agency and pull it all together that way.

5 A. (Carbonneau) That's right.

6 Q. Yeah. If something serious like that
7 happened, where does the account -- you know,
8 who's sort of the accountability? Where does
9 that -- how far up the chain does that go?

10 A. (Carbonneau) It goes to the Applicant. Those
11 applications have signatures on them, and
12 those individuals hold those applications for
13 the Company and they're ultimately
14 responsible.

15 Q. Okay. Yeah. All right.

16 And what about things like -- I'm
17 thinking about sort of getting ready, you
18 know, if it all goes through, getting ready
19 for construction when you bring in all the
20 people who are going to be cutting down trees
21 and things of that nature. Will that be
22 considered pre-construction and you'll have
23 monitors, or is that one of those little gray
24 areas that's a little, you know, before the

1 monitors kick in?

2 A. (Carbonneau) The tree clearing is part of
3 construction. It's site preparation. And so
4 the Project can't undertake the tree clearing
5 associated with the Project until all of the
6 permits and approvals have been received. So
7 that's probably the first step in some
8 locations, where we have trees that need to
9 be cleared. But the Project can't do that
10 until all of the permits are received.

11 Q. Now, I'm thinking, too, now, in
12 post-construction. Where do most of the
13 concerns come from? I've heard that, like,
14 it's somebody, a citizen or somebody from the
15 town notices something's wrong and then they
16 start to ask questions. Is that your
17 experience? Or do you feel like there's
18 enough of, I don't know, people going back to
19 check on the Project, you know, what's been
20 done?

21 A. (Carbonneau) Typically there are
22 post-construction monitoring requirements.
23 And the conditions that New Hampshire DES has
24 included in their project approvals outline

1 some of those things. Certainly for the
2 restored wetlands there's a requirement to
3 monitor those for at least two growing
4 seasons and meet certain standards. If those
5 standards aren't met, then additional
6 remediation of some kind is necessary. And
7 in my experience, when a monitor is out
8 looking at the wetlands, they're also looking
9 at any other area that has required some
10 restoration. So the uplands around the
11 wetlands, it's just as important to make sure
12 those have been restored and are stable and
13 aren't creating problems downstream. So
14 there are monitoring requirements associated
15 with the Project already.

16 Q. Thank you.

17 All right. I was wondering, also, when
18 Normandeau was contracted to work on this
19 project, were you -- was the charge to look
20 exactly on the right-of-way? I mean, we've
21 heard this a lot. So that when you are
22 making your environmental impact, you're
23 really looking at environmental impact within
24 the right-of-way; is that correct?

1 A. (Carbonneau) Well, we were hired to do a
2 couple things.

3 Q. Yeah.

4 A. (Carbonneau) One of the things we did was to
5 do all of the natural resource inventory
6 within the Project area, which was provided
7 to us by the Project Team. But there was
8 portions of that project where the decision
9 of exactly where the route was going to be
10 hadn't been finalized yet. And I'm talking
11 about the area from Pittsburg down to the
12 existing transmission line in Dummer. So as
13 part of that, we also did some desktop-level
14 analysis of sensitive resources, you know,
15 natural resources and, you know,
16 archeological and historical resources and
17 other potential constraints or advantages.
18 So we had that role as well. But our field
19 delineations and field work in the existing
20 right-of-way was confined to the right-of-way
21 boundaries unless we could see beyond it from
22 that advantage point.

23 Q. Right. So I guess that's -- does the SEC
24 require that utility projects or some -- is

1 it part of the requirements that they stay
2 within the right-of-way? Or is that
3 something that Northern Pass and the
4 Applicant decided that it was part of their
5 thing?

6 A. (Carbonneau) Well, my understanding is beyond
7 the right-of-way there's private property.
8 So, you know, Northern Pass and Eversource
9 don't own the land in the right-of-way in
10 most locations. If we were to stray outside
11 of the right-of-way, we would be on private
12 property at that point. So that's the main
13 reason that we were confining our field work
14 to the right-of-way. But we did consult with
15 resources like wetland maps and soil maps and
16 aerial photos that showed what was on either
17 side of the right-of-way as well. That's
18 just part of the due diligence that we do
19 when we're working on a project. We want to
20 know the landscape context of the area we're
21 working in.

22 Q. Right. But there's nothing from the SEC that
23 says you need to stay within. That's not one
24 of the requirements, I'm assuming.

1 I guess, you know, of course from our
2 perspective on the Pemigewasset, we're
3 looking at a whole, great big --

4 A. (Carbonneau) Watershed.

5 Q. -- watershed, yeah. So when we look at
6 brooks or whatever that are crossing the
7 right-of-way, we kind of -- you know, we're
8 interested in how far away they are from the
9 river. So that's kind of where our concern
10 is. And one of the things that the PRLAC,
11 the Pemigewasset Group has done is we really
12 are working under DES as a volunteer group,
13 and we were really hoping that they would
14 have a lot more rigor and perhaps sort of
15 waited on the permitting. But that's neither
16 here nor there.

17 And I guess when I think about a
18 project -- it must be very frustrating. I
19 think about a project, you know, that you're
20 contracted to do and then you're limited to
21 the right-of-way and that we're now asking
22 the SEC and the public to really look at
23 environmental impacts only within this, you
24 know, 200, whatever it is, right-of-way

1 limit. Did you find that frustrating?

2 A. (Carbonneau) I personally don't find that
3 frustrating because I think that the impacts
4 of the Project will be confined to the
5 construction portions that are within the
6 right-of-way. We are not anticipating off-
7 right-of-way impacts associated with the
8 Project. And if the Best Management
9 Practices and avoidance and minimization
10 measures are employed, that's our
11 expectation, that the impacts will be
12 confined to the right-of-way or the site
13 development sites.

14 Q. Okay. Thank you.

15 All right. I know that you're not
16 anticipating problems. I guess, Mr. Tinus,
17 this is kind of with your engineering
18 background. You're not anticipating problems
19 with construction. But would it not be Best
20 Management Practices to be fully prepared for
21 whatever could come?

22 A. (Tinus) I think there'll need to be --
23 there's actually a permit condition that says
24 that the contractors need to have appropriate

1 stockpiled materials for, you know, erosion
2 and sediment control, for example. There'll
3 be other requirements from other plans, such
4 as the blasting plan, to have appropriate
5 safety or response equipment and, of course,
6 just general equipment ready should, you
7 know, something unplanned happen.

8 Q. Okay. I wanted to just ask about the special
9 permits that are now being -- they're now in
10 for test borings. Are they part of the
11 public record? I mean, do they show up in
12 DES's whatever?

13 A. (Carbonneau) The applications for conducting
14 the test pits that we recently submitted?
15 Yes, they're part of the public record. They
16 should be on the web site as being under
17 review. We've received notification that
18 they are being reviewed at this time.

19 Q. Right. And are they now under the umbrella
20 of the Application? Right? They would be
21 considered part of the Application?

22 A. (Carbonneau) No. They are separate
23 applications because the work needs to be
24 conducted prior to the actual construction of

1 Northern Pass, which is why we submitted
2 separate permit applications.

3 Q. Okay.

4 A. (Carbonneau) The work is necessary to the
5 final design elements.

6 Q. Okay. And I guess I'd like to just end with
7 a question to each person on the panel and
8 ask you: What would you consider to be the
9 greatest threats to the environment and the
10 species of New Hampshire at this time in the
11 world? What do you see as the biggest
12 challenges we face? Well, start with Mr.
13 Magee. What do you think? Is it climate
14 change? Is it development? Is it loss of
15 habitat? What do you see?

16 A. (Magee) I guess from the standpoint of plant
17 species, it's probably, I've got to think,
18 about development overall and loss of habitat
19 piecemeal here and there and everywhere and
20 because of everything, yeah.

21 Q. Okay. Thank you. Ms. Carbonneau?

22 A. (Carbonneau) Yeah, I think I would agree that
23 development often results in loss of habitat.
24 But I wouldn't put climate change too far

1 behind.

2 A. (Barnum) I agree with Lee and Dennis. The
3 development and just general, bit by bit by
4 bit loss of habitat is probably the greatest
5 threat. But I also believe that climate
6 change will pose a real threat as well.

7 Q. Thank you. Mr. Tinus?

8 A. (Tinus) I think climate change is the biggest
9 problem facing humanity right now and our
10 ability to adapt to it or not. See where we
11 end up.

12 Q. All right. Okay. Well, thank you very much.
13 I'm going to turn you over now to Mr. Stamp,
14 and he's going to talk about rivers and
15 wetlands and...

16 CROSS-EXAMINATION

17 BY MR. STAMP:

18 Q. Good afternoon. I'm going to start up in
19 Plymouth. This concern was expressed a
20 couple weeks ago, and I thought it probably
21 deserves some consideration in this group.
22 And it relates to MTBE, the gasoline
23 additive, just briefly what happened when the
24 new Route 175 bridge going into Plymouth was

1 starting up and they were in the abutment
2 excavation phase and uncovered this MTBE
3 contamination issue, and it spread quite a
4 ways. The source was an Exxon station,
5 believe it or not, that used to be on Main
6 Street in Plymouth. Location today is a
7 bank.

8 The corrective action taken was an
9 attempt to wall off the plume, which at that
10 time appeared to be headed for the Pemi, to
11 the river. And so I don't know whether it
12 was a pile-driven wall. Something was
13 installed to hold that back. And there was a
14 monitoring well drilled to keep track of
15 whether they had it trapped or not. And over
16 time it's apparently been reasonably
17 successful.

18 But my question is: Are you aware of
19 that issue? I mean, we're going to be
20 trenching down the main street of Plymouth,
21 going right by where the Exxon station used
22 to be. Are you aware of the MTBE issue? Is
23 it on your screen?

24 A. (Carbonneau) I can speak --

1 A. (Tinus) I don't know anything about that.

2 A. (Carbonneau) Normandeau Associates was asked
3 to do the Phase I site assessment for the
4 entire Project route. So it covers the
5 underground route and the overhead route, and
6 it's also been done on the mitigation sites
7 and the development sites, the transition
8 stations, et cetera. It's kind of a
9 high-level look at all of the data bases that
10 are available that have information about
11 what kinds of industries or releases or toxic
12 sites that are known could be in the Project
13 area. So we prepared that report and
14 provided it to the Applicant and their
15 contractors so that they would have that
16 information and be better prepared for the
17 possibility of encountering some kind of a
18 contamination during their construction
19 activity.

20 Q. So if there's residual still there, how would
21 you know?

22 A. (Carbonneau) Well, our work didn't include
23 testing. My understanding is that there are
24 places where there are known to be some

1 possibilities. And if any materials are
2 disturbed or removed from the site, my
3 understanding is they would need to be
4 tested, especially if we're going to dispose
5 of it somewhere else. But we did not do
6 actual field testing for any of that.

7 Q. Is DOT normally the source of that kind of
8 information in New Hampshire, problems in
9 various places that can be dug up?

10 A. (Carbonneau) There's actually a variety of
11 different data bases. In fact, New Hampshire
12 DES has some online information. But there
13 are other types of old maps -- there's
14 actually companies that specialize in
15 compiling all of these sources of
16 information. And actually, that's not my
17 area of expertise. There's someone else at
18 Normandeau who did that, who would know
19 better exactly what those sources are. And
20 it's possible that New Hampshire DOT is one
21 of them. But I'm not sure. But these
22 companies actually do this across the
23 country, and they know what kinds of
24 information to look for and where they can

1 find the best variety of information to use.
2 And they will actually map these locations,
3 provide street addresses in many cases. So
4 we developed many tables of information about
5 where known sites are.

6 Q. So this, I assume, would be the same answer
7 for above-ground activities.

8 A. (Carbonneau) Yes, those areas were also
9 included.

10 Q. Okay. I'm going to move on.

11 Item No. 2 here is the river
12 right-of-way crossover issues. I'm going to
13 put up a picture. This picture appeared
14 during the construction panel phase also. So
15 the reason it's coming up today is some of
16 the construction panel members deferred some
17 of the issues to the environmental panel. So
18 I'll try to cover that crossover.

19 This is the crossover in New Hampton to
20 Bridgewater. This is one of ten crossover
21 shorelines with destabilization ranging in
22 severity from okay to this level of issue or
23 problem with destabilization of the bank.

24 This picture was introduced in the

1 process as part of a letter from PRLAC to DES
2 way back in May of 2016. There was a issues
3 and concerns letter talking about -- and the
4 focus here of our activity is actually
5 between the river and that first set of
6 towers or the structures. We will define
7 that as kind of our shoreland. But that
8 whole area between the river and the closest
9 structures to the river.

10 Now, that letter to DES, interestingly
11 enough, and we were quite concerned about it,
12 drew no comment. And we struggled with that
13 a little bit. We do know that DES forwarded
14 it on to you. And I think it was July of
15 2016 we did get a response from Normandeau.
16 And it was from -- yeah, it was from you, I
17 believe, Lee. Do you recall that?

18 A. (Carbonneau) Yes, I think that's right.

19 Q. Would you acknowledge this is a right-of-way
20 maintenance management issue? And I'd like
21 to direct that both at Ms. Carbonneau and Mr.
22 Tinus.

23 A. (Carbonneau) Well, this is an existing
24 Eversource right-of-way. It is one that

1 Northern Pass would share at some time in the
2 future. I know that some folks from
3 Eversource went out and did some review of
4 these locations. They indicated that in some
5 places, and this is probably one of them,
6 that some evidence of erosion is present
7 along the shoreline. And they made some
8 recommendations about keeping some of the
9 heavy equipment away from the top of the bank
10 there and allowing more woody vegetation to
11 grow up on the edge of the river there. So
12 that would be maintenance-related activities
13 that could potentially increase a little bank
14 stabilization in this location.

15 Q. Okay. I want to refer to another document
16 that... this was... just want to see the top
17 of it. This was our prefiled testimony going
18 back to November of 2016. And I want to
19 refer you to, I guess it's around Line 125 to
20 Line 135. And this was part of a PRLAC
21 Motion to Compel question, PRLAC No. 1-26.
22 "Please provide the guidelines and personnel
23 that would be responsible for annual
24 inspection and assessment of right-of-way

1 degradation." Post-construction was the
2 focus of this.

3 And as you can see, the Northern Pass
4 response was, just reading it, "Northern Pass
5 will utilize qualified line workers for the
6 annual visual inspections of transmission
7 lines and associated right-of-ways, as is the
8 case for inspections of all other Eversource
9 lines today," implying they do this
10 basically routinely, this annual inspection.
11 Qualified arborists will make periodic
12 inspections, and it goes on and on. Annual
13 aerial inspections of the right-of-way is
14 also a component of this.

15 My question is -- and I gave Gretchen
16 the wrong copy. I need that one back. And
17 this is directed to, I think, Lee Carbonneau:
18 Have you seen this annual inspection report
19 from Eversource?

20 A. (Carbonneau) No, we don't get annual
21 inspection reports. We contract with
22 Eversource for specific right-of-way
23 projects, but annual maintenance is not one
24 of them.

1 Q. Have you ever seen anything, Mr. Tinus?

2 A. (Tinus) No, I have not.

3 Q. I guess the next question is: Do you know
4 whether they exist, a report on these annual
5 inspections.

6 A. (Carbonneau) I don't know. It's -- I don't
7 know if they do or not.

8 Q. So they definitely were not used in your
9 development of permit applications and that
10 kind of work, the results from these annual
11 inspections?

12 A. (Carbonneau) No. We relied on our own field
13 investigations.

14 MR. STAMP: Well, PRLAC requested
15 copies of the PSNH -- or Eversource annual
16 inspection reports for 2015 and 2016. None were
17 provided. I don't know whether we can ask for
18 something like that today as part of this
19 program.

20 CHAIRMAN HONIGBERG: Well, you've
21 asked these witnesses if they know anything
22 about them; right?

23 MR. STAMP: Yes.

24 CHAIRMAN HONIGBERG: And they

1 don't.

2 MR. STAMP: But I'm just trying
3 to determine whether --

4 CHAIRMAN HONIGBERG: I guess the
5 short answer is --

6 MR. STAMP: -- as part of the
7 process we can trigger their reports.

8 CHAIRMAN HONIGBERG: That was
9 during discovery when you asked data requests --

10 MR. STAMP: Yes.

11 CHAIRMAN HONIGBERG: -- and they
12 were either produced or not?

13 MR. STAMP: They were not.

14 CHAIRMAN HONIGBERG: And you
15 moved to compel?

16 MR. STAMP: We did not.

17 MS. DRAPER: Yeah, we did.

18 MR. DRAPER: Yeah, we did.

19 MS. DRAPER: We did.

20 CHAIRMAN HONIGBERG: And you
21 moved to compel and there was an order issued
22 presumably about that?

23 MR. STAMP: Well, that one
24 might -- we're a little confused.

1 CHAIRMAN HONIGBERG: I think the
2 short answer is this is not the time to ask, the
3 direct answer to your question, I guess.

4 MR. STAMP: That is a direct
5 answer.

6 BY MR. STAMP:

7 Q. Moving along, I wanted to explore with you
8 some of the results of the session with the
9 construction panel. And, you know, this
10 questioning was posed to Mr. Bowes. I'm
11 trying to read it here myself. But he was --
12 we were talking at that time about the
13 picture we just had up of the right-of-way,
14 destabilized right-of-way. And his response
15 was: I'm familiar with this location. I've
16 been to this location, looked at it, size of
17 the river, et cetera, et cetera. And I'm
18 going to paraphrase because we'll spend all
19 day here reading it. But he said this is an
20 area that probably -- again, probably -- a
21 practice that was started 75 years ago, maybe
22 80 years ago, to clear all the way to the
23 river, which was, I guess, assumed the best
24 way to manage the right-of-way and the

1 reference line at that time.

2 And then he mentions another location,
3 Army Corps of Engineers, where a different
4 approach to vegetative buffer, and there was
5 little or no erosion when the buffer is left.
6 So he goes on to say: So I know I've had
7 this discussion both in public meetings and
8 each session about Northern Pass. It goes on
9 to say... establishing a vegetative buffer at
10 each of these locations. I believe, I think
11 he thought he even committed to doing that.
12 But the point was that I think we got some
13 positive vibes about something being done
14 about this issue in the not-too-distant
15 future.

16 We also included Mr. Bradstreet in that
17 conversation, and he was a little more, I
18 think was a little more concerned about some
19 of the details that he had to be involved
20 with. But I think if you quickly scan
21 through that, he also said there's probably
22 opportunities to do something in that buffer
23 area of the right-of-way that will be
24 beneficial.

1 Mr. Bradstreet brought up certain issues
2 that Northern Pass would confront, some of
3 which would be the angle at which the
4 transmission line comes off the poles closest
5 to the river. Wetlands could become an
6 issue. Aesthetics. And here is where he
7 said, you know, we ought to consider doing
8 something about this, but we're going to have
9 to involve the functional groups, such as
10 this panel today, the environmental panel,
11 and he also included the aesthetics panel.

12 So, to kind of frame this thing, to
13 summarize it, what we were pushing for with
14 the construction panel was the possibility of
15 towers or structures not coming closer than a
16 100 feet to the reference line of the river;
17 native vegetation of reasonable height would
18 occupy the shoreland buffer zone between the
19 river and the structures. No trees. We get
20 it. For safety reasons there can't be
21 anything, any trees under the structures.
22 But the key here is no equipment, machinery
23 allowed to operate in the buffer zone. So
24 that's what we would like to get turned off.

1 Our take, particularly from Mr. Bowes, was
2 it's not unreasonable. They might want a
3 little aisle around that last structure to
4 maneuver and so forth. But the rest of the
5 way of the river, yup, let's do something
6 there that is going to help the
7 destabilization issue.

8 Now, given the rough outline I just gave
9 you -- get the structures back farther,
10 vegetate, no equipment -- is this something
11 the environmental group could endorse?

12 A. (Carbonneau) All other things being equal and
13 not being a constraint, I don't see any
14 reason why that would not be beneficial.

15 Q. Mr. Tinus?

16 A. (Tinus) I would agree. I think, given that
17 you had an officer of the Company suggest
18 that it's possible, that's a good sign.

19 Q. Okay. Yeah, Mr. Bowes, in addition,
20 indicated that we own the land. For the most
21 part there are no wetlands, so those kinds of
22 complications apparently don't exist, so
23 maybe we can move on. This is a very
24 important improvement to us.

1 Now, to move the peanut a little bit
2 further, we're not thinking an improvement in
3 something like Best Management Practices.
4 What we have in mind is somehow incorporating
5 this idea, this proposal into the Water
6 Quality Protection Act as a separate section
7 that would deal with probably rights-of-way,
8 account for certain concerns on the part of
9 Northern Pass. But this would be woven into
10 the protection network of the state.

11 When I remind you that Mr. Bowes -- and
12 we know this has been going on, from our
13 observations, for 20 years, that there's
14 something about putting it in, into the
15 regulatory framework, that causes things to
16 happen. And this I think has been long
17 denied, and so we're thinking in terms of
18 that kind of a framework. Does that really
19 frighten anybody on the panel?

20 A. (Carbonneau) I think there could very well be
21 environmental trade-offs with putting that
22 into the regulations or the law. In some
23 cases, you have very important resources that
24 would have a bigger impact. It could be an

1 archeological site. It could be a rare,
2 threatened and endangered plant community.
3 There could be something that makes it
4 difficult to get just outside of that
5 100-foot area without having another impact.
6 I can think that there could be reasons why
7 that may be difficult in many locations.
8 But, you know, I guess that's the issue that
9 most regulations cause to bubble up to the
10 surface for any permitting project. So...

11 Q. Well, you are aware that most of the rest of
12 the world has to do this, anyway. I mean,
13 Shoreland Water Quality Protection Act, I
14 mean, the first 50 feet of buffer you have to
15 meet point scores and it goes on from there.
16 It's a pretty tough regimen. And I
17 understand that's the public and you're a
18 regulated utility -- or representing a
19 regulated utility. But I guess I'm
20 optimistic that with the right approach and
21 right attitude towards fixing this thing
22 finally -- we've been talking about it too
23 long -- that I think this could work.

24 A. (Carbonneau) Well, the immediate shoreland of

1 50 feet is one thing. A hundred feet would
2 be a different standard that you would apply
3 to a utility perhaps.

4 Q. But there are also regulations from -- public
5 regulations from 50 to 150. There's a lot
6 going on in that segment, too. It's not a
7 straight trade-off. But --

8 A. (Carbonneau) Right.

9 Q. -- public doesn't end at 50. It goes on from
10 there.

11 A. (Carbonneau) No, I understand that.

12 Q. And you, probably more than anybody in the
13 room, work with this law all the time.

14 A. (Carbonneau) Yes.

15 Q. Going on to the next item. When Normandeau
16 is working on a project of this nature, i.e.,
17 a major disturbance of land surfaces, do you
18 ever check to determine if the activity is
19 over a significant high-potential aquifer?
20 Anything come up that forces you to say we
21 better determine what's underneath what we're
22 doing?

23 A. (Carbonneau) Identifying aquifers is a
24 requirement of the 401 Water Quality

1 Certificate Application, and I believe maybe
2 the Alteration of Terrain Application as
3 well. We had to consult with the DES
4 One-Stop Mapping and make sure we included
5 maps of highly transmissive aquifers in the
6 Application materials.

7 Q. But it wasn't required for this project.

8 A. (Carbonneau) Yes, it was. So those maps
9 should be in our Application materials.

10 Q. That would be the Alteration of Terrain?

11 A. (Carbonneau) I can't remember if it was the
12 Alteration of Terrain or the 401 Water
13 Quality Certificate Application.

14 WITNESS TINUS: May be in both,
15 Lee, yeah.

16 A. (Carbonneau) Yeah, I'm thinking maybe both.

17 Q. Okay. Everything we talk about from here on
18 just happens to be activity over a
19 high-potential aquifer. So we're going to
20 move to Ashland.

21 And the first sheet I would like to put
22 up is the New Hampshire DES Wetlands Map,
23 Sheet No. 471. Not a very good map. I
24 apologize for that.

1 MR. STAMP: But Gretchen, if you
2 could, or Barry, just point out where the well
3 head is on that map.

4 BY MR. STAMP:

5 Q. Okay. That is the well head. And as you can
6 see, up from that and to the right a little
7 bit there's a proposed new structure in that
8 circle. So I assume you're aware this is the
9 town's only well. Yes? No?

10 A. (Tinus) I believe I've read that, yes.

11 Q. Okay. And are you aware that based on
12 basically its output and the dynamic source
13 that they have tapped in the way of an
14 aquifer up there, this enjoys sanitary
15 protection? And the sanitary protection area
16 assigned to this well head is a 400-foot
17 radius from the well head.

18 Now, as you can see, Northern Pass
19 right-of-way goes basically right through
20 that well head protection area. And the
21 right-of-way access encroaches on the
22 sanitary protection area, which extends out
23 from about 400 feet.

24 So I guess the point here is that this

1 is an area that's more or less designed to
2 avoid, but -- and that's where I think the
3 construction panel chose to say check in with
4 the environmental panel on how we might deal
5 with avoiding that sensitive area. Have you
6 received any questions about dealing with
7 that problem?

8 A. (Tinus) I can comment. I know there's some
9 folks who have been trying to talk to the
10 officials in Ashland. I'm not sure where
11 those discussions lie. This is the kind of
12 thing that they'd like to have an agreement
13 with them. First of all, meet with them. I
14 think there's been some refusal by the town
15 to meet. And I think there's some things
16 going on between various boards or whatnot.
17 But still, I know the Project is very open to
18 meeting with them. And I'm pretty sure this
19 falls under Ken Bowes, who would say, you
20 know, this is the kind of issue that we'd
21 like to forge an agreement with the local
22 entity to work on and work out and make sure
23 that we're all on the same page with this.

24 Q. So there's no --

1 A. (Tinus) But that's as much as I know about
2 it.

3 Q. I'm sorry. I missed --

4 A. (Tinus) I just said but that's as much as I
5 know about where this is headed.

6 Q. So there's no activity today looking at how
7 you might stay out of that sensitive area --

8 A. (Tinus) Well, my understanding was the
9 structure is actually 600 feet from the well,
10 and the road is less than about 500 feet
11 away. That's what I was told. You know,
12 other than that, you know, we're trying to
13 identify the locations and figure out. But I
14 believe some of the engineers had been trying
15 to reach, you know, the town and talk with
16 them about this.

17 Q. Well, obviously a lot of heavy equipment,
18 heavy machinery is going to have to -- as
19 this thing moves along, are going to have to
20 pass right through there.

21 A. (Tinus) Right. And as far as planning
22 purposes, and as far as Best Management
23 Practices, you can be assured that this would
24 be one of the areas that would be fairly

1 clearly studied further prior to any
2 construction activities taking place. And
3 obviously, if there's any sort of agreement
4 to any special considerations that need to be
5 made, they would be worked into how they
6 approach the construction activities here.

7 But this, you know, in terms of what you
8 have going on here, you have an access road
9 and you have, you know, lattice structure
10 going up. Those activities in and of itself
11 should not be very harmful to the aquifer, in
12 my opinion. There's other activities going
13 on all around here, including the presence of
14 the sewerage lagoons not too far away and --

15 Q. Yeah.

16 (Court Reporter interrupts.)

17 A. (Tinus) And perhaps salt from the highway.
18 So I guess what I'm saying, you know, in
19 context, it's not very different from other
20 resource issues that we need to face. I'm
21 not saying it's any less important. But we
22 need to have all the information in front of
23 us and hopefully discussions with the Town to
24 lay out how exactly this area should be, the

1 construction should occur in this area.

2 Q. Is there any geotech drilling likely to take
3 place anywhere in the vicinity of this thing?

4 A. (Tinus) They'll have to do geotech drilling.
5 That hasn't been done for any of the overhead
6 sections yet. So that will have to be done
7 at some point. So I think that's another
8 issue they need to talk about, how to go
9 about that.

10 Q. I think that is in that -- you say you're
11 outside of the sanitary protection area.
12 Reasonably sure you'd have trouble if you
13 have to drill in that area. I think that
14 would be considered an issue not to take
15 place --

16 CHAIRMAN HONIGBERG: Mr. Stamp,
17 just ask him questions, okay. Don't argue with
18 him. Ask questions.

19 MR. STAMP: We're not arguing.
20 But thank you.

21 BY MR. STAMP:

22 Q. So I guess the two requests that I would have
23 is: Is there a right-of-way traffic route
24 planned that would avoid the SBA? And I

1 guess I've heard "not at this point."

2 And does tower construction activity
3 encroach on SBA? And Mr. Tinus, you're kind
4 of indicating it's outside that 400-foot
5 radius hotspot.

6 A. (Tinus) Yes, I believe that's what I was
7 told.

8 Q. I think we need to check on that, but --

9 A. (Tinus) Yeah.

10 Q. Okay. Just to show you the layout, which I'm
11 sure you may have -- that's the total, not
12 the sanitary, just the total well head
13 protection area.

14 MR. STAMP: And if you could
15 point out the well head on that map. Down
16 there.

17 BY MR. STAMP:

18 Q. Now, you can see the dots all around that.
19 Those are monitoring wells. They are -- a
20 lot of them are right in your right-of-ways.
21 They are very sensitive. It's a very
22 sensitive area. So it's another reason that
23 people want to keep you out of that special
24 place.

1 Okay. Moving on down on the river and
2 to the Ashland sewerage lagoon area --

3 MR. STAMP: No, I'll give you --
4 I've got some maps.

5 (Pause in proceedings)

6 BY MR. STAMP:

7 Q. This is a page, Ms. Carbonneau, from the
8 Ashland Shoreland Permit Application. And
9 during the top section -- and I'm not going
10 to read it all -- you outline what the
11 program is. It describes a new high-voltage
12 transmission line will be constructed in an
13 existing transmission right-of-way. The
14 Ashland project area includes one shoreland
15 location along the Pemi River. Now, I'm not
16 sure what that means, "one shoreland location
17 along the Pemi River." Can you define that,
18 describe that?

19 A. (Carbonneau) Yes. As the Project sort of
20 parallels the Pemigewasset River in some
21 locations, we wanted to make sure that it was
22 clear that in the town of Ashland, the
23 locations where the Project was within the
24 Pemigewasset River protected shoreland were

1 sort of all in one place and that there
2 wasn't another section elsewhere in Ashland
3 on a separate set of plan sheets further
4 somewhere else where that was also going to
5 occur.

6 The Shoreland Division asked us to
7 separate our applications by town and by
8 river. So, in some locations we might have
9 two separate segments of the Project entering
10 the shoreland of a river that it parallels
11 within the same town, and we would have said
12 there are two locations. But in this case,
13 these were contiguous.

14 Q. I understand. Work on the protected
15 shoreland includes installation of four new
16 lattice structures. This is in the sewerage
17 lagoon area. Four new lattice structures,
18 two footings of an additional lattice
19 structure. And there are five temporary work
20 pads that will be established in these work
21 areas and will be restored after
22 construction. In addition -- so, there's a
23 lot going on here in that narrow strip.

24 In addition, 98,227 square feet of tree

1 clearing is planned within the existing
2 right-of-way. And I want to put up some maps
3 to give to everybody an indication...

4 Now, what you're looking at is alongside
5 I think the northern lagoon. But you can see
6 where the new lattice structures are going
7 in. They're outlined in squares in orange.
8 And you can see where the right-of-way
9 border, basically the western border is the
10 one toward the river. And I assume that's
11 where -- I guess I should ask. Is that where
12 most of the trees are going to come down?

13 A. (Carbonneau) Yes, the tree clearing --
14 although this isn't the shoreland plan, I
15 believe this is the wetlands permitting plan.

16 Q. It is the wetlands permitting plan.

17 A. (Carbonneau) Yeah, the tree clearing is a
18 little bit hard to see, but it is outlined in
19 kind of a dark green. So if you look at the
20 cluster of trees between the sewerage lagoon
21 and the river, you can see there's a dark
22 green line in some locations, and that
23 represents the tree clearing area, yes.

24 Q. And the majority of the 98,000 square feet

1 will be occurring right through that section
2 or all along the right-of-way?

3 A. (Carbonneau) It's inclusive. It should cover
4 everything within the shoreland.

5 Q. Within the shoreland. Wow. Okay.

6 Now, the blue checkered lines there are
7 100-year floodplain, which appears to us to
8 actually encroach in your right-of-way. So I
9 don't know how -- I'm sure you were aware of
10 that and that you had to deal with it in your
11 permit application proposal. Can you tell us
12 how you dealt with that?

13 A. (Carbonneau) In the Wetlands Application, we
14 do acknowledge that there are activities that
15 will take place within floodplains in some
16 locations. Now, these are from FEMA maps.
17 They're not always 100 percent accurate. In
18 some cases, they go a little further up the
19 slope than you might otherwise expect. But
20 there is no prohibition against cutting trees
21 down in a floodplain area. And we don't
22 expect that the footings or the towers
23 themselves will unduly influence, you know,
24 the flood storage capacity of the floodplain.

1 Q. Are you aware of any effort to move those
2 towers a little farther away from that
3 sensitive river area --

4 A. (Carbonneau) This is a tough area. I'm
5 sorry.

6 Q. Sorry?

7 A. (Carbonneau) This is a tough area. It's
8 constrained. The engineers did what they
9 could do in this location. There is an
10 existing transmission line in this
11 right-of-way already, and they put the towers
12 in where they fit. And they're confident
13 that this design will work.

14 Q. Now, I think your permit states that within
15 the 250-foot protected area from the
16 referenced 95,000 -- the area 250 feet within
17 a shoreland, 95,000 square feet, that's how
18 much you're moving in on the protected
19 shoreline. Is that the right way to state
20 that?

21 A. (Carbonneau) I can't really confirm those
22 numbers, off the top of my head.

23 Q. Well, that's right from your permit
24 application.

1 A. (Carbonneau) Are you saying that there's that
2 much area --

3 Q. That much area --

4 A. (Carbonneau) -- of the Project area --

5 (Court Reporter interrupts.)

6 A. (Carbonneau) -- of the right-of-way within
7 the protected shoreland of the Pemigewasset
8 in Ashland? Is that what your --

9 Q. That's correct.

10 A. (Carbonneau) That may be so. I don't know
11 the exact number without looking at the
12 Application form. We had 33 of these
13 applications. They all have different
14 numbers.

15 Q. Okay. I heard someone on the panel somewhere
16 along the way say or describe how much effort
17 had gone in in your planning activities to
18 avoid adverse impact on the environment.
19 And, you know, here we're involved with
20 Ashland's only well; the right-of-way
21 encroachment in the sanitary protection area;
22 possibly drilling in the SBA, but that's not
23 been confirmed; 95,000-square-foot violation
24 of the shoreland water-quality protected

1 area; 98,000 square feet of tree removal on
2 the shoreland, on and on.

3 Could you outline what the major effort
4 was in this area that we're talking about,
5 Ashland, to avoid an impact on the Ashland
6 right-of-way? I can't see where anything
7 happened here that alleviates the concerns
8 that we have.

9 A. (Carbonneau) Well, first of all, I'll tell
10 you that your statement that having this area
11 within the protected shoreland is a violation
12 of the Protection Act is not true. This
13 right-of-way predates the Shoreland
14 Protection Act, and it's an existing use. It
15 was established, I don't know how many
16 decades ago. But this is where the
17 right-of-way is. And co-locating a new line
18 where there's an existing line is consistent
19 with the current land use.

20 Now, the major constraints here are
21 related to the engineering design and where
22 those structures can be located within here.
23 We don't have a lot of wetlands to be
24 concerned about. We didn't have rare plants

1 to be concerned about. So those kinds of
2 environmental issues were not the biggest
3 concern. The concern was primarily from the
4 engineers in making selections of locations
5 where they felt that these structures could
6 be placed. And we have apparently met the
7 requirements of New Hampshire DES about the
8 Shoreland Applications and the Wetlands
9 Applications with this current design, as
10 evidenced by their approvals.

11 Q. Well, if there were any place that some
12 alternative should have, could have been
13 considered, this is probably one of the
14 majors. And I think we've heard from the
15 construction panel that an alternative route
16 was not considered, although we've heard
17 people from Bridgewater say there was some
18 discussion about diverting that and running
19 it down River Road and all kinds of benefits
20 associated with that. Were you involved with
21 any of those conversations?

22 A. (Carbonneau) I'm not aware of those, no.

23 Q. Mr. Tinus?

24 A. (Tinus) I'm not aware of that.

1 Q. Okay. I guess the only other interesting
2 comment is those infiltration ponds. The
3 infiltration is about 50,000 gallons a day is
4 infiltrating. And, you know, it's going
5 through the filter, if you will, of
6 groundwater, et cetera, and it's headed for
7 the Pemi. We know it's high in nitrate and
8 may have some other issues, but not enough to
9 create any, I guess, red flags. But the
10 discussion continues.

11 So I think that does it for me, Mr.
12 Chairman. Thank you very much.

13 CROSS-EXAMINATION

14 BY MR. DRAPER:

15 Q. Well, hello. I'm Barry Draper, and I'm with
16 this panel. I'm going to continue to look at
17 impacts of wetlands and species within the
18 right-of-way in the Pemigewasset watershed.
19 I had some questions about did you find any
20 threatened species in the Pemigewasset
21 watershed right-of-way?

22 A. (Magee) State or federally-listed threatened
23 species, no.

24 Q. No. Okay. So that would mean that -- I've

1 lost my place already. That would mean that
2 you found no signs of wood turtles.

3 A. (Magee) I was talking about plants. I'm
4 sorry.

5 Q. Oh, I'm sorry. I was including plants.
6 That's definitely included. But I was
7 thinking all of you. I should have addressed
8 the whole panel is who I'm talking to.

9 A. (Barnum) In this location, there's suitable
10 habitat for wood turtles, and their presence
11 is assumed.

12 Q. But there was no evidence of it.

13 A. (Barnum) We didn't do any searches for them
14 because we're simply assuming, based on the
15 suitability of the habitat, that those
16 species will be present.

17 Q. They would be present. Great.

18 And how about the smooth green snake?

19 A. (Barnum) Similar.

20 Q. Didn't see but --

21 A. (Barnum) Didn't search for because we're
22 assuming presence.

23 Q. Okay. And Jefferson salamanders?

24 A. (Barnum) I would have to defer to the vernal

1 pool --

2 A. (Carbonneau) Yeah, I think Jefferson
3 salamanders, my recollection, were only found
4 in one vernal pool in the AC section of the
5 Project, south of Deerfield.

6 Q. So, all the way down south. So that's one of
7 my questions is that I really feel that there
8 are these things around. I've lived in this
9 one section for 40-something years, and I've
10 seen these things. An I just was hoping is
11 there going to be like -- will there be
12 monitoring going on even though they weren't
13 found? If the habitat has been proven to be
14 possible that they could be there, there will
15 be monitors searching before?

16 A. (Barnum) Within suitable habitat for the wood
17 turtle, there will be searches for wood
18 turtles.

19 Q. And how about green snakes?

20 A. (Barnum) Green snake was not a species that
21 Fish & Game requested that we consider.

22 Q. So, I mean, Fish & Game does -- do you only
23 use those recommendations? Is that how you
24 search for these?

1 A. (Barnum) We based our plans for threatened
2 and endangered species on their requests,
3 yes.

4 Q. Okay. I guess that's the way it is.

5 Okay. Well, I've got some -- everybody
6 knows I've got some live things.

7 MR. DRAPER: Do you have a white
8 piece of paper?

9 (Pause in proceedings)

10 BY MR. DRAPER:

11 Q. All right. We've got some living organisms.
12 They aren't swimming much now, which is
13 actually good for --

14 MR. DRAPER: No, don't make them
15 swim.

16 BY MR. DRAPER:

17 Q. So you can see them better.

18 MR. DRAPER: Maybe you could move
19 that. Do you want to get closer, Pam, and focus
20 it down? Could we get it --

21 MS. MONROE: We can do it.

22 (Discussion off the record)

23 BY MR. DRAPER:

24 Q. You as the environmental, I should ask you to

1 come up and take a look if you want. But can
2 you identify any of those species?

3 MS. MONROE: Me?

4 MR. DRAPER: No, no. I'm sorry.

5 BY MR. DRAPER:

6 Q. I was wondering if anybody on the panel --
7 I'm not trying to put you on the spot. I
8 just didn't think -- it is really difficult
9 to tell. Can you see how many species there
10 are there?

11 A. (Barnum) I don't know. I mean, I don't know
12 what growth stage any of these guys are in.
13 From this position, I can't see any
14 identifying factors from this angle and --

15 Q. Yeah, I know it's really --

16 (Court Reporter interrupts.)

17 A. (Barnum) And I have to admit larval
18 amphibians are not my specialty, so...

19 Q. And would you agree that they are really
20 difficult -- larval amphibians, you need to
21 basically key them out; correct?

22 A. (Barnum) It helps to have a key.

23 Q. Yeah. And can you see there's salamander
24 larvae in there? I don't know if you can

1 find him.

2 A. (Barnum) Yup.

3 Q. Yup. Okay. And I think there's probably a
4 peeper, a wood frog, and a -- what's the
5 other one? Gray tree frog. I think those
6 are the three tadpoles in there. Of course,
7 now you're going to see them. Those are what
8 I -- only because I watch the egg masses in
9 the vernal pool in the wetland that was on
10 the right-of-way. And this was in New
11 Hampton.

12 So what I was questioning is, if there
13 was -- it was hard for you to see these.
14 Would you, if you were a monitor going out,
15 would you go out and check each one of these
16 vernal pools to see if these were -- I mean,
17 what's one that we're worried about? The
18 Jefferson salamander and the -- is the
19 leopard frog on that list?

20 A. (Barnum) Northern leopard frog, yes.

21 Wouldn't be expected to be in a vernal pool.
22 So, vernal pools --

23 Q. I'm sorry. A wetland. This was not a vernal
24 pool.

1 A. (Barnum) So, wetlands and vernal pools would
2 be protected on their status as wetlands and
3 vernal pools, regardless of the species they
4 contain.

5 Q. Oh, okay. Great.

6 So what I was just questioning is, if
7 there was a wetland that was not labeled and
8 a machine operator was going through and
9 found some of these, would he stop and say we
10 got to find out what these are?

11 A. (Carbonneau) I'm not sure a machine operator
12 would actually see these from his perch on
13 the machine. There's a remote possibility
14 that a wetland that was not previously
15 identified as a vernal pool could have some
16 breeding amphibians. They may not be vernal
17 pool species. There's an assumption that
18 wetlands have good aquatic habitat, whether
19 it's for vernal pools species or other
20 potential amphibians or water-dependent
21 wildlife. That has been taken into
22 consideration, and for that reason attempts
23 were made to try to avoid and minimize
24 impacts to all wetlands. I don't think, even

1 if larval amphibians of some kind were seen
2 in a wetland, that that would necessarily
3 stop work if the permit already allowed for a
4 crossing of that wetland area.

5 Q. But I mean, I don't expect everything to
6 halt. But I was wondering if they spotted
7 this, would they go any further to check to
8 see if these were -- you know, if they'd say,
9 oh, those are just bullfrog tadpoles and
10 we're going to let them go or they'd run over
11 them? I don't know. Wouldn't they avoid --
12 wouldn't that be the most important thing to
13 do is to try to avoid the wetland altogether?

14 A. (Carbonneau) I think it's probably not
15 practicable when the equipment is right
16 there. If the wetland could have been
17 avoided already, it probably would have been
18 avoided through the planning process to have
19 the road go around it, if that was
20 practicable. If it's not, then it would be
21 crossed with timber mats. In most cases,
22 those timber mats have spaces, unless you're
23 actually crushing an egg mass, for example.
24 It wouldn't necessarily preclude amphibians

1 from using the portion of the wetland that is
2 not covered by the mat, and it may actually
3 allow some movement within, you know, between
4 the sides of the area that's been covered.

5 Q. Depending on the weight. Is that -- would
6 the weight make a difference, too?

7 A. (Carbonneau) No, it's the structure of the
8 mat and how it's placed in the wetland.

9 Q. Okay.

10 CHAIRMAN HONIGBERG: Mr. Draper,
11 before you continue, how much do you have, do
12 you think?

13 MR. DRAPER: Very little. I'm
14 less than a page.

15 CHAIRMAN HONIGBERG: Okay.
16 Thanks.

17 MR. DRAPER: Well, I love
18 answers. So maybe we'll get some good answers
19 and go longer.

20 BY MR. DRAPER:

21 Q. I will skip that. Now I'd like to focus on
22 the right-of-way crossover and construction
23 on Brook Road.

24 MR. DRAPER: Could we have that

1 photo? Be careful moving those guys. They've
2 been through a lot.

3 BY MR. DRAPER:

4 Q. So I've been observing the erosion taking
5 place during rain and snow events on Brook
6 Road. And this photo, Exhibit Pemi 7,
7 Page 3, was taken first January 2016. That's
8 the top one that she's got there. And the
9 second, same location a year later, do you
10 see the erosion there?

11 MR. DRAPER: Why don't you show
12 the top one first. I mean, that shows the
13 erosion the best.

14 A. (Carbonneau) I don't know if I'm looking at
15 erosion. I have actually been to this site
16 in the field. It looks to me like there is
17 an intermittent or ephemeral stream channel
18 that comes into the brook at this location.
19 I can't tell you for sure if it was because I
20 didn't cross over and investigate further.
21 But I'm not sure --

22 Q. It's tough terrain, yes.

23 A. (Carbonneau) -- if that's there because it's
24 an access road or if it was there before the

1 access road. I'm not sure.

2 Q. There is natural drainage up above it, and it
3 actually went down the hill over -- I mean,
4 it didn't go into the brook itself. It used
5 to go across the top. And since that is the
6 access road that they use most of the time --

7 MR. WALKER: Mr. Chairman, with
8 all due respect to Mr. Draper, he wants answers,
9 but we'd like questions.

10 CHAIRMAN HONIGBERG: Yeah, you're
11 testifying about something else that used to be
12 there, so --

13 MR. DRAPER: Well, I thought she
14 asked. No? I don't answer her question?

15 CHAIRMAN HONIGBERG: It's your
16 turn to ask questions of her.

17 MR. DRAPER: Okay.

18 CHAIRMAN HONIGBERG: At another
19 stage they'll get to ask questions of you. It
20 will be most effective and efficient if you ask
21 her questions, let her answer and then ask her
22 another question.

23 BY MR. DRAPER:

24 Q. Okay. So we left it that you had seen that,

1 and you perceived it as a -- could have been
2 a brook --

3 A. (Carbonneau) Yes.

4 Q. -- an ephemeral brook. And that's the
5 answer. I shouldn't go any further with
6 that.

7 CHAIRMAN HONIGBERG: I can think
8 of any number of questions you might ask off of
9 that, but I don't know what's on your sheet.

10 MR. DRAPER: Okay. I got you.
11 Thank you very much. That helps me.

12 BY MR. DRAPER:

13 Q. So, on April 24th, PRLAC received an in-depth
14 report. And this is probably -- you probably
15 had parts going into this, I think, from
16 Eversource. And the report was compiled
17 between June and September 2016. Is it
18 common practice to observe erosion during
19 time of a drought?

20 A. (Carbonneau) I think in this case the
21 Eversource folks wanted to address the issue,
22 and that was when they were available to go
23 out and look at the area. I can't speak to,
24 you know, whether or not the time of the

1 review was tied into the drought or how
2 appropriate it was. But that's when they
3 went out and took a look.

4 Q. Okay. So I was just wondering why they --
5 were you part of -- I should have asked you
6 that. Were you any part of that, or was that
7 just --

8 A. (Carbonneau) That was an Eversource report.
9 I have looked at the locations in that report
10 subsequent to the report, but I was not
11 involved in drafting it.

12 Q. Because I was wondering why -- is it usually
13 a common practice to contact, like, location
14 people who have reported it? I felt like
15 PRLAC was not contacted in any way. Is that
16 common practice for that to happen? I don't
17 know.

18 A. (Carbonneau) I'm not sure I can answer your
19 question. This is an Eversource issue in an
20 existing right-of-way, and it was not -- it's
21 not directly related to the permitting of the
22 Northern Pass Project, at least from our
23 application materials.

24 Q. So, looking at that picture, what would you

1 recommend? What would you do in that
2 situation for a -- to prevent that from being
3 an erosion event?

4 A. (Carbonneau) When I visited this site in the
5 field, I saw the water that was entering the
6 brook down that channel to be clear. The
7 substrate is rocky. I saw no evidence of
8 sedimentation or erosion happening in that
9 location, which isn't to say it might not
10 happen at some other time. But when I was
11 there, it didn't look like a water quality
12 issue to me.

13 Q. Okay. And that is interesting because at
14 that site really there are times when it's
15 crystal clear. And I can understand that at
16 that point it probably looked good.

17 Is it a practice -- let's see. So...
18 let's just go on. So, rivers and streams
19 flowing under and adjacent to Northern Pass
20 rights-of-way carry biotic and abiotic
21 particles in their flowage. Would you agree?

22 A. (Carbonneau) Yes, I would agree with that.

23 Q. Yup. So I counted roughly 40
24 streams/Northern Pass right-of-way crossings

1 from Bridgewater to Franklin, and 26 of those
2 flow directly into the Pemi. Does that sound
3 like a ballpark figure?

4 A. (Carbonneau) I don't know.

5 Q. Okay. Well, I walked a bunch of them. And I
6 think that's rough, that's ballpark.

7 So how are studies done concerning
8 suspended particles in these waters settling
9 out downstream, outside of the boundaries of
10 the right-of-way?

11 A. (Carbonneau) During construction -- I mean, I
12 can't speak to pre-construction -- erosion
13 and sedimentation are to some extent natural
14 processes as well in normal streams. But
15 during construction, it will be required to
16 monitor the quality of the water coming off
17 of the construction areas. And in fact, New
18 Hampshire DES requires that we prepare a
19 surface water sampling plan so that we can
20 track any potential water quality issues that
21 could move off site.

22 Q. Do you do any sampling prior to construction
23 so you have a baseline?

24 A. (Carbonneau) I'm not sure if that's going to

1 be part of the plan. It hasn't been
2 developed at this point. It's one of those
3 plans that is required to be submitted in 90
4 days, and the development of that hasn't
5 started yet. So we may end up consulting
6 with New Hampshire DES to determine the best
7 process for putting that plan together and
8 discuss the elements of it with them.

9 Q. So would it be like a -- well, that will only
10 be 90 days -- I mean, that's when requirement
11 usually is, is 90 days? There won't be
12 anything done prior to the 90 days?

13 A. (Carbonneau) We expect that plan is going to
14 take some time to put together, so it will be
15 in progress well before that. Ninety days is
16 when we need to have a finished product ready
17 to give to New Hampshire DES.

18 Q. Okay. So do you know of losses of
19 crustaceans, fish or vegetation caused by
20 suspended materials settling out and
21 smothering organisms that are important to
22 sustaining a balanced ecosystem?

23 A. (Carbonneau) I'm not sure I understand your
24 question.

1 Q. I'm just -- okay. Do you want me to repeat
2 it or --

3 A. (Carbonneau) Could you repeat it, yes.

4 Q. Okay. So do you know of losses of
5 crustaceans, fish or vegetation caused by
6 suspended materials settling out and
7 smothering organisms that are important to
8 sustaining a balanced ecosystem?

9 A. (Carbonneau) Do I know if that's possible?

10 Q. Yeah, that could be good.

11 A. (Carbonneau) Yes, that's possible.

12 Q. So do you conduct water quality testing at
13 right-of-way river and stream crossings --
14 oh, just asked you that, pre-construction,
15 and you said "No"; correct?

16 A. (Carbonneau) I said I'm not sure if that will
17 be part of the sampling plan or not, the
18 pre-construction surveys.

19 Q. Okay. So DES has stated that in their
20 conditions, that there will be no
21 construction in flowing water. What does
22 that definition of "flowing water" mean to
23 you?

24 A. (Carbonneau) Well, the definition of flowing

1 water is water that is basically contained
2 within a channel that's flowing. So,
3 presumably a stream, either a perennial
4 stream or intermittent or ephemeral stream
5 that happens to be flowing at the time.

6 Q. Would a beaver pond fit in that? Because
7 it's weird, isn't it, because it's flowing at
8 one point.

9 A. (Carbonneau) There's really no plan to have
10 in-channel construction work happening on the
11 right-of-way, except where there are culvert
12 replacements off right-of-way access roads.
13 That's the bulk of the in-stream work we
14 expect to conduct. In other locations, small
15 streams will be spanned, and larger rivers
16 will be avoided. They won't be crossed. So
17 we are not really anticipating a lot of
18 in-stream work.

19 Q. But would a beaver pond be considered
20 flowing?

21 A. (Carbonneau) Probably not if it's the part of
22 the pond that's not flowing at the time.

23 Q. But wouldn't you agree it is flowing, though?
24 I mean, it certainly isn't stagnant.

1 A. (Carbonneau) It could be.

2 Q. And that's what I was just questioning. How
3 would you deal with placing structures in a
4 beaver pond?

5 A. (Carbonneau) Well, we've kind of discussed
6 how work would happen in standing water. And
7 we would look at that more as a standing
8 water issue. The New Hampshire DES condition
9 that talks about flowing water is mostly
10 concerned with flows that are capable of
11 moving sediment and material downstream. In
12 a beaver pond, it's less likely -- it's more
13 likely that the water is at least stationary
14 enough so that your impacts are not going to
15 immediately go downstream and smother trout.
16 I think we previously testified about how we
17 would like to conduct -- or how we would like
18 to see work in standing water conducted,
19 preferentially in the winter on ice, under
20 frozen conditions, to the extent possible.
21 And if not possible, the contractors will
22 have to work to come up with a method that
23 stays within the footprint of the permit.
24 And it may, in shallow water, involve

1 stacking timber mats. If it's deeper water
2 than that, they may need some kind of
3 floating support.

4 Q. Okay.

5 MR. DRAPER: Well, I didn't even
6 tell you that was my last question, but it was.

7 CHAIRMAN HONIGBERG: Thank you,
8 Mr. Draper.

9 We're going to need to break
10 for the evening, for the weekend. We'll be
11 back on Monday, starting at 9:00. I believe
12 there's one more intervenor group, it's the
13 Ashland to Deerfield Non-Abutters. And
14 they'll go first.

15 Yes, ma'am.

16 MS. TOWNSEND: That'll be me?

17 CHAIRMAN HONIGBERG: Yes, that's
18 you.

19 (Court Reporter inquiry)

20 CHAIRMAN HONIGBERG: Ms.
21 Townsend.

22 And then we'll do the
23 questions from the Subcommittee and then any
24 redirect from Mr. Walker. With that, we will

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adjourn.

(Whereupon the hearing was adjourned at
5:29 p.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public
of the State of New Hampshire, do hereby
certify that the foregoing is a true and
accurate transcript of my stenographic
notes of these proceedings taken at the
place and on the date hereinbefore set
forth, to the best of my skill and ability
under the conditions present at the time.

I further certify that I am neither
attorney or counsel for, nor related to or
employed by any of the parties to the
action; and further, that I am not a
relative or employee of any attorney or
counsel employed in this case, nor am I
financially interested in this action.

Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)

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