

1 **STATE OF NEW HAMPSHIRE**2 **SITE EVALUATION COMMITTEE**3 **August 31, 2017 - 9:02 a.m.**4 **DAY 30**5 49 Donovan Street
6 Concord, New Hampshire7 **Morning Session ONLY**8 *{Electronically filed with SEC on 09-13-17}*9 **IN RE: SEC DOCKET NO. 2015-06**
10 **Joint Application of Northern**
11 **Pass Transmission, LLC, and**
12 **Public Service Company of**
13 **New Hampshire d/b/a Eversource**
14 **Energy for a Certificate**
15 **of Site and Facility.**
16 **(Hearing on the merits)**17 **PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:**18 **Chrmn. Martin P. Honigberg** Public Utilities Comm.
19 *(Presiding as Presiding Officer)*20 **Cmsr. Kathryn M. Bailey** Public Utilities Comm.
21 **Dir. Craig Wright, Designee** Dept. of Environ. Serv.
22 **Christopher Way, Designee** Dept. of Business &
23 Economic Affairs24 **William Oldenburg, Designee** Dept. of Transportation
 Patricia Weathersby Public Member **ALSO PRESENT FOR THE SEC:** Iryna Dore, Esq., Counsel for SEC
 Michael J. Iacopino, Esq., Counsel for SEC
 (Brennan, Caron, Lenehan & Iacopino)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken) **COURT REPORTER:** Steven E. Patnaude, LCR No. 052

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(resumed) VICTORIA BUNKER

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[WITNESS PANEL: Widell~Bunker]

1 **P R O C E E D I N G**

2 CHAIRMAN HONIGBERG: Good morning,
3 everyone. I think it's Day 30. We're
4 continuing with this panel, and I think the
5 questions from the Subcommittee are up.

6 Mr. Oldenburg, I believe you're ready
7 to go.

8 MR. OLDENBURG: Thank you, Mr.
9 Chairman. Good morning.

10 WITNESS WIDELL: Good morning.

11 MR. OLDENBURG: Point of
12 introduction, my name is Bill Oldenburg, and I
13 work with the Department of Transportation.
14 So, my disclaimer is I'm an engineer, I'm not
15 an attorney. And I'll freely admit I do very
16 poorly at this. I would love to have a
17 conversation with you, but the rules say I have
18 to ask questions. So, inevitably, sometime
19 during these questions, there will be an
20 ominous "click", and a voice from the heavens
21 will say "Mr. Oldenburg, please ask a
22 question." So, please bear with me.

23 *[Laughter.]*

24 MR. OLDENBURG: So, let me begin.

[WITNESS PANEL: Widell~Bunker]

1 BY MR. OLDENBURG:

2 Q. In the Preservation Company Report, on Page 2
3 of 33, there's a statement that "After
4 identifying potential adversely affected
5 resources, we provided this information to
6 Project design engineers who in many cases were
7 able to reduce effects to the resources through
8 minimization and avoidance techniques." And,
9 on Page 19 of 33 in the Report, there's a table
10 of avoidance and minimization.

11 A. (Widell) Yes.

12 Q. Correct? I think so.

13 A. (Widell) Yes. I see that.

14 Q. They mostly deal with replacing lattice
15 structures with monopoles. So, I get that, so
16 you make it less obtrusive.

17 A. (Widell) Uh-huh.

18 Q. Using weathering steel, instead of galvanized,
19 so it sort of fades into the background.

20 A. (Widell) Uh-huh.

21 Q. And using plantings to screen the property, so
22 to hide it, more or less.

23 A. (Widell) Uh-huh.

24 Q. Were there certain impacts that the designers

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1 couldn't avoid that concerned you?

2 A. (Widell) Yes. There are, and those are the
3 ones that ended in adverse effects. When the
4 structures are very close, we would call
5 that they become a "focal point" within the
6 setting. Or, when they isolate the property
7 from their setting, a field. Even if it's a
8 monopole, it's right there. And, so, it
9 absolutely is an adverse effect, a visual
10 effect to the property. So, yes. And those
11 are what we would call "unmitigatable adverse
12 effects". You do everything you can to avoid
13 it, but sometimes, and as we've talked about
14 this existing corridor, most of it has been
15 there 60 to 90 years. So, in many places,
16 these structures are very close to the historic
17 properties and has been for a long time.

18 Q. Okay. All right. The other thing I'll add is,
19 these are in no particular order. I try to put
20 these questions in some sort of order so it
21 makes sense, but they're not.

22 So, Dr. Bunker, I'm assuming you follow
23 sort of the same type of process, basically
24 identifying a resource, then try to avoid or

[WITNESS PANEL: Widell~Bunker]

1 minimize impacts, correct?

2 A. (Bunker) Yes. Yes, that's right.

3 Q. So, if I remember correctly, you testified
4 yesterday that you had completed your Phase II
5 investigations, and recommended avoidance to
6 those sites that were identified as significant
7 resources, correct?

8 A. (Bunker) Yes. Correct.

9 Q. Okay. So, if the Project can't avoid some of
10 those sites, will the process -- what's the
11 next phase of what happens then?

12 A. (Bunker) Sure. Well, I'm going to back up just
13 a tiny bit to get to your question exactly.

14 Q. Okay.

15 A. (Bunker) So, Phase II archeological study
16 defines whether or not the site that was
17 discovered during Phase I exhibits qualities
18 that make it significant. And we then turn to
19 ways to avoid, minimize, or mitigate the
20 effects of the Project on those, in this case
21 there were four locations.

22 Q. Uh-huh.

23 A. (Bunker) In two of those locations, we can
24 avoid it. In one, we're still discussing.

{SEC 2015-06} [Day 30/Morning Session ONLY] {08-31-17}

[WITNESS PANEL: Widell~Bunker]

1 And, as you said, one of them we cannot avoid.
2 At least that's how it looks right now in
3 conversations with the engineers.

4 So, the next step is to mitigate the
5 adverse effects of the Project. And the most
6 common way to do this, from the archeological
7 perspective, is what is called Phase III.
8 That's Phase I, Phase II, Phase III. And Phase
9 III, for archeologists, often includes what we
10 call "data recovery". That is, we simply go
11 back to the site, and conduct further
12 excavations, further analysis of the finds, and
13 essentially dig the site out. We recover the
14 data.

15 This is not done in a vacuum. There's a
16 research design that's developed, there's
17 consultation with DHR every inch of the way.
18 And this makes sense, because it's the
19 information contained in the physical remains
20 at the site that's important, and that fits
21 with Criterion (d), which asks us to assess the
22 significance of the site according to its
23 ability to contribute information to history or
24 prehistory. So, that was the essay answer.

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[WITNESS PANEL: Widell~Bunker]

1 Q. Okay.

2 MR. WAY: Excuse me, Mr. Oldenburg.

3 Could I ask a question?

4 MR. OLDENBURG: Absolutely.

5 BY MR. WAY:

6 Q. So, when you say "dig the site out and retrieve
7 more data", when you say "data", are you
8 talking about the artifacts?

9 A. (Bunker) Yes. That's correct. Artifacts, but
10 not just the artifacts as objects. This is
11 done in a systematic and controlled way. So,
12 the artifacts are also looked at in their
13 stratigraphy, that is their vertical
14 orientation, and in their horizontal
15 distribution, which tells us, hopefully, about
16 activities conducted at different locations by
17 people in the past at that site.

18 In addition to the artifacts, the
19 stratigraphy, and the horizontal distribution
20 are what we call "features". And features are
21 something you can't put in your hand. They're
22 bigger. And they are a part of the context of
23 the setting of the site. So, at a Native
24 American Indian site, a feature might be a

[WITNESS PANEL: Widell~Bunker]

1 cooking hearth. We would address that
2 separately and specifically. At a post-contact
3 European-American historic site, it might be
4 something like the footprint of an outbuilding
5 or a well.

6 Does that provide you the answer you were
7 looking for?

8 Q. I'm still trying to grapple with that phrase,
9 "dig the site out".

10 A. (Bunker) I was perhaps being a little too
11 jocular. Let me try again. Our methodology is
12 to retrieve more information from the site.
13 And, in order to get that, we use our shovels
14 and trowels and we excavate.

15 MR. WAY: Thank you.

16 WITNESS BUNKER: You're welcome.

17 MS. WEATHERSBY: Could I ask --

18 MR. WAY: Sure.

19 MS. WEATHERSBY: Jump in here?

20 MR. OLDENBURG: Certainly.

21 MS. WEATHERSBY: Thank you. Just
22 while we're on the same topic.

23 BY MS. WEATHERSBY:

24 Q. If you come across human remains, what -- are

[WITNESS PANEL: Widell~Bunker]

1 they later interred after they're analyzed or
2 what happens when there's -- what happens in
3 that case?

4 A. (Bunker) In the case of unanticipated human
5 remains, we have a policy and a protocol for
6 that. And, in fact, that's part of the
7 Programmatic Agreement. And I would refer also
8 to the Division of Historic Resources'
9 requirements for this.

10 So, if an unanticipated burial emerges
11 during excavation, we generally have a series
12 of individuals that are contacted immediately.
13 These would include the State Archeologist,
14 they include police, the county coroner, that
15 level of expert would come to the site. If
16 it's determined that it's a Native American
17 internment, then we would -- the tribal
18 representatives would be contacted. They would
19 come to the site. And a dialogue would begin
20 on how to proceed. It can vary case by case.

21 MS. WEATHERSBY: Thank you.

22 WITNESS BUNKER: You're welcome.

23 BY MR. OLDENBURG:

24 Q. Okay. Going back to the Preservation Company

[WITNESS PANEL: Widell~Bunker]

1 Report, on Page 2. And most of these -- or, I
2 have written down the reference and I can read
3 them. But, if you want to go ahead, it's on
4 Page 2. "For the underground portion of the
5 Project, Preservation Company identified,
6 photographed, and mapped the pre-1968 historic
7 resources within the 20-foot APE. Because (1)
8 the transmission line will be buried under the
9 paved and already disturbed portion of the
10 road; and (2), the line will avoid bridges by
11 directional drilling under the water body, we
12 believe that very few if any historic resources
13 will be affected by the underground segment."

14 So, I want to look at that a little bit
15 about that statement.

16 A. (Widell) Uh-huh.

17 Q. So, I saw, from the information presented in
18 the Report, that there was a review of linear
19 corridors for eligibility, railroads, roads,
20 trails, and the transmission line itself. So,
21 in dealing with, say, the roadways, there was a
22 statement that was made that the roads weren't
23 significant, because "they were not constructed
24 of a piece," and that was in quotes, in

[WITNESS PANEL: Widell~Bunker]

1 parentheses, it says "That is, in a single
2 building campaign without significant changes
3 thereafter", "so they often don't retain their
4 integrity for a particular historic period."
5 So, I'm assuming that means that they
6 weren't -- it wasn't one long, big
7 construction, and it still doesn't exist from,
8 you know, 50 years ago or later. That it's
9 been improved. So, it doesn't qualify. Is
10 that correct?

11 A. (Widell) Yes. And it goes to integrity and the
12 resource as an entity onto itself. Often, our
13 roads have changed, as you well know, from
14 where they originally went.

15 Q. So, could -- is there a comparison between like
16 a house and a road, where an architecture or a
17 certain construction technique might be
18 historically significant that doesn't exist,
19 you know, today?

20 A. (Widell) Yes, or it could exist today, too.
21 But the one that comes to mind, actually, which
22 is not in the Area of Potential Effect for this
23 Project, but you would know, going through
24 Franconia Notch, the Interstate Highway System

[WITNESS PANEL: Widell~Bunker]

1 is now over 50 years old. And I think wisely
2 the Department of Trans -- or, the Federal
3 Highway Administration determined that, in each
4 state, there were certain sections of it that
5 might be significant. And, in Franconia Notch,
6 that's the only two-lane piece of the
7 Interstate Highway in the United States. So,
8 it has been determined eligible for the
9 National Register because of its design,
10 primarily, in response to its most beautiful
11 natural surroundings.

12 Q. Have you ever heard of the word "macadam" road?

13 A. (Widell) Yes.

14 Q. Okay. Could you sort of explain your
15 understanding of what a "macadam road" is?

16 A. (Widell) My understanding would be that it has
17 asphalt or layers of material.

18 Q. Okay. So, my sort of understanding of "macadam
19 road" is it predates having excavators and
20 equipment. And the way, in the 1800's, the way
21 people dealt with mud season was they put big
22 rocks down, --

23 A. (Widell) Uh-huh.

24 Q. -- and then littler rocks, and then gravel over

[WITNESS PANEL: Widell~Bunker]

1 top. And that made a hard surface for wagon
2 wheels and every thing else to travel on. I
3 noticed someone, in one of the reports,
4 documented -- or, used as a reference Jim
5 Garvin's book "On The Road North of Boston".
6 He has good, actually, pictures of UNH, who
7 basically the -- the Agricultural Department.

8 A. (Widell) Uh-huh.

9 Q. Sort of documented this and created the first
10 road-building technique. So, you -- you don't
11 know of any macadam roads in the underground
12 section that exist?

13 A. (Widell) I do not, no.

14 Q. How about have you -- have you heard the term
15 "corduroy road"?

16 A. (Widell) I've heard of "corduroy roads" in
17 connection with -- I have seen reports where
18 they were documented, yes. Not for Northern
19 Pass.

20 Q. So, you don't know if any of those exist on the
21 route?

22 A. (Widell) We would have kept that type of
23 resource in mind. I was with Lynn Monroe
24 actually on Sunday, and we were talking about

[WITNESS PANEL: Widell~Bunker]

1 corduroy roads. So, I know that she's very
2 familiar. And we would have -- that's the kind
3 of local historic feature that, especially when
4 you're looking at underground or anything
5 related to a roadway, you would keep that in
6 mind as a resource that should be documented.

7 Q. But those type of things could be considered a
8 historic resource, --

9 A. (Widell) Yes.

10 Q. -- if they are found?

11 A. (Widell) Yes.

12 Q. Unfortunately, there's not a document anywhere
13 that says "this is where that exists". It's
14 sort of, when you start digging, you find it?

15 A. (Widell) Yes.

16 Q. So, I know Dr. Bunker has worked on DOT
17 projects in the past. And I am assuming,
18 through your career, you've worked on DOT
19 projects in the past?

20 A. (Widell) Yes.

21 Q. Have any of you -- have either of you worked on
22 a 50-mile DOT project in the past?

23 A. (Widell) Precisely 50 miles or --

24 Q. Or longer.

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[WITNESS PANEL: Widell~Bunker]

1 A. (Widell) Oh, yes. The 405, in Southern
2 California, that went through southern
3 Pasadena, into the Long Beach Harbor. That is
4 certainly one example. There are others, but,
5 yes.

6 Q. Are the reviews that you do the same for a DOT
7 project as they are for a DOE project?

8 A. (Widell) Are you referring to because both are
9 federal agencies?

10 Q. Well, I understand that NEPA is NEPA, and
11 Section 106 is Section 106. But it seems to be
12 that the lead federal agency sort of have
13 different criteria or different ways of going
14 through the process.

15 A. (Widell) Yes.

16 Q. Have you found that?

17 A. (Widell) Yes.

18 Q. Okay.

19 A. (Widell) Yes.

20 Q. I'll get to one of them in a minute. But sort
21 of my line of questions on that is, in the
22 underground section, from Bethlehem to
23 Bridgewater, it's 52 miles long. And
24 everybody's concentrated on this is where

[WITNESS PANEL: Widell~Bunker]

1 they're going to bury the underground
2 transmission line. But, if you step back and
3 sort of what I'm looking at is, one of the
4 requirements, and just like you have been
5 reviewing with DHR the requirements, the
6 construction panel's reviewing with the DOT the
7 construction requirements. So, if you look at
8 what, in some of the comment letters the DOT is
9 requiring is, if the line is under a lane, the
10 Project must reconstruct the entire lane,
11 gravel, crushed gravel, pull pavement,
12 reconstruct ditches, replace guardrail, redo
13 redo drainage. To me, that's a big highway
14 project, with a utility line underneath. And a
15 50-mile highway project, one contiguous, that's
16 a -- that's a big highway project, probably one
17 of the biggest ones the state has ever done, if
18 you have look at it from a highway
19 reconstruction standpoint.

20 So, I'm trying to see whether or not the
21 review that you did for the underground section
22 was the same as you would do for -- if it was
23 considered a highway project?

24 A. (Widell) Yes, because the standards of

[WITNESS PANEL: Widell~Bunker]

1 identification are dictated by the resources
2 that are presented to you. Sometimes those
3 resources are of a very fine nature, as you
4 have just shown and discussed, driveways and
5 culverts and trees and walls, or sometimes
6 there are very large buildings or a state park.

7 So, you identify in the same way, looking
8 for integrity and significance of the resource.
9 And it's not just the house that may be sitting
10 on that parcel, it is also the
11 character-defining features, which you've heard
12 me use that word. But that's consistent for
13 every federal agency, that needs to find which
14 things in the landscape need to be cared for.

15 Q. Okay.

16 A. (Widell) Does that -- did I answer your
17 question?

18 Q. Yes.

19 A. (Widell) Okay.

20 Q. So, in the conclusion of the Preservation
21 Company's Report, they basically say that
22 they've "identified historic resources within
23 the APE along the entire underground route".

24 I'll paraphrase. "First, the transmission line

[WITNESS PANEL: Widell~Bunker]

1 will be buried under the road. So, it won't
2 disturb historic resources. Second, historic
3 bridges along the route will not be affected,
4 since they're using the horizontal drilling."
5 And "there's no stone culverts", was the third
6 which was identified.

7 A. (Widell) Uh-huh.

8 Q. So, I wanted to go back a little bit to their
9 second reason, "historic bridges along the
10 route will not be affected". So, about a month
11 ago the Committee went on a site review, and we
12 reviewed the location of Transition Station
13 Number 2, which is in Clarksville, on Old
14 County Road, even though the plans say it's
15 "Beecher Falls Road". We walked up US 3, to
16 the bridge over the Connecticut River between
17 Pittsburg and Clarksville. We didn't go over
18 the bridge, because it's too narrow, and didn't
19 want a whole group of people standing in the
20 road, because there's no shoulders and
21 sidewalks. In the Preservation Company Report,
22 that's identified by -- in the Assessment as
23 Property ID Clarksville 43. Are you familiar
24 with that bridge?

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1 A. (Widell) I have reviewed all the materials to
2 familiarize.

3 Q. Okay.

4 A. (Widell) I would be happy to pull that
5 particular, if that would be helpful.

6 Q. Well, let me --

7 A. (Widell) But please ask your question, and
8 we'll see if I need to do that.

9 Q. Okay.

10 A. (Widell) Thank you.

11 Q. It's a 1931 --

12 *[Court reporter interruption.]*

13 BY MR. OLDENBURG:

14 Q. It's a 1931 through plate girder. It's
15 221 feet long. It's listed as eligible for the
16 National Registry. And it's identified as "the
17 longest continuous span plate girder bridge in
18 the state".

19 A. (Widell) Wow.

20 Q. Okay. You did an assessment on that bridge.
21 There's an Assessment Form for that one. But,
22 while I was going through Dr. Bunker's Phase I
23 report, I saw a picture of a bridge in Campton,
24 on U.S. 3, in the underground section, which is

[WITNESS PANEL: Widell~Bunker]

1 over Westbrook Road, which is another example
2 of a through plate girder. And, because I know
3 where it is, I can look online and find our
4 bridge summary that was built in 1927.

5 A. (Widell) Okay.

6 Q. And I didn't see an assessment form for that?

7 A. (Widell) Okay.

8 Q. Do you know if one exists?

9 A. (Widell) If it is not on our inventory list,
10 then -- it is not, no. I would need to look at
11 the full data list. And it was in the Area of
12 Potential Effect for the underground?

13 Q. Yes.

14 A. (Widell) Okay.

15 Q. They're doing an HDD right underneath it.

16 A. (Widell) Uh-huh.

17 Q. And the one thing in the Report, and I'll go on
18 and say, I didn't see, because there's another
19 bridge I have an example of in Plymouth --

20 A. (Widell) Uh-huh.

21 Q. -- I didn't see assessment forms for a lot of
22 the towns in the underground section, like
23 Campton, for bridges. And I don't know if that
24 was intentional or not, because you were --

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[WITNESS PANEL: Widell~Bunker]

1 A. (Widell) Well, I would say one thing about
2 bridges, and especially a through -- I'm
3 assuming this is a through plate girder, a
4 bridge's significance primarily comes from
5 engineering, the importance of engineering, or
6 as part of a roadway. It's significance for
7 eligibility or listing on the National
8 Register, as we talked about, the (a), (b),
9 (c), and (d), --

10 Q. Uh-huh.

11 A. (Widell) -- comes from engineering, which does
12 not have a character-defining feature that
13 would be affected by a visual adverse effect.
14 So, that would be one of the things that we
15 would take into consideration. But we would
16 have certainly mentioned it and included that.
17 So, I want to see our data list.

18 Q. Okay. So, there's -- there's another one that
19 I notice, and this one is probably more
20 prominent, and people will know this one, is in
21 Plymouth, it's a Pratt truss bridge, 1930, --

22 A. (Widell) Uh-huh.

23 Q. -- carrying U.S. 3 over the Gale River, it's
24 right near the Common Man Spa. You can't miss

[WITNESS PANEL: Widell~Bunker]

1 it, because it has another truss bridge that
2 carries the railroad right next to it over the
3 Gale River. And I didn't see an Assessment
4 Form for that. So, I didn't know if the
5 Assessment Forms -- you didn't do the
6 Assessment Forms on the roads or the bridges --
7 or, the bridges, the roadway bridges, excuse
8 me, in the underground section at all, because
9 of what the Preservation Company said,
10 because --

11 A. (Widell) They're not likely to have an adverse
12 effect in any way, either underground or
13 visually, with either location.

14 Q. Okay.

15 A. (Widell) I'm not answering your question. Let
16 me --

17 Q. I was just curious why the reports weren't
18 done. So, I can go on. Because one of the
19 concerns is that, even though they're doing HDD
20 drilling, and you know what that is?

21 A. (Widell) Uh-huh.

22 Q. Somebody has explained that to you?

23 A. (Widell) Uh-huh.

24 Q. That the bridge just doesn't sit on the

[WITNESS PANEL: Widell~Bunker]

1 surface.

2 A. (Widell) Uh-huh.

3 Q. That a lot of the bridges, especially the one
4 that's National Registered, has a pier in the
5 river.

6 A. (Widell) Uh-huh.

7 Q. And, typically, that just doesn't sit on the
8 river. There's piles, basically, you know,
9 metal I-beams that they pound into the ground,
10 you know, 20, 30, 50 feet, until they hit
11 bedrock. So, there's a structure underneath
12 the bridge. And, how do you know that this
13 drilling isn't going to hit those structures or
14 affect those bridges? And are there any
15 measures that could be done to protect those?

16 A. (Widell) And that is, and with bridges, in the
17 example you've just given me, that would be
18 a -- a vibration would be a direct effect in
19 the underground portion, and could affect its
20 significance from an engineering standpoint.
21 So, it should be taken into consideration.
22 So, --

23 Q. So, there should be countermeasures or some
24 sort of provisions made when they're working

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1 in --

2 A. (Widell) Yes.

3 Q. -- in that area, just like you would a house?

4 A. (Widell) Exactly, yes.

5 Q. Vibration monitoring or whatever?

6 A. (Widell) And that would also be part of the
7 Programmatic Agreement, which has been signed,
8 which will have an Historic Preservation
9 Treatment Plan, and that perhaps would be part
10 of that Plan, or another, which is -- would be
11 developed, to make sure any of the resources,
12 whatever they be, along the way are protected
13 during the construction phase.

14 MR. WAY: Mr. Oldenburg, could I ask
15 a question?

16 MR. OLDENBURG: Sure.

17 BY MR. WAY:

18 Q. So Ms. Widell, when you have that information
19 that there is a bridge that probably should be
20 looked at, and something that might end up in
21 the Programmatic Agreement for protection, what
22 happens now with that information? What do you
23 do with it? Do you go back to assess it? Is
24 this something that will be in a next stage?

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1 Or, how do you handle this information?

2 A. (Widell) The assessments for the underground
3 are just now being completed. So, I would
4 speak to Lynn Monroe specifically about this
5 particular question, make sure that the
6 resources in this case have been considered and
7 included in that assessment. And that, if
8 there has been a historic property that has not
9 been included, that it needs to be considered
10 during that assessment phase.

11 MR. WAY: Thank you.

12 BY MR. OLDENBURG:

13 Q. I think this is more for Dr. Bunker. On Page
14 22 of the Phase I-A Report for the Plymouth
15 underground section, there's a table. And I
16 think it's -- I won't say where it is or what
17 it is. But it talks about where a lot of the
18 like pre-contact Native American sites are
19 found, and they seem to be along the waterways.

20 A. (Bunker) Uh-huh. Correct.

21 Q. And a lot of these areas where they're found
22 are in HDD sites, where they're going to drill.
23 So, how do you know, in those drilling sites,
24 whether or not they're going to impact the

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1 archeological sites?

2 A. (Bunker) Uh-huh. Well, I'm going to, again,
3 back up a tiny bit. In the Phase I-A Report,
4 those locations that you see in those tables
5 for every chapter are areas of archeological
6 sensitivity. They're not sites.

7 Q. Okay.

8 A. (Bunker) And that sounds maybe picky, but I'll
9 explain. The reason being, that we then
10 conduct a Phase I-B survey at these sensitive
11 areas and excavate shovel tests to determine
12 the presence or absence of actual sites. So,
13 the Phase I-A Report does not provide you with
14 the complete dataset to determine whether or
15 not there's an impact. The Phase I-B Report
16 does that, because it tells you whether or not
17 there is actually a site present.

18 Q. So, the I-A says there's a potential?

19 A. (Bunker) Yes.

20 Q. And then you go out, and if it warrants further
21 investigation, you go out and actually find
22 whether there's any evidence?

23 A. (Bunker) Yes.

24 Q. Ah.

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1 A. (Bunker) And I'll add that, when we did our
2 Phase I-B survey in Plymouth, none of the areas
3 identified as "sensitive" actually contain
4 sites. So, there's no concern for your
5 question.

6 Q. Okay. And I believe, with a lot of -- I know
7 very little about this, but my assumption is
8 that, like the pre-contact of Native American,
9 they didn't bury this stuff. So, it's more or
10 less, you know, like you see arrowheads or some
11 of these pictures that I saw in the Report, --

12 A. (Bunker) Yes.

13 Q. -- this is stuff that's dropped on the ground
14 and then, over time, it's very shallow --

15 A. (Bunker) It can be shallow. And the soil
16 develops and layers itself to create the
17 stratigraphy, which preserves the site
18 underground. Although, at the time, it was the
19 ground surface.

20 Q. So, that's why we talk about "disturbed areas"
21 versus "undisturbed", because it doesn't take
22 much, when you "disturb" an area, to sort of
23 lose its archeological --

24 A. (Bunker) Integrity.

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1 Q. Okay.

2 A. (Bunker) Yes.

3 Q. I'm catching on. Okay. I think this is more
4 of a historic question again. But, in the I-A
5 Report, there was also a picture, I'm using
6 your report --

7 A. (Bunker) Go ahead.

8 Q. -- for historic information.

9 A. (Bunker) Okay.

10 Q. So, in the I-A Report, there was a picture, in
11 Plymouth, there's a section where U.S. 3 and
12 the railroad are very close together. And the
13 grades are different, and there's a wall that
14 keeps Route 3 out of the railroad. I know the
15 railroad's really old, and this section of
16 Route 3 hasn't been built in decades. So, I
17 have to believe that that wall is old. Did you
18 review -- I know you reviewed stone walls. But
19 is this the type of stone wall or retaining
20 wall that you would also review?

21 A. (Widell) Yes. It would be considered a
22 feature. And, in that case, and I can't say
23 precisely, but it sounds like it would be a
24 feature that would be related to the railroad

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1 perhaps. And, so, the railroads were reviewed
2 for eligibility. And, so, it would be taken
3 into consideration. And you saw, in the
4 Assessment Report, Lynn -- Preservation Company
5 identified features. And, when we say
6 "features", they may be related to a railroad
7 or a building or a roadway. And they're not
8 just stone walls.

9 Q. Okay. So, I didn't see an assessment form on
10 that particular, but it might be in the
11 railroad, I didn't look in the railroad
12 section. But that's an area where the line is
13 underground. And, just because of the
14 topography, it's going to be relatively close
15 to that wall. So, I would imagine that there
16 would be some sort of, if it was a historic
17 resource, there would be some sort of measures,
18 monitoring of the wall, that you -- it wouldn't
19 just be tore down and --

20 A. (Widell) No. It would, as we discussed, one of
21 the things in the Programmatic Agreement is a
22 Historic Preservation Treatment Plan, and
23 monitoring and discovery, all of those sorts of
24 things. So, that's part of the role of a

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1 programmatic agreement.

2 Q. All right. Thank you. I want to go back to
3 the whole difference between the DOE process,
4 because it's sort of -- some of the things are
5 sort of foreign to me. So, in Dr. Bunker's
6 prefiled testimony, on Page 7, you mention that
7 it's -- just for the record, it starts on
8 Line 21: "I have completed review of two
9 reports and accompanying appendices prepared by
10 the DOE Consultant (SEARCH). A DOE report
11 submitted in 2014 presented results of a Phase
12 I archeological study for the existing
13 corridor." So, DOE hired a consultant?

14 A. (Bunker) That's correct.

15 Q. Is that their standard practice?

16 A. (Bunker) That was due to preparation of the
17 Environmental Impact Statement. I don't know
18 if it's standard.

19 Q. Okay. A Federal Highway and a DOT project
20 would never hire a consultant. So, that sort
21 of -- and there seemed to be -- they also did a
22 report, in 2015, they did a Phase I-A for the
23 proposed alternative routes as well, correct?

24 A. (Bunker) That's correct.

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1 Q. Okay. So, in -- and we've heard about this, in
2 the prefiled testimony and in the reports,
3 there's the Area of Potential Effect in the
4 underground section was 20 feet either side of
5 the pavement, correct?

6 A. (Bunker) Twenty feet from the edge of pavement.

7 Q. Edge of pavement. So, in Appendix 26, which is
8 the Phase I-A underground section, the first
9 reference of that I find is there's a quote:
10 "The Area of Potential Effect established by
11 the Department of Energy for the underground
12 route is", and it's quotations, "generally
13 20 feet wide from the outside edge of the
14 pavement and 6 feet deep on both sides of the
15 roadway." And then there's a reference to the
16 Draft Environmental Impact Statement, Page 334.
17 So, that gave me pause is -- so that seems like
18 this was given to you. And, from everything
19 I've read, this was determined -- the APE was
20 determined by the Department of Energy,
21 correct?

22 A. (Bunker) That's correct. You're right.

23 Q. So, is it a recommendation that's made by the
24 Applicant, or you folks, to the DOE, and they

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1 agree with "20 feet". Or, how is the APE
2 determined?

3 A. (Bunker) It was given to us, and I don't know
4 how Department of Energy determined that. But
5 that was what we were assigned.

6 Q. Okay. Because I saw that quote, --

7 A. (Bunker) Uh-huh.

8 Q. -- so my first indication was, I wanted to
9 figure out why 20 feet was determined. So, I
10 went to the Draft Environmental Impact
11 Statement, and I found that page. And the
12 selected alternative was Alternative 2, and
13 there's no mention of the APE, actually, there
14 is, it says "10 feet". But I soon found out
15 that Alternative 2 was all overhead, except for
16 the Pittsburg underground section. And, in the
17 Pittsburg section, the APE was 10 feet. So, I
18 said "Ah, there must be a supplemental." So, I
19 found the Supplemental DEIS, and that basically
20 was just saying Alternatives, now "7", is a
21 combination of Alternative 2, from the
22 original, 4c and 5c, and I might have those
23 numbers wrong. So, combined a bunch of the
24 alternatives into now what is the Project.

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1 And the only part I could find where the
2 APE was listed as "20 feet" was in those
3 alternatives that weren't selected, but now are
4 part of the Project, but there's no explanation
5 of "20 feet".

6 A. (Bunker) I haven't got an answer.

7 A. (Widell) If I may? In Exhibit -- I believe
8 it's 63067 [*Note: in App Ex. 95-Updated*], there
9 is a letter, March 28th, 2013, from DHR to
10 Brian Mills at DOE. And, just so you know that
11 the APE, in the Section 106 process, is
12 established through consultation between the
13 federal agency and the State Historic
14 Preservation Officer, in this case, the DHR,
15 for New Hampshire. And that is a two-page
16 letter that identifies the APE for archeology
17 direct effects and also for indirect effects,
18 in this case, visual. And it clearly
19 delineates that in the letter. And that is
20 what is used. And I believe it's also in the
21 SEC rules that the APE that is established by
22 DHR is the one to be used for historic
23 resources.

24 Q. But I have to believe that the Applicant had

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1 something to say about it, as they just didn't
2 pick "20 feet" and say you're -- that someone
3 would have to -- someone, the Applicant, in
4 dealing with DOE and DHR, must have agreed on
5 "20 feet". Or, is it just "It is 20 feet, and
6 deal with it"?

7 A. (Widell) No. In my experience, it is decided
8 upon by the federal agency that has the
9 undertaking, in consultation with the State
10 Historic Preservation Officer. And that is
11 based on their experience in doing similar
12 projects, and where it is likely to have
13 effects on historic resources from archeology
14 or aboveground resources.

15 Q. Okay. Because --

16 CMSR. BAILEY: Mr. Oldenburg? Oh,
17 I'm sorry.

18 MR. OLDENBURG: Yes.

19 CMSR. BAILEY: Could you just get us
20 the correct exhibit number for that. Because I
21 looked at 63 and 67 --

22 WITNESS WIDELL: I'm sorry.

23 MR. WALKER: It's actually -- I have
24 it.

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1 CMSR. BAILEY: Okay.

2 MR. WALKER: It's Exhibit --

3 WITNESS WIDELL: I'm sorry.

4 MR. WALKER: It's Exhibit 95.

5 CMSR. BAILEY: Thank you.

6 MR. WALKER: Thank you.

7 CMSR. BAILEY: I just didn't want
8 you to --

9 WITNESS WIDELL: I guess I have a
10 page number. I'm very sorry.

11 BY MR. OLDENBURG:

12 Q. So, the APE, in the overhead section, was the
13 corridor -- the right-of-way, the existing
14 transmission line right-of-way?

15 A. (Widell) One mile on either side of it.

16 Q. Oh, it's even bigger. Okay. So, in the
17 underground section, assume we have a road
18 right-of-way, which is say 100 feet, we'll make
19 the math easy. So, it's 100 feet, and the
20 road's smack in the center. So, the center of
21 the road to the right-of-way on either side is
22 50 feet, and the road is 14 feet wide, say.
23 So, you have one lane, and the shoulder, and
24 the remaining distance to the right-of-way.

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1 So, the APE would be the 14 feet to the edge of
2 pavement, and then 20 feet. So, that's
3 34 feet. But, if the right-of-way is 50 feet,
4 that leaves 16 feet of no man's land between
5 the APE and the right-of-way, correct?

6 A. (Widell) I believe so, yes.

7 Q. Okay. So, the math works?

8 A. (Widell) Yes.

9 Q. So, let's say there's an agency out there,
10 we'll use the DOT as an example, that has a
11 requirement that the underground line needs to
12 be as close to the right-of-way as possible.
13 That could potentially put the line -- that
14 requirement could put the line outside the APE
15 in the underground section. Is that an issue?

16 A. (Widell) I can't speak to that. Our
17 responsibility is to identify where resources
18 might be affected. When you ask "would it be
19 an issue", --

20 Q. From a -- so, you've only studied out, in that
21 instance, 34 feet?

22 A. (Widell) Yes.

23 Q. So, if the line is outside of that, you haven't
24 studied that area. Would that -- if you went

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1 into the area outside the APE, you would have
2 to do another analysis or an amendment or a
3 review?

4 A. (Widell) No, not necessarily. I would say that
5 there is a discussion that, if there are
6 historic resources that are immediately
7 adjacent, or, I'm not looking at the words in
8 the letter, but that are right next to the
9 right-of-way, and we have certainly done this
10 with the aboveground resources as well, but
11 they are considered. They are considered.
12 There is no sharp line that is used for
13 assessing historic resources in that particular
14 case. They would be looked at.

15 Q. So, the APE is just a guide, an estimate?

16 A. (Widell) No. It's --

17 Q. Not an exact number?

18 A. (Widell) In most cases, it gives you good
19 direction. But there will be situations where
20 there may be a feature that is -- that crosses
21 the line and goes out. You would never just
22 say "Well, you know, that wall right there is
23 two feet out. And, so, we don't need to worry
24 about." We would note that and assess it.

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1 Q. Okay. So, they could construct the line
2 outside the APE?

3 A. (Widell) Yes.

4 Q. Okay.

5 A. (Widell) The APE only has to do with the
6 identification of historic resources.

7 Q. It's the study boundary?

8 A. (Widell) It's the study boundary.

9 Q. Okay.

10 A. (Widell) And then assessing effects on the
11 identified historic resources.

12 Q. Okay. So, back to the -- sort of the
13 archeological aspects of it. How do you
14 determine if there's a historic resource under
15 the road, say? Or, do you assume that it's a
16 disturbed area and there aren't any resources?

17 A. (Bunker) For this Project, I considered under
18 the road as previously disturbed.

19 Q. Okay. So, back years ago, I was in the Concord
20 Library, and I found this book, and it was very
21 intriguing to me. And, so, I started reading
22 it, and I sat there for hours and I read this
23 book. And it was on the history of the
24 construction of a bridge, and the archeology

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1 that was involved. And I will say that it
2 predated many of the laws that we have today.

3 And, when I was preparing for this, I went
4 to try to find that book, and I couldn't. So,
5 I did what everybody does today and I Googled
6 information about the area and everything else.
7 And an interesting review came up, which was
8 spot-on. And it was an article or a book that
9 was called "Time and Place: The Archeology of
10 the Eddy Site", by Victoria Bunker.

11 A. (Bunker) I wrote that one.

12 Q. And it talks about, I won't -- well, it's
13 public knowledge, but it deals with archeology
14 sites along the Merrimack River, in Manchester.

15 A. (Bunker) Correct.

16 Q. This bridge that was built, and the whole point
17 of the -- the takeaway I got from the book was,
18 this bridge was planned to be built, and
19 archeology professors or students, I don't know
20 if it was from UNH or UVM, came down before the
21 construction and started excavating. And they
22 found pre-contact -- huge amounts, they had
23 pictures and everything, and there -- it was
24 like this great site. And they excavated.

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1 But, in those days, the laws weren't the same,
2 correct?

3 A. (Bunker) That's correct.

4 Q. Now, this is like the '50s. So, the route
5 wasn't changed for the bridge and the
6 construction wasn't delayed. These students
7 and professors actually went out, and, as the
8 excavation for the foundations and the roadways
9 were being made, they actually sifted through
10 that excavation to find more evidence.

11 A. (Bunker) That's correct.

12 Q. So, if today we redid that bridge, the thought
13 would be is there's probably still resources
14 underneath that road and bridge today, right?
15 Would you assume that could be the case?

16 A. (Bunker) Well, I'm going to put a slightly
17 finer point on that. Today, if you were
18 putting a bridge across there, and that site
19 were discovered in Phase I-B sampling, and went
20 through the steps, you would probably be
21 redesigning. But, now that the bridge exists,
22 as you know, construction moves a lot of earth.
23 And, if I were to go to that location today,
24 hypothetically, and look at the setting, I

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1 would say the footprint of this bridge has more
2 than likely erased the archeological context
3 underneath it, due to that construction,
4 cutting, filling, grading, etcetera.

5 If I were to go to that place today, and
6 look at it without the bridge, I would say "I
7 think we better do an archeological survey."

8 Q. So, that's why you tend not to do a review
9 under the roads, because it's disturbed?

10 A. (Bunker) Correct.

11 Q. Okay. Let me skip back to the historical
12 components. From a National Registry
13 eligibility standpoint, from the review
14 process, the property owner has no say. You
15 reviewed properties without property owner
16 notification, permission, whatever. That's the
17 process?

18 A. (Widell) Yes. There is a difference between
19 determining something eligible for listing on
20 the National Register, and something actually
21 being listed. We use determinations of
22 eligibilities in cases just like we were
23 talking about under Section 106. You are
24 identifying -- the federal agency has to

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1 identify the historic properties likely to be
2 affected. And historic properties are those on
3 or eligible for the Register. Now, they are
4 local, and determination of eligibility
5 protects them through the assessment of whether
6 there's going to be effects. But a National
7 Register listing does not in any way require
8 the owner to do anything with the property,
9 does not prevent the demolition of the building
10 even, as long as federal money is not used.
11 The key is the federal money, federal permit,
12 federal licensing, which requires the Section
13 106 process.

14 Q. So, the review itself is done without the
15 property owner -- it might even be without
16 their knowledge. But to -- the register itself
17 is the -- the property owner would have to do
18 that?

19 A. (Widell) Yes. Absolutely.

20 Q. So, in your review of these properties, one of
21 the things that, when we talked to Dr. Chalmers
22 on the view impacts, he didn't get permission
23 to go on the properties in a majority of the
24 cases. So, he did sort of a street review. Is

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1 that -- and I understand the viewshed mapping
2 and everything else. But did you try to get
3 into properties or interview property owners?
4 Or was this strictly sort of a windshield type
5 of review?

6 A. (Widell) No. It was primarily from public
7 ways. If we were invited, of course, we
8 would --

9 Q. But some of the public properties, like the
10 Weeks' property, --

11 A. (Widell) Yes. Of course, we went --

12 Q. -- *etcetera*, those were --

13 A. (Widell) Yes. Of course. Of course.

14 *[Court reporter interruption -*
15 *multiple parties speaking.]*

16 MR. OLDENBURG: I'm sorry.

17 BY MR. OLDENBURG:

18 Q. So, Ms. Widell, in your prefiled testimony, you
19 talked about, on Page 9, "99 miles of the route
20 [was] located within the existing transmission
21 lines and rights-of-way, many of which were
22 present since 1929." And you said that "This
23 is an effective way to avoid and minimize
24 impacts on the cultural resources and

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1 landscapes."

2 Why is that an effective way? Is it
3 because they already exist, correct?

4 A. (Widell) They already exist. But the character
5 of the corridor, because of how it was planned
6 and the land was acquired, most of it is in
7 bottomland, most of it is at lower elevations.
8 We saw that many times. So, and then things
9 weren't built in close proximity to it
10 afterwards, because of its existence. So,
11 those are a few reasons why I found that
12 historic properties were often not as affected.
13 It was not also going over hillsides as much,
14 because that land was either difficult or more
15 expensive. It wasn't going over agricultural
16 fields as often, because that, too, was valued
17 land, whereas the bottomland was less
18 expensive.

19 Q. Okay. So, on the next page of your prefiled
20 testimony, you say "Placing the 99 miles of
21 overhead lines along the pre-existing
22 transmission line corridor, most of which
23 existed for 50 to 70 [sic] years, would reduce
24 impacts substantially." So, the two statements

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1 are talking about the same line. 1929 to date
2 is 88 years.

3 A. (Widell) I made -- I was being conservative.
4 Forgive me.

5 Q. Okay. So, we'll use "50 to 88" or something
6 like that. So, we've heard that the existing
7 transmission line is over 50 years old. So,
8 let's assume we have a 200 year-old farmhouse,
9 and that more than 50 years ago a previous
10 owner granted or sold the easement for the
11 existing transmission line on the property.
12 Wasn't the historic impact or the historic
13 setting affected back then? And why does the
14 Project cause yet another historic impact?

15 A. (Widell) Yes, it can be. And you're pointing
16 directly to why the adverse effects, where it
17 is very visible on a historic property, in my
18 personal opinion, are not such that they would
19 no longer be eligible for the National Register
20 and are not really profound adverse effects to
21 it.

22 If it were going across a 200 year-old
23 farm field, and it was a new line, that, in my
24 professional opinion, might have a larger

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1 effect than if there was already an existing
2 project corridor there within its viewshed.

3 Q. So, basically, what you're saying is, if I had,
4 say, a 200 year-old farmhouse in pristine
5 condition, and I vinyl-sided it, I would affect
6 the historic significance of that structure.
7 But, then, years later, I go through and I
8 replace all the windows with vinyl modern
9 windows, I've affected the history, but not --
10 not like I did previously. And, so, that's why
11 you find that, by adding this, you know, third
12 line or this new structure isn't as
13 historically significant as if it was brand
14 new, correct?

15 A. (Widell) Yes. That's an excellent example.

16 Q. So, we've heard that the existing transmission
17 line is old. And we've also heard that the
18 line has brought electricity to communities for
19 the first time. So, I would think that that's
20 a pretty big historic event in that region, as,
21 you know, having electricity for the first time
22 in some of those communities. Yet, in the
23 Preservation Company's Report on the
24 transmission line, they didn't find the line as

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1 historically significant. So, you got the age,
2 and you have sort of an historic event, I guess
3 the -- how is that not historically
4 significant?

5 A. (Widell) That is an excellent question. And
6 let me help explain a couple things. First
7 off, we did look at actually the component
8 parts of the existing transmission line, to see
9 if any of them were of an historic nature, if
10 any of them dated back to the '20s. And we did
11 not find any. There had been some that were
12 just like changed in the last ten years, but we
13 did not find any from that very significant
14 historic period of being the one bringing the
15 electricity.

16 We also looked at the Rural
17 Electrification Project, which was a national
18 trend in the United States. And that actually
19 occurs later than when the line was
20 established. So, there is a complete
21 discussion of the transmission line itself in
22 the Assessment Report. And the information
23 that we found related to whether it was
24 significant and eligible for the National

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1 Register.

2 I would also note that DHR did not feel
3 that it was eligible for the Register, did not
4 direct us to document it --

5 Q. Okay.

6 A. (Widell) -- in that way.

7 Q. Because that wouldn't -- because they're the
8 owner, they could do whatever with the towers
9 they wanted. So, I guess my -- if they were
10 deemed historic, an historic resource, and in
11 50 years from now everybody had home
12 electricity, solar, geothermal, whatever, and
13 didn't need these transmission lines any time,
14 they're under no compunction to keep them up,
15 if they don't use them, if they were found to
16 be an historic resource, would they?

17 A. (Widell) No. Not as long as they were using
18 private money.

19 Q. Okay.

20 A. (Widell) But, if there was a federal license or
21 federal money involved, then they would have to
22 be taken into consideration, because of the
23 National Historic Preservation Act.

24 Q. The only other question I have, and I think I

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1 know the answer to this, is in the -- is in
2 Dr. Bunker's report.

3 A. (Bunker) Uh-huh.

4 Q. Numerous times, I think I tabbed them about
5 eight times, there's quotations that were used
6 for the -- let me find the -- quotes out of the
7 New Hampshire Division of Historical Resources'
8 "Archeological Standards and Guidelines". And
9 they were written by the New Hampshire DOT. I
10 find it funny why the DOT is writing
11 "Archeological Standards and Guidelines". Can
12 you explain where that comes from?

13 A. (Bunker) There was an archeologist, a cultural
14 resources expert on your staff who prepared
15 those guidelines in 2004.

16 Q. Yup.

17 A. (Bunker) And New Hampshire Division of Historic
18 Resources relies on those guidelines. Even
19 though they were written for transportation
20 projects, they contain basic understanding,
21 basic methodology, description of the steps and
22 the phases and the approach to archeological
23 survey, which transcends transportation
24 projects. They're very useful beyond their

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1 original authorship.

2 Q. Because I've also -- I've heard that other
3 agencies, and I don't know if DHR is like that,
4 but I know there's some in DES. They don't
5 make their own rules. They basically, someone
6 else, either a consultant or another agency,
7 will write rules. So, like the best management
8 practices, I think, for DES, are done by the
9 Department of Agriculture or something like
10 that, --

11 A. (Bunker) Uh-huh.

12 Q. -- and they are reviewed and accepted by the
13 other agency. And I didn't know if -- that
14 sounded like that's what this happened in this
15 case, was there were guidelines that were
16 reviewed and accepted by another agency to use?

17 A. (Bunker) I believe that's a good way to state
18 it.

19 MR. OLDENBURG: Just curiosity.

20 That's all the questions I have.

21 WITNESS WIDELL: Mr. Chairman, may I
22 ask for a bio break?

23 CHAIRMAN HONIGBERG: You may.

24 WITNESS WIDELL: Thank you.

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1 CHAIRMAN HONIGBERG: Let's break for
2 five minutes.

3 (Recess taken at 10:03 a.m. and
4 the hearing resumed at 10:09
5 a.m.)

6 CHAIRMAN HONIGBERG: I understand
7 Mr. Oldenburg has a follow-up.

8 BY MR. OLDENBURG:

9 Q. Ms. Widell, we, during the break, reviewed the
10 letter from DHR that you had referenced
11 concerning the APE. And that letter is dated
12 March of 2013.

13 A. (Widell) Uh-huh.

14 Q. The Draft EIS is from July of '15.

15 A. (Widell) Uh-huh.

16 Q. And the supplemental, where the Project, the
17 underground section was created, is from
18 November of 2015. This doesn't reference at
19 all the "20 feet" and where the "20 feet" comes
20 from. It references using "the right-of-way",
21 the overhead right-of-way at "200 feet wide"
22 and the "mile". I don't see where it
23 references where the "20 feet from the edge of
24 pavement" came from at all.

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1 So, is there a different letter that we
2 should be looking at or a different exhibit
3 where that came from?

4 A. (Bunker) I don't recall.

5 A. (Widell) I thought that it was established, and
6 that is the way an area of potential effect is
7 established, between consultation of the
8 federal agency and DHR. So, it is documented.
9 I didn't read the letter right before I -- so,
10 I didn't --

11 Q. Okay.

12 A. (Widell) -- double check that the "20 feet" was
13 in there. But it is documented. And --

14 Q. Okay. We'll find it, if it exists.

15 A. (Widell) We'll find it.

16 MR. OLDENBURG: Thank you. That's
17 all.

18 WITNESS WIDELL: Thank you.

19 CHAIRMAN HONIGBERG: I guess, can
20 someone clarify, who's going to find that
21 letter?

22 MR. WALKER: Mr. Chairman, I'm not
23 sure there's a letter. But we're looking at
24 the Final EIS, and there is a table with that

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1 reference. It's -- I don't know if we have a
2 page?

3 MR. BISBEE: Yes. It's Page 24.

4 MR. WALKER: Page 24 of the Final
5 EIS. It's the Cultural Resource Technical
6 Report in the Final EIS. And there's a table,
7 Table 2, I believe.

8 CHAIRMAN HONIGBERG: Is there an
9 exhibit number associated with that at this
10 point?

11 MR. BISBEE: Not yet.

12 MR. WALKER: Not yet. We'll
13 introduce that.

14 CHAIRMAN HONIGBERG: Mr. Oldenburg,
15 do you want to see that while this panel is
16 still here?

17 MR. OLDENBURG: I have a copy of the
18 Final EIS. And it does say "20 feet". It just
19 it -- it basically says where "the proposed
20 action, Alternative 7, would be buried" --

21 CHAIRMAN HONIGBERG: If you're going
22 to read, you've got to read slower than that.

23 MR. OLDENBURG: -- "would be buried
24 along the existing roadways, the direct APE" --

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1 CHAIRMAN HONIGBERG: No, really. No,
2 you need to read slower than that.

3 MR. OLDENBURG: -- "APE consists of a
4 20-foot wide area extending out from the outer
5 edge of pavement along both sides of the
6 existing road." So, I see the number, and I
7 see where it comes -- I see that it's here, I
8 just don't know how it was -- how it was
9 determined. Whether, by the sounds of it, DOE
10 sets it, DHR agrees with it, but I'd like to
11 know how the -- whether the Applicant has some
12 input in that, and agrees with the "20 feet".
13 You know, that's sort of why I'm -- I'm trying
14 to figure out the mechanics of it. Because one
15 of my concerns is that the DOT has a
16 requirement that might put you outside the APE,
17 and I'm trying to figure out what happens if
18 that occurs.

19 MR. BISBEE: Understood. And, if I
20 may, Mr. Chairman, just to provide a brief bit
21 of information for Mr. Oldenburg.

22 It's Footnote 5 to Table 2 that
23 provides a little more information. It doesn't
24 give you the information in its entirety that

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1 you're seeking. But it does explain that DOT
2 based it on its assessment of what would be
3 needed for construction. So, that is the
4 underlying purpose and the basis of their
5 decision.

6 I don't believe there was input from
7 that Applicant on that. It was their
8 assessment. And that's all that I'm aware of
9 right now that explains anything in the way
10 that you are asking about.

11 MR. OLDENBURG: Okay. Thank you.

12 CHAIRMAN HONIGBERG: Mr. Way.

13 MR. WAY: Thank you. I do have a few
14 questions. Mr. Oldenburg actually touched upon
15 several that I was interested in. So, I want
16 to go in a little bit different direction.

17 BY MR. WAY:

18 Q. Ms. Bunker, if we could talk a little bit about
19 the unmarked burials that I think you addressed
20 a bit yesterday, or the potential for unmarked
21 burials. Last night, we had public hearing.
22 And one statement was made to us about a
23 cemetery on Old County Road, in Clarksville, I
24 think. Are you familiar with that?

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1 A. (Bunker) Yes.

2 Q. And their statement was two-fold. One, that
3 the position of the cemetery in the maps was on
4 the wrong side of the road. That was one
5 thing.

6 And I'm just giving you the statement,
7 because I don't actually have the maps in front
8 of me. So, I was sharing information that I
9 heard last night.

10 But one of the other things that they had
11 concerns with, obviously, was the fact that
12 there could be unmarked burials, particularly
13 in the road. And they claimed that they did
14 use the ground-penetrating radar that we had
15 talked about yesterday, and they located or
16 claimed to have located potentials in the
17 roadway. And -- excuse me. So, I guess one of
18 my questions would be, and it sounded like we
19 might be getting into confidential areas
20 yesterday, so I don't want to do that. But, in
21 general, do you have concerns about unmarked
22 burials in the roadway, as you look at it now?

23 A. (Bunker) For the specific location?

24 Q. For this location?

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1 A. (Bunker) Yes. I share the concerns for their
2 presence.

3 Q. What do we do with that information going
4 forward? So, we have, for example, they have
5 ground-penetrating radar that makes some
6 conclusions. You have not done that yet. How
7 do we take that information and how do we
8 resolve it?

9 A. (Bunker) Let me think for a second. We have
10 not yet done any field investigations in that
11 area. So, the strategy that I would use would
12 be to conduct our Phase I-B subsurface sampling
13 in that sensitivity area, and use those results
14 as a starting point. We would then present our
15 results to Division of Historic Resources. Ask
16 for consultation and review. And, at that
17 point, see what the next step would be.

18 Of course, with available information
19 gathered by others, it would be useful to see
20 that information, and could be very helpful.
21 So that would be a good thing to add to the
22 mix, if at all possible.

23 Otherwise, I'd just as soon stick to the
24 strategy and the steps, and progress as

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1 planned.

2 Q. Understood. So, in this case, where you do
3 have information, particularly from like
4 cemetery commissions, they would be a very good
5 resource to talk to, particularly on this
6 issue?

7 A. (Bunker) Yes, it would.

8 Q. All right. And that would happen at the DHR
9 level, correct?

10 A. (Bunker) Yes.

11 Q. Very good. One question that I had, we talked
12 about during construction, if there was any
13 artifacts that were found, any further evidence
14 that was found, then there's a process in place
15 for addressing it and mitigating it, for
16 possibly getting the artifacts in different
17 locations, to, as you say, for digging.

18 When we're doing construction, and maybe
19 I'm oversimplifying this, but, when we're doing
20 construction, how is one necessarily to know if
21 they encounter an artifact? I have to imagine,
22 you know, like unmarked burials, it's not, you
23 know, like you see in the movies. How will
24 they know?

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1 A. (Bunker) Part of our planning process that will
2 go forward, as part of the Programmatic
3 Agreement, is training of construction
4 personnel. We haven't written a training plan
5 yet, but it is in our future to create that
6 plan. And people will be trained on the ground
7 on what qualities or characteristics of exposed
8 soil to look for.

9 We also will have construction monitors,
10 people in place, in areas that are sensitive,
11 in order to keep an eye on things, so that
12 culturally sensitive areas are not being
13 impacted inadvertently or impinged on. And
14 there is an unanticipated finds policy, which
15 will outline the steps should something pop up
16 unexpectedly.

17 Q. All right. So, the "monitors" that we talk
18 about, the "construction monitors", are those
19 staff, personnel that are dedicated towards
20 archeological type activities? Or are they
21 wearing many hats? Are they, for example,
22 could they be doing environmental monitoring?
23 What is their role?

24 A. (Bunker) Not decided yet, in that -- in your

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1 specific question, it's not been decided
2 whether they would be doing more than one task
3 or more than one discipline. So, I don't know
4 the answer to that. But cultural resources
5 monitors would be people trained in archeology
6 or aboveground resources as well, and would
7 have a background.

8 Q. And, when you say "cultural resources
9 monitors", does that suggest that they would
10 come from Department of Cultural Resources? Or
11 is this something that would be hired by the
12 Applicant or --

13 A. (Bunker) I don't know the details at this
14 point. It could be either. But I would
15 anticipate it would be an employee of the
16 Applicant.

17 Q. All right. And, when you say that
18 "construction personnel would be trained in how
19 to identify", and how to react to something
20 they would find, as a professional in this
21 field, probably with years of training on
22 identification, do you feel that that's
23 sufficient to address issues that might arise?
24 So, for example, if there was an unmarked

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1 burial that occurred, if there were artifacts
2 that occurred, do you feel confident that the
3 level of training that might be provided here
4 would actually meet the need?

5 A. (Bunker) I do. And I can explain that a little
6 bit, if you wish?

7 Q. Please.

8 A. (Bunker) Thank you. In my experience, I found
9 that construction personnel are eager to learn
10 about this. It demystifies things for people
11 to have knowledge. And construction personnel
12 are very curious, and often see things quickly,
13 because their focused on opening up the ground
14 surface. They have a lot of experience on how
15 soil -- I'm only talking from the archeological
16 perspective, not above ground. Is that all
17 right?

18 Q. That's good. Yes.

19 A. (Bunker) Thank you. Construction personnel
20 that open up soil on a daily basis see things,
21 and they see a different coloration or a
22 different texture, or, occasionally, actually
23 will see artifacts.

24 The person that I work with, Mark

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1 Doperalski, the Cultural Resources Manager at
2 Eversource, feels the same way. We have
3 discussed this. And we're both eager to train
4 people on this.

5 I have given seminars to other managers in
6 Eversource, and everyone has been enthusiastic
7 and reacted responsibly. So, I feel that it
8 does work very well.

9 Q. Do you have any concerns, and I'm not even
10 trying to suggest that this would occur, that,
11 as construction progresses, this is a very -- I
12 have to imagine it's somewhat subjective, you
13 know, what I see as an artifact, you might just
14 laugh off.

15 A. (Bunker) Uh-huh.

16 Q. But it's a subjective process. And, when I
17 have construction deadlines for a huge project,
18 where my finishing a task can allow someone
19 else to finish their task, do you worry or do
20 you have measures or do you anticipate there
21 will be measures in place to make sure that
22 what actually is designed to occur here occurs
23 and doesn't get lost in the day-to-day process?

24 A. (Bunker) Well, yes. And I think, if you take

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1 the New Hampshire Division of Historic
2 Resources' guidelines into effect, you would
3 see that one of the things that Division of
4 Historic Resources is very concerned about is
5 to allow the necessary time. And so that would
6 need to be built into a construction, I don't
7 know if you call it a "schedule" or a
8 "protocol", so that, in the event that
9 something happened, that extra time would be
10 built in.

11 Q. Thank you.

12 A. (Bunker) You're welcome.

13 MS. WEATHERSBY: If I could just
14 follow up here.

15 BY MS. WEATHERSBY:

16 Q. If a contractor believes that they may have
17 located an artifact, --

18 A. (Bunker) Yes.

19 Q. -- does all work stop and an expert get called
20 in? Or what happens if they believe they are
21 seeing something sensitive?

22 A. (Bunker) Yes. The Cultural Resources Manager
23 personnel would come and eval -- come to the
24 location, review the discovery, and make a

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1 field judgment, a field assessment, as to
2 whether or not it needed further work, needed a
3 longer delay, or could be simply addressed
4 immediately and go forward.

5 BY MR. WAY:

6 Q. Do you see that potentially impacting the
7 Programmatic Agreement that was put in place?
8 Would that necessitate a change in that
9 Agreement?

10 A. (Bunker) That would be part of the Agreement.

11 Q. Would be -- and, so, when you say "part of the
12 Agreement", you mean the process for
13 identification would be part of the Agreement?

14 A. (Bunker) The Historic Properties Treatment Plan
15 will have discussion of unanticipated finds,
16 monitoring, personnel training, etcetera.

17 Q. And, so, a question is --

18 A. (Widell) Could I ask -- I'm sorry.

19 Q. And maybe this is going to go to you,
20 Ms. Widell, as well. But I guess I'm
21 interested, what happens if you find something
22 major? What happens if you find a
23 game-changer, that is something that could have
24 impacted your judgment, Ms. Widell, ahead of

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1 time, or Ms. Bunker? How do you handle that?

2 A. (Widell) It is part of the work that I was
3 talking about that still needed to be done in
4 the signed Programmatic Agreement. If you go
5 to the letter from DHR, on the last page, the
6 August 25th letter, you will see that they
7 clearly talk about "The PA anticipates
8 avoiding" historic properties through "a
9 Historic Properties Treatment Plan, a
10 Monitoring Plan, an Unanticipated Discovery
11 Plan, a Training Plan, and a Curation and
12 Repatriation Plan."

13 Those will be written specifically for
14 this Project through a consultation process
15 that's already established in the Programmatic
16 Agreement, which has been signed by DHR and the
17 Department of Energy and Forest Service, and
18 other -- and, obviously, the Applicant itself,
19 Northern Pass.

20 So, those are very precise, with telephone
21 numbers, with amounts of time that need to be
22 followed, with contacts with, if there is an
23 artifact that's found, how it is curated, where
24 it goes to, who is called in. All of those

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1 things are done very precisely in those plans
2 for a project of this size. So, that's exactly
3 how that would be handled moving forward
4 through the construction process.

5 But did I answer your question? You asked
6 me what happens --

7 Q. I think so. We're getting to it. Because, you
8 know, one of the things I'm also interested in
9 is you said the Programmatic Agreement --

10 *[Court reporter interruption.]*

11 MR. WAY: I'm sorry, Steve.

12 BY MR. WAY:

13 Q. The Programmatic Agreement, it's a joint
14 venture where everybody agrees, comes up with a
15 legal document. That legal document is then
16 going to carry that Project through completion
17 and then operation?

18 A. (Widell) Yes.

19 Q. A large project, and I guess that's the reason
20 we do a PA, because it's such a large, complex
21 project. I imagine, over the lifetime of the
22 Project, there will be changes that might have
23 to occur to that Programmatic Agreement?

24 A. (Widell) Yes. There's always a provision for

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1 making amendments and changes, yes. And it has
2 a duration as well.

3 Q. All right. And, so, I want to get a sense of
4 what pushes those changes. Who -- what
5 motivates those changes? Who instigates it?
6 Where is the responsibility?

7 A. (Widell) It is all clearly delineated in the
8 document, which has been provided, I think,
9 this morning to you all.

10 Q. Okay.

11 A. (Widell) The exhibit -- I don't know the
12 exhibit number.

13 MR. WALKER: We will introduce it as
14 "Exhibit 204".

15 MR. WAY: Okay. We haven't seen that
16 yet?

17 MR. WALKER: No. We're going to put
18 that in today.

19 MR. WAY: All right.

20 BY MR. WAY:

21 Q. Let's talk generally. Because, once again,
22 this is a project that has a long lifespan. If
23 something is generally -- something generally
24 requires that Agreement to be updated, is it

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1 the Applicant that notifies DHR? Is it DHR
2 that has the responsibility to do the oversight
3 and check with the Applicant? Who's
4 responsibility is it?

5 A. (Widell) The signatories are usually the
6 interested parties, which would be the
7 Applicant, DHR, the Department of Energy, in
8 this case, the Advisory Council on Historic
9 Preservation also, because they are the federal
10 entity that has oversight over compliance of
11 all federal agencies with the National Historic
12 Preservation Act. So, normally, and I haven't
13 reviewed this in detail, I have not
14 participated in the creation of the document,
15 normally, it is those entities who have the
16 ability to bring forth concerns or need for
17 changes or those sorts of things.

18 Q. Because where I'm trying to get to is, once
19 this is done, everybody signed it, we put it on
20 the shelf, why would people pull it off the
21 shelf? What --

22 A. (Widell) Oh, I assure you, as a professional in
23 this field, when you are involved in a project
24 of this size, you use your Programmatic

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1 Agreement often, and make sure that it is
2 complied with, to make sure that historic
3 properties, above ground or below ground, are
4 cared for. And that's --

5 Q. You, the Applicant?

6 A. (Widell) Yes.

7 Q. Your work on behalf of the Applicant?

8 A. (Widell) The Applicant, as well as the State
9 Historic Preservation Officer. Those would be
10 the two key ones. And consulting parties who
11 are invited to sign the document also watch and
12 care for historic properties, too, as far as
13 what is going on.

14 Q. All right. Inside that Programmatic Agreement,
15 you'd also have your mitigation strategies,
16 correct? And, for a second, if we could put
17 out the avoidance and minimization, which I
18 know is part of the definition. But, for like
19 historic properties, there would be particular
20 mitigation strategies?

21 A. (Widell) Yes. There will be a discussion of
22 what mitigation will transpire. It's not
23 specific in the document at this point, is my
24 understanding. But there is a process for

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1 developing those mitigation measures in the
2 Programmatic Agreement, yes.

3 Q. For a project like this, and in your
4 experience, what sort of mitigation activities
5 might we expect?

6 A. (Widell) Might be educational materials, it
7 might be some funds for an historic
8 preservation property, things like that.

9 Q. And it would be a mitigation strategy, a broad
10 mitigation strategy. It would not get down to
11 the level of individual properties, correct?

12 A. (Widell) It could. It depends on, in many
13 ways, the Division of Historic Resources would
14 normally have very thoughtful ideas about how
15 mitigation could benefit the entire state
16 through work, or it could be individual
17 historic properties that may be affected.

18 Q. A private property, is that what --

19 A. (Widell) It could be. And there is no
20 limitation.

21 Q. And are you going to be consulted on those
22 mitigation strategies, those activities?

23 A. (Widell) No, not to my knowledge.

24 Q. Why not?

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1 A. (Widell) That's up to the Applicant.

2 Q. Isn't that odd? Wouldn't they come to you for
3 recommendations?

4 A. (Widell) Yes, they could.

5 Q. Okay.

6 A. (Widell) And I would be happy to help.

7 Q. On past projects, have you participated in that
8 activity?

9 A. (Widell) In many ways, I, as a State Historic
10 Preservation Officer for California, with many
11 large projects, I participated in many
12 discussions about mitigation, yes, and in other
13 projects elsewhere.

14 Q. All right. Ms. Bunker, the same thing for you.
15 Would you, for some of the mitigation
16 strategies for archeological sites, and I think
17 as you talked about earlier, have you provided
18 recommendations for, not avoidance and
19 minimization, let's put that aside, but for
20 mitigation-type projects?

21 A. (Bunker) For mitigation projects related to
22 this or other?

23 Q. To this.

24 A. (Bunker) To this. I have not provided

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1 information beyond setting the stage that
2 mitigation strategies could be developed.
3 However, I certainly hope that I will.

4 Q. And, so, on that point, would it -- it would
5 make sense to you that someone should say
6 "well, you're the person that determined that
7 this was going to be an issue and a problem
8 that we're going to encounter, what do you
9 think we should do in order to rectify it or at
10 least, you know, provide some solution to it?"
11 Wouldn't you agree?

12 A. (Bunker) Yes. Yes. Correct. And that would
13 be consultation with DHR.

14 Q. With DHR?

15 A. (Bunker) Yes.

16 Q. Okay. One of the -- and I'm trying to remember
17 who said it yesterday, but one of the lines of
18 questioning was about the other types of
19 resources that are out there, for example,
20 historical societies. And, Ms. Widell, as I
21 recall, you said that typically you don't do
22 that, because their focus tends to be more on
23 the structural. Did I hear you correctly?

24 A. (Widell) Yes. Historical societies generally

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1 do archives and objects and that sort of stuff.
2 But they are repositories of history of the
3 community, so they're excellent for archival
4 information, photographs.

5 Q. Because when I think of, for example, Concord
6 Historical Society, I see a very broad mission.
7 Obviously, structural and landscapes, but --
8 I'm sorry, go ahead.

9 A. (Widell) I'm sorry. And may I clarify? What I
10 meant by that is, it is usually historic
11 preservation organizations or heritage
12 organizations who work on buildings or are most
13 knowledgeable about historic buildings in the
14 community. There generally are a couple of
15 organizations. Not always. Not always.

16 Q. Yes. And what I'm saying is, at least my
17 impression, of some of the ones, obviously, in
18 New Hampshire, they're much more broad mission.
19 And one of the questions I would have for you,
20 and I'm not implying anything with you being
21 out-of-state, obviously, in Maryland, but
22 trying to put a good assessment for New
23 Hampshire together, I'm still trying to grasp
24 why we wouldn't at least avail -- you wouldn't

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1 avail yourself of that resource, and even if,
2 for nothing else, to show communication with
3 those communities?

4 A. (Widell) Yes. As I indicated yesterday, we use
5 the material such as that, and if you look at
6 the bibliography and the information in those
7 project area forms that were developed by the
8 DOE, specifically to gather all that local
9 information, as well as look regionally, we use
10 those. But I also want to talk briefly
11 about --

12 Q. And when you say "use those", and I'm sorry to
13 interrupt.

14 A. (Widell) That's okay.

15 Q. But, when you say "use those", what is "those"?

16 A. (Widell) Those are the project area forms.

17 Q. Yes.

18 A. (Widell) Those were required by DHR of the
19 federal agency, in this case, the Department of
20 Energy, to first look at a very broad view of
21 all of the resources that might -- well, first,
22 that are in the region that might be affected
23 by this Project. I mean, not a
24 property-by-property inventory, which also has

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1 been done, as you know, assessment form and
2 inventory, but what kinds of historic
3 properties are there, what kinds of things
4 happened there. Was it lumbering or summer
5 home? In each region, Great North Woods,
6 Merrimack Valley, Lakes Region were done, in a
7 quite thick report, and we used that to inform
8 our work.

9 And before I end, I also want to talk
10 about the strength of --

11 Q. But, if I could, --

12 A. (Widell) Yes. Sorry.

13 Q. -- just I want to just follow up on that last
14 point.

15 A. (Widell) Sorry.

16 Q. And I don't mean to interrupt.

17 A. (Widell) Not a problem.

18 Q. Who creates those project forms?

19 A. (Widell) The whole -- the DHR.

20 Q. DHR creates the project forms?

21 A. (Widell) Uh-huh.

22 Q. Okay.

23 A. (Widell) But they develop the requirements of
24 it. They review them for completeness, all of

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1 that sort of stuff. The actual work on the
2 project area form was done by SEARCH, which was
3 a consultant hired by the Department of Energy.
4 Q. So, you had the opportunity to talk or at least
5 discuss with historical societies, the town,
6 you know, tax clerks. There's a lot of
7 different resources that you had available to
8 you. I'm getting the sense that you didn't
9 feel that you had the need, because you had a
10 body of information in front of you. Is that
11 what I'm understanding? But, as we talk about,
12 for example, like on the cemeteries, we could
13 have avoided this discussion if we had had that
14 conversation up front. And I'm wondering how
15 much discussions we'll have as we go down this
16 route that might have been maybe avoided if we
17 had had more conversation with them up front.
18 And I don't want to deliberate at that point,
19 but one of the questions I would have on that,
20 were you instructed to not have these
21 conversations?

22 A. (Widell) No.

23 Q. Okay. Move on to other questions. Oh, one
24 question I had is we talk about communications

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1 between agencies. And this is sort of a quick
2 question. But how's the conversation, the
3 communication? In other words, are we just
4 submitting a document for review? For example,
5 do you submit it to DOE, they review it, and
6 you have no more communication with them, and
7 then it goes to DHR? Or is there a level of
8 constant communication, if someone doesn't
9 understand something that you did, are they
10 calling you up, are you calling them up? Or,
11 is it one agency provides information and
12 another agency that provides that information
13 to another?

14 A. (Widell) No. I would characterize it as a
15 "high level" of communication, but it is not
16 being done by myself. It is being carried out
17 primarily by Mark Doperalski, who was hired by
18 Eversource through a commitment in a Memorandum
19 of Agreement to DHR to do a number of things,
20 including also doing -- hiring someone full
21 time to work on this Project.

22 There are regular monthly reports, which I
23 believe have been provided to SEC, to give you
24 an idea of the kinds of things that are

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1 discussed. I would say, from emails that I've
2 seen, there is regular, regular, and when I say
3 "regular", at least weekly, if not almost, you
4 know, every several days, updates on material
5 that's being submitted, responses from DHR, and
6 meetings, person-to-person meetings, related to
7 the identification and assessment, which, as
8 you know, is nearing completion.

9 Q. All right. Very helpful. One last area.
10 Well, it's a couple, maybe just a couple,
11 but -- and, before I get to this last one, so,
12 as we've talked over the last months, and, you
13 know, 30 days or whatever it is that we've had
14 for these hearings, one thing that's occurred,
15 particularly as we had the construction panel,
16 was that there were changes that could be made.
17 We saw changes yesterday, potential changes, or
18 at least that was submitted in an exhibit where
19 you may have a little bit of a route change.
20 How are you being engaged from this point
21 forward? So, for example, is the construction
22 crew having regular conversations with you, to
23 make sure that they're not impeding on some of
24 your findings, that you have that ability to

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1 offer opinions on avoidance and minimization
2 for new issues that are on the table?

3 A. (Widell) Yes. That would occur as part of the
4 moving forward in the Programmatic Agreement.
5 As DHR provided in their August 25th letter, it
6 talks very precisely about the Training Plan
7 and the Monitoring Plan. Those are the things
8 that will be created and done with DHR as a
9 partner, with the Applicant. And how that is
10 carried out will be up to DHR, to figure out
11 how to make sure that it's being done on a
12 daily basis for this Project, for the duration
13 of this Project.

14 Q. That seems to imply to me, though, that we're
15 doing a little bit of tweaking and nudging here
16 of the site -- of the route. We're not making
17 major changes. So, that would suggest that all
18 the discussions we've had up to this point
19 probably don't fall into the level of major
20 change, it doesn't change your opinions?

21 A. (Widell) No. And, if there are changes on the
22 route or a tweaking or whatever going forward,
23 that would be part of the consultation process
24 that's laid out in the Programmatic Agreement.

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1 And a project of this size, that does happen
2 sometimes.

3 Q. So, the question would be is, if I do a route
4 change, let's say, as we talked to Mr. Bowes
5 several months ago, and he agreed that "well,
6 maybe there will be a route change in this
7 location", well, I have to imagine that
8 sometimes it's easy to say that here, but he
9 could be doing an adverse effect over here.
10 And that adverse effect would have to have --
11 would have to be addressed now, before going to
12 DOE and DHR, or am I wrong?

13 A. (Widell) No. If there is a route change, one
14 of two things could occur. One is, it could be
15 accommodated in the existing Programmatic
16 Agreement. Or, if it is so large a project,
17 although I cannot imagine that, then a new
18 Programmatic Agreement or agreement document
19 would be created to accommodate that. It is --
20 it does happen sometimes that you do find
21 additional historic properties, aboveground or
22 underground, that hadn't been taken into
23 consideration. That, too, is included in a
24 discussion in the Programmatic Agreement.

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1 Q. But it is conceivable that there could be
2 adverse impacts of a route change that we're
3 not made aware of that get addressed in a
4 Programmatic Agreement, but we don't have that
5 information in front of us to read?

6 A. (Widell) I want to make sure I understand your
7 question.

8 Q. Well, in other words, the Programmatic
9 Agreement is something that will be created in
10 the future?

11 A. (Widell) No. It has been signed.

12 Q. It has been signed?

13 A. (Widell) Yes.

14 Q. Okay.

15 A. (Widell) By the DHR.

16 Q. This is what we're getting today?

17 A. (Witness Widell nodding in the affirmative).

18 Q. Okay. This is what we're getting today.

19 A. (Witness Widell nodding in the affirmative).

20 Q. So, with these route changes that we could see
21 occur in the next however months or days, if
22 there's an adverse impact, this is a signed
23 Agreement, we then have to go back and modify
24 that Agreement?

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1 A. (Widell) No. There are provisions for taking
2 that into consideration.

3 Q. Okay.

4 CHAIRMAN HONIGBERG: Mr. Walker, when
5 are we going to have this Agreement?

6 MR. WALKER: I think we can upload
7 it. It was just -- the last signature I think
8 was what, the 28th, that was on it. But we can
9 upload it --

10 MR. BISBEE: She's got it right now.

11 CHAIRMAN HONIGBERG: Can you describe
12 it to me? How many pages is it? What's it
13 look like?

14 MR. WALKER: Seventy-four pages.

15 CHAIRMAN HONIGBERG: Did you say
16 "74"?

17 MR. WALKER: Right.

18 CHAIRMAN HONIGBERG: I see. And, in
19 it, I mean, how long does it take to read
20 a 74-page document and potentially process it
21 to ask questions of these witnesses?

22 What would you say? If you were
23 handed a document like that on one of Counsel
24 for the Public's witnesses, how long would you

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1 want to take before you had to ask questions of
2 those witnesses?

3 MR. WALKER: You know, I understand
4 your point, Mr. Chairman. This is 74 pages
5 that I'm looking at, and a lot of the pages are
6 signature pages. I'm not sure, to answer your
7 question.

8 MR. WAY: It would helpful to see
9 that.

10 CHAIRMAN HONIGBERG: Yes, I think it
11 would be helpful to see that. And I think
12 there's a number of people in this room who are
13 probably really interested in what's in that
14 document and may have questions for this panel
15 about it. What do you suggest we do about
16 that?

17 Mr. Bisbee.

18 MR. BISBEE: I think, if I may add.
19 The members of the Subcommittee have not have
20 had access to what everybody here in front of
21 you have had access to. There's been a draft
22 of this Agreement in play for a number of
23 years. The Final Environmental Impact
24 Statement included the final draft that became

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1 this final executed version of the Programmatic
2 Agreement.

3 So, the core document has been in
4 play for a long time for people here to be able
5 to review and ask questions of this, to prepare
6 questions for the panel. That wouldn't be true
7 for you, but --

8 CHAIRMAN HONIGBERG: A number of
9 people, as you were saying that, were shaking
10 their heads. Why is that? They're still
11 shaking their heads. Why is that, Mr. Bisbee?

12 They seem to disagree with the notion
13 that they had access -- that this document has
14 been in play for them for some time. And I may
15 invite one of them to speak. I'm loath to
16 engage in a long discussion about this, but I
17 think there's a number of people who want to
18 offer their thoughts.

19 Do you have any idea why these people
20 are shaking their heads at the notion that they
21 have had access to this draft process for some
22 time?

23 MR. BISBEE: I don't know why they're
24 shaking their heads, but I can offer some ideas

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1 for you.

2 The FEIS that was finalized in the
3 last few weeks did include the document. So,
4 the entire world had access to that. In
5 addition, the consulting parties in the 106
6 process, of which there are some 50 or more,
7 many of whom are intervenors here, have been
8 part of the consideration of the Programmatic
9 Agreement for a long time. I don't know if
10 it's been more than a year that they have had
11 access to draft documents, but I think it is
12 more than a year. It's not the final version,
13 but it's a version that has been in play for a
14 long time that is not terribly dissimilar from
15 the final version.

16 CHAIRMAN HONIGBERG: Ms. Boepple, you
17 seem to be one of the most enthusiastic
18 head-shakers.

19 MS. BOEPPLE: I'm telegraphing a
20 little bit, huh? Well, whether or not we've
21 seen a draft is totally immaterial to a final
22 signed Programmatic Agreement. Those things
23 typically take on a very different profile when
24 you have federal agencies involved and DHR

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1 involved. And to suggest that we can actually
2 accurately ask this panel questions on a draft
3 Programmatic Agreement, that wasn't finalized
4 and signed until, you know, 24-48 hours ago, is
5 absolutely absurd.

6 There can be components of that
7 Programmatic Agreement, including some of the
8 plans and programs that are integral to
9 mitigation of damage to historic resources that
10 weren't finalized, and certainly would not have
11 been finalized until the final draft of this.

12 So, there's a lot of detail in those
13 things. And to suggest that we could have
14 thoroughly and accurately questioned the panel,
15 based on the draft, is just -- it's just
16 unrealistic.

17 CHAIRMAN HONIGBERG: At the risk of
18 regretting what I'm about to do, is there
19 anyone else who wants to offer brief thoughts
20 on this topic, emphasis on the word "brief"?

21 Yes, Ms. Bradford --

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

24 CHAIRMAN HONIGBERG: Thank you.

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1 MS. BRADBURY: We have worked for a
2 year or more, I don't remember the exact date
3 we started reading this stuff, and we have
4 focused our attention primarily on the things
5 that actually are filed as part of the
6 proceeding and record, so that we could focus
7 on that and participate in these proceedings in
8 a meaningful way.

9 To say that we should have been
10 reading a draft document along with that, we
11 have decided not to read draft documents until
12 they're final, because it's too much for us who
13 are not represented by attorneys and are *pro*
14 *se*. Thank you.

15 CHAIRMAN HONIGBERG: Counsel for the
16 Public have any thoughts on this?

17 Head-shakers for a different reason.

18 MR. PAPPAS: None beyond what I think
19 people have said. I think you've heard from an
20 attorney and you've heard from the *pro se*
21 folks. I think that probably covers the
22 waterfront. There have been lots of documents.
23 And I would agree that people tend to focus on
24 final documents, as opposed to drafts that

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1 could change.

2 CHAIRMAN HONIGBERG: Mr. Bisbee.

3 MR. BISBEE: A couple of additional
4 thoughts. The three people who have spoken
5 here in the room are all consulting parties.
6 They have had full access to this. If they
7 chose not to look at prior versions of the
8 document that are not much different from this
9 final version, and it's certainly provided the
10 framework for what ended up being the final
11 executed version, if they made a choice not to
12 focus on those documents, that's their choice.

13 So, I don't think that anything
14 you've heard gives a reason for the parties in
15 the room to complain about not having had
16 access to this material.

17 CHAIRMAN HONIGBERG: Ms. Boepple, you
18 want to say something?

19 MS. BOEPPLE: If I could just point
20 out that this is one more item that is being
21 presented in the course of this hearing. This
22 is indicative of many other items, and I was
23 going to raise this in a different context, but
24 maybe now is the time. We have seen changes to

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1 the route maps, we have seen additional effects
2 tables introduced. All of these things are
3 being introduced after this hearing has begun
4 and after the proceeding has begun, and
5 sometimes after the witnesses, who were here to
6 testify on some of those issues, have already
7 been excused.

8 So, this is part of a larger issue.
9 And we probably don't -- you probably don't
10 want to try and address it right now. But it
11 seems to me this is an excellent example of one
12 of those items that does require some special
13 consideration.

14 Because this particular document, the
15 Programmatic Agreement, as you've just heard
16 Ms. Widell testify, is going to control, if
17 this Project gets approved, this is going to
18 have tremendous control over how the
19 construction takes place, and how historic
20 resources and archeological resources might be
21 impacted, and how they will be dealt with going
22 forward.

23 CHAIRMAN HONIGBERG: And without
24 getting into the larger discussion, what you

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1 just said makes it quite different from most of
2 the other things, most of the other changes
3 that I think have been made. Some of which
4 have been in response to what happened, and
5 were described as changes that would be made in
6 response to questions or inquiries during the
7 questioning. This does strike me as different
8 from those.

9 Mr. Bisbee.

10 MR. BISBEE: I don't recall, in the
11 four plus days of questioning of this panel,
12 many, if any, questions on the Programmatic
13 Agreement. The parties in the room are fully
14 aware of it. They knew it was about to be
15 finalized. And not a single question, that I
16 recall at least, was focused on the
17 Programmatic Agreement. If it was such a vital
18 document, I would have expected that that would
19 have been an issue that would have been a focus
20 of inquiry.

21 MR. WAY: Mr. Chair?

22 CHAIRMAN HONIGBERG: Who is that?

23 MR. WAY: Chris, right over here, to
24 your right.

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1 CHAIRMAN HONIGBERG: Sorry. Yes.

2 MR. WAY: Voice from above. And,
3 with all due respect, I don't really care if
4 there were any questions up to now, I know I
5 have questions. And I look at that document as
6 very important, setting the stage on how we're
7 going to revisit this Project in years to come,
8 and make sure that sites are protected, that
9 everybody is doing what they should be doing on
10 the Project. And I just know that we have not
11 seen it. I would like to see it. I'd like to
12 have the ability to review it. And then I
13 would like to have the ability to get your
14 input and ask some questions on it.

15 CHAIRMAN HONIGBERG: Yes. I really
16 think that's probably going to be necessary. I
17 think, however we do that, from a schedule
18 standpoint, it may well be that this panel,
19 when it leaves here today, may have to come
20 back, after we've had a chance to review the
21 Programmatic Agreement.

22 Whether there were -- and I agree
23 with what Mr. Way said. Whether there were
24 questions about it or not, there were answers

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1 that included it. There were many references
2 to the Programmatic Agreement, or the "PA", as
3 people started calling it during certain rounds
4 of questioning. So, it's clearly an important
5 document to the witnesses. It's clearly an
6 important document to how this Project would be
7 managed, if it were approved and built.

8 So, I think we're going to need to
9 hold this panel, hold this over their heads,
10 and potentially give others a chance to ask
11 questions about it as well.

12 Mr. Whitley, what can I do for you?

13 MR. WHITLEY: Mr. Chair, I was just
14 going to raise that very issue about, if this
15 panel does come back to address questions on
16 the Programmatic Agreement, if the other
17 parties in the room, beyond the Committee,
18 would have an opportunity to ask questions?

19 CHAIRMAN HONIGBERG: I don't know
20 that we can answer that question right now. I
21 think, if someone wants to ask questions about
22 it, they would have to be very, very specific.
23 I mean, we would not be engaged in an
24 open-ended review of anything other than what's

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1 new in the Programmatic Agreement. Because
2 we're not going to put these witnesses, or any
3 other witnesses or this process in a second
4 round, second bites at apples, third, fourth,
5 and fifth bites at apples.

6 So, I think it's possible, but it's
7 not the kind of decision we'd make as we're
8 sitting here.

9 MR. WHITLEY: Understood. Thank you.

10 CHAIRMAN HONIGBERG: Yeah. What can
11 I do for you?

12 DR. KIMBALL: Mr. Chairman, I just
13 also want to point out, --

14 *[Court reporter interruption.]*

15 CHAIRMAN HONIGBERG: Please identify
16 yourself for the record.

17 DR. KIMBALL: Yes. Ken Kimball, from
18 the Appalachian Mountain Club. AMC is a party
19 to this. Mr. Bisbee tried to indicate that a
20 great deal of this Programmatic Agreement is
21 signatory pages. I would point out, and I'm
22 just looking at it right now, there's almost 50
23 pages of pure substance.

24 CHAIRMAN HONIGBERG: That's -- thank

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1 you, Mr. Kimball. I don't consider that
2 significant to the discussion. Fifty pages is
3 a lot, 70 pages is a lot. I would say many
4 single-space documents, ten pages is a lot.
5 So, I don't think that's particularly relevant
6 to this part of the discussion, but thank you
7 for the clarification.

8 Any other thoughts on this people
9 want to share?

10 *[No indication given.]*

11 CHAIRMAN HONIGBERG: All right. Mr.
12 Way, do you want to continue? I think we can
13 probably proceed as far as we can go, and then
14 we'll see what we get when the Programmatic
15 Agreement appears.

16 MR. WAY: Thank you. I'll have no
17 more questions on the Programmatic Agreement
18 until that point.

19 BY MR. WAY:

20 Q. The last issue I wanted to talk about is the
21 rules, and maybe it's making sure I understand.
22 So, I mean, one of the things I want to ensure
23 is, once you folks are gone, we have a body of
24 information that we have to work with, and

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1 unless you want to come back, but which appears
2 you might.

3 So, when we look at the inventory that's
4 provided to us, at the end of the day, correct
5 me if I'm wrong, it's those properties that are
6 50 years or older, eligible for National
7 Register or on the National Register, correct?

8 A. (Widell) Yes. But we did use the definition of
9 "historic sites", which, in my professional
10 opinion, is different than eligibility, but
11 includes -- I can't imagine any example that
12 would not be considered under National Register
13 eligibility. Those are not properties of
14 national significance, as you've seen. They
15 can be of local significance. So, we
16 definitely --

17 Q. And we could be reading it differently, and I
18 think that's what's going to happen in
19 deliberation. Because, when I look at the
20 definition of "historic sites", which says
21 "means "historic property", " and I go back to
22 227, there's no mention of the Register in that
23 definition of RSA 227(c)(1). It simply ends
24 after "any building, structure, object,

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1 district, area that is a significant history,
2 architecture, archeology, or cultural of this
3 state, its community, or the nation."

4 In the SEC definition, we then go on to
5 say the term includes "any prehistoric", blah,
6 blah, blah -- doesn't say "blah, blah, blah",
7 but "National Register of Historic Places". It
8 does include the "National Register of Historic
9 Places". I see those as two separate things.
10 But you do not see those as two separate
11 things. Was that a conclusion that you came to
12 on your own? Is that just how we've -- is that
13 how you were instructed the SEC would look at
14 it?

15 A. (Widell) No. I wouldn't presume to direct the
16 SEC. But, as a professional in the field of
17 historic preservation, and having done this, as
18 I said, this process over and over again, you
19 are trained to look very broadly at anything
20 that might have historic importance or
21 significance. And I see those two words as key
22 in the definition of "historic sites" for SEC.
23 And, as I indicated, they do not have to be of
24 national significance. Most of the things that

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1 are determined eligible or listed on the
2 National Register are of local significance.
3 And, so, we look very broadly whenever we are
4 trying to identify things that are historically
5 important and significant.

6 Q. It's interesting, too, when I read it, not to
7 beat a dead horse, but it's not historically
8 significant, but is significant in the history
9 or the architecture, the archeology, or the
10 culture of the state. I don't think history
11 rises above anything else there. Except when
12 you get to the next line, which I think you
13 would say then it's on the Register of Historic
14 Places, that's included. My concern is where
15 there's a universe that we're not looking at.
16 My concern is that maybe we would have had more
17 information on that universe if there was
18 consultation with a lot of the entities we had
19 talked about earlier.

20 If we're -- but, under this way of
21 thinking, we're only looking at those
22 properties greater than 50 years old, eligible
23 for National Register or on the National
24 Register.

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1 A. (Widell) No. I have to respectfully disagree.

2 Q. Okay.

3 A. (Widell) The definition is different. But the
4 application of figuring out what's eligible for
5 the Register is extremely broad. It would
6 include things like canons or other objects.
7 And no one has brought to us any locally
8 significant things that we had not considered.
9 I would also add, remember, I worked with
10 Preservation Company, which is an entity here
11 that has been here in New Hampshire for, I
12 think, almost 40 years, and has done an
13 extraordinary number of surveys and documents.
14 Lynn Monroe and her team have worked in these
15 communities, in most cases, not once or twice,
16 many times doing work. She is aware of many of
17 the resources as well.

18 So, I disagree that we have not done a
19 very thorough and comprehensive look at --

20 Q. Do not misunderstand, I'm not suggesting you
21 didn't do a thorough look.

22 A. (Widell) Okay. Thank you.

23 Q. What I'm suggesting is we have a universe of an
24 inventory that we have at our disposal. My

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1 concern is there's another inventory that we
2 don't have, and you said that "no one brought
3 it to your attention". And I'm trying to say,
4 how would they know to bring it to your
5 attention?

6 And, then, the other thing I would also
7 suggest is, the Preservation Company, which
8 sounds very competent, but they can't know
9 every, you know, 220 plus -- I mean, they have
10 a good awareness, but they can't know every
11 detail. How do we know we're not missing
12 things that don't fit into that National
13 Register definition, but yet fits into the
14 first part of the SEC definition?

15 A. (Widell) I can tell you one very important way,
16 and it is what I have stated before. The
17 project area forms that were completed to
18 understand and identify the context of
19 everything that may be a historic site within a
20 region that is of importance to the local
21 community, that --

22 Q. Fifty years --

23 *[Court reporter interruption.]*

24 MR. WAY: I'm sorry.

1 **BY THE WITNESS:**

2 A. (Widell) And I will get to that point in a
3 second.

4 *[Court reporter interruption.]*

5 CHAIRMAN HONIGBERG: Mr. Way, what
6 did you say? That's what got missed in the
7 transcript.

8 BY MR. WAY:

9 Q. I'm sorry. I was going to say "50 years or
10 older?"

11 A. (Widell) And I will speak to that in a second.
12 The project area form included information from
13 the consulting parties, not unlike what we were
14 just talking about. That is part of the
15 Section 106 process, is to bring in all the
16 information, letters, lists of properties. I
17 think all of you also saw Patricia O'Donnell's
18 list from some community hearings. I reviewed
19 those lists, Lynn Monroe reviewed those lists,
20 to see if there was anything we felt that
21 hadn't been included that we had overlooked. I
22 think we did a very comprehensive evaluation,
23 using that document, that project area form,
24 which is intended to identify all of the things

[WITNESS PANEL: Widell~Bunker]

1 that should be considered.

2 Now, you ask a very important question.

3 Were we just limited to things that were 50
4 years old or older? That is a general criteria
5 that is used for the National Register of
6 Historic Places, but it is not limited to that.
7 There is a provision for properties of
8 exceptional importance, and that, as a trained
9 professional, we would always keep in mind.
10 That there might be a property that is less
11 than 50 years, but still has significance. So,
12 I would say we were absolutely not limited to
13 looking at things that were 50 years old or
14 older.

15 Q. And you mentioned in your testimony that there
16 were properties, for example, 48, 49 years that
17 was included in your database. Do we have
18 access to that database findings? Do we have
19 that in front of us or --

20 A. (Widell) Yes, you do. It is part of the
21 database, I think they're indicated as being a
22 category of properties from 1966 to 1968. It
23 is in the assessment form, the front of which
24 looks like this [*indicating*], the database that

[WITNESS PANEL: Widell~Bunker]

1 goes with that report.

2 MR. WAY: All right.

3 CMSR. BAILEY: Do we have an exhibit
4 number on that?

5 MR. WALKER: That's part of our
6 Appendix 18, to Exhibit 1.

7 CMSR. BAILEY: Thank you.

8 MR. WAY: All right. I think that's
9 it for me. Thank you.

10 CHAIRMAN HONIGBERG: Ms. Weathersby.

11 MS. WEATHERSBY: Thank you. Good
12 morning.

13 WITNESS WIDELL: Good morning.

14 BY MS. WEATHERSBY:

15 Q. I just have a quick follow-up to Mr. Way's
16 question concerning the Programmatic Agreement.
17 I find it a bit odd that neither of you were
18 involved in drafting the Programmatic
19 Agreement, being the Applicants' experts. Is
20 that how it's usually done, that it's the
21 Applicant is not involved? Or was there
22 someone else who was involved from Eversource's
23 Northern Pass Transmission side of things that
24 drafted it?

[WITNESS PANEL: Widell~Bunker]

1 A. (Widell) No, not necessarily. I have seen it
2 done many different ways. So, I cannot speak
3 exactly to why Northern Pass chose that route,
4 but --

5 Q. So, who actually drafted the Programmatic
6 Agreement?

7 A. (Widell) The draft of the Programmatic
8 Agreement is done by the federal agency,
9 because it is their responsibility to -- if
10 there are likely to be adverse effects, to
11 prepare an agreement document to, as evidence,
12 to show that they have complied with the
13 National Historic Preservation Act, Section
14 106. That they have taken historic properties
15 into consideration before they have provided
16 whether it's federal money or a federal permit
17 or a federal license.

18 Q. So, DOE does the first draft?

19 A. (Widell) Yes.

20 Q. And then what happens?

21 A. (Widell) Normally, first, they send it -- well,
22 they send it to the State Historic Preservation
23 Officer, and, in this case, the DHR requested
24 that the Advisory Council on Historic

[WITNESS PANEL: Widell~Bunker]

1 Preservation actually be part of that
2 discussion.

3 The other really important thing, as has
4 been discussed, is consulting parties are
5 invited, anyone who would like to be a
6 consulting party, in the discussion of the
7 DOE's compliance with Section 106, is invited
8 to participate in reviews of documents and
9 identification and all of that sort of stuff.

10 Q. So, then, all of those parties essentially and
11 eventually agree on the terms, and then it's
12 presented to the Applicant as "this is what you
13 must follow"?

14 A. (Widell) The Applicant participates in the
15 discussions as well.

16 Q. And who from the Applicant participated in
17 those discussions?

18 A. (Widell) I'm not sure.

19 Q. Okay. We've heard of a "Mark Doperalski"?

20 A. (Widell) Yes.

21 Q. And I'm probably mispronouncing his name, and I
22 have no idea how to spell it.

23 A. (Widell) Uh-huh.

24 Q. He's an Eversource employee?

[WITNESS PANEL: Widell~Bunker]

1 A. (Widell) Yes, he is.

2 Q. And what involvement -- he seems to have some
3 kind of significant involvement in this process
4 concerning historical and archeological
5 resources. Could you tell me, in general, what
6 his involvement has been?

7 A. (Widell) Yes. There was a Memorandum Agreement
8 signed between Eversource and DHR, and DHR
9 requested that Eversource hire a professional,
10 and it would need to meet what we call the
11 "Secretary of Interior standards for
12 professionals", to work on the Project, so that
13 they had one contact to discuss the different
14 things that would be moving forward,
15 information, documents, all of that. Mark is a
16 archeologist. But it's not uncommon for a
17 professional to have to work in both overhead
18 and underground.

19 Q. And he will be the point person for Eversource
20 going forward?

21 A. (Widell) I don't know that.

22 Q. You don't know. Okay. Most of my other
23 questions really concern the process that was
24 used. And I think I'm going to start at the

[WITNESS PANEL: Widell~Bunker]

1 end, and then kind of move backwards.

2 After all of your sifting of information,
3 your conclusion is that there are six
4 individual properties that the Project will
5 have an adverse effect upon, is that correct?

6 A. (Widell) Yes.

7 Q. And then you've recently done some
8 identifications of some cultural landscapes,
9 and you believe that ten will be eligible for
10 the National Register. Is that correct?

11 A. (Widell) Yes.

12 Q. And you, I believe, have determined that two of
13 those cultural landscapes will probably be
14 adversely affected. Is that also correct?

15 A. (Widell) Yes.

16 Q. And has DHR or DOE weighed in yet concerning
17 the cultural landscapes, whether they're
18 adversely affected?

19 A. (Widell) No.

20 Q. Do you know when that assessment might be done?

21 A. (Widell) No.

22 Q. So, right now, there's potentially eight, from
23 your position, potentially eight properties, or
24 groups of properties, that may be adversely --

[WITNESS PANEL: Widell~Bunker]

1 that you believe are adversely affected?

2 A. (Widell) The question, I want to make sure, do
3 I believe that there are eight cultural
4 landscapes that might be --

5 Q. No. Six individual properties and two cultural
6 landscapes, so, a total of eight properties,
7 used in the broad sense, that are adversely
8 affected, in your opinion?

9 A. (Widell) No. Let me explain.

10 Q. Okay.

11 A. (Widell) The two cultural landscapes are
12 properties that are a part of those six,
13 meaning the Weeks State Park, I had already
14 identified as having a adverse effect. The
15 cultural landscape has a broader amount of
16 land, but the Area of Potential Effect and with
17 the Zone of Visual Influence, we've already
18 documented and assessed. So, that is one of my
19 six.

20 The North Road Agricultural District and
21 Lost Nation Road cultural landscape, I had
22 already identified early on that the North Road
23 Agricultural District will be adversely
24 affected by the Project. The fact that it has

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1 a larger amount of land informs us the context,
2 but that larger amount of land is nowhere near
3 the Area of Potential Effect or Zone of Visual
4 Influence.

5 Q. Okay. So, that some of the six properties are
6 included in the two cultural landscapes?

7 A. (Widell) Yes. Yes.

8 Q. And, then, in addition, you're presently
9 assessing the historic properties along the
10 underground route for both -- for direct
11 effects?

12 A. (Widell) Yes.

13 Q. And have those historic properties yet been
14 identified?

15 A. (Widell) Yes. Previously, in our assessment
16 form, we did identify them. And, in addition
17 to that, the inventory forms that were
18 completed for the Section 106 process also
19 provides us with additional information about
20 the location of the historic properties along
21 the underground route.

22 Q. Okay. So, they have been identified, but you
23 haven't yet done your analysis to determine
24 whether there's an adverse effect on any of

[WITNESS PANEL: Widell~Bunker]

1 those properties, is that correct?

2 A. (Widell) It is being completed, will be
3 completed and submitted within the next two
4 weeks to DHR.

5 Q. To DHR?

6 A. (Widell) Uh-huh.

7 Q. And can you share with the Committee whether
8 you feel as though any properties along the
9 underground route will be -- historic
10 properties will be adversely affected?

11 A. (Widell) No. I do not believe so, because
12 there are going to be what we would call as
13 standard mitigations and care of the features.
14 Avoidance of things, like stone walls, we now
15 know that the blasting is going to be, if not
16 limited, maybe not even occur at all on the
17 route. So, I'm very confident that the
18 features will be able to be protected through
19 the process of the undergrounding.

20 Q. Okay. So, your ultimate conclusion then is
21 that there will be six properties, in total,
22 along the entire route that you believe will
23 be --

24 A. (Widell) Yes.

[WITNESS PANEL: Widell~Bunker]

1 Q. -- historic properties, is that --

2 A. (Widell) Yes.

3 Q. -- as the term is defined, --

4 A. (Widell) Yes.

5 Q. -- including archeological, that will be
6 adversely affected?

7 A. (Widell) My six does not include archeology.

8 Q. Okay. We'll get to that. And, then, as I
9 understand the process, DHR can also add some
10 to the list, if they believe other properties
11 should be included as adversely affected, is
12 that correct?

13 A. (Widell) Yes.

14 Q. Okay. When will the Site Evaluation Committee
15 know how many properties the Applicant and DHR
16 believe are adversely affected?

17 A. (Widell) I cannot say that precisely. But I am
18 very confident that they may find additional
19 ones, but it would not reach the level of
20 "unreasonable adverse effect".

21 Q. So, I can ask you about the six that you
22 believe are adversely affected. But, if the
23 list grows to 12, we won't have a chance to
24 then ask you about the other six?

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[WITNESS PANEL: Widell~Bunker]

1 A. (Widell) It depends on when DHR is able to
2 review the effects tables, which have been
3 submitted to them. The August 25th letter said
4 that they're review is pending.

5 Q. Okay. Doesn't DHR believe that there's 100
6 aboveground properties and 10 cultural
7 landscapes that may be affected?

8 A. (Widell) No.

9 Q. Okay. Good.

10 A. (Widell) The 100 properties -- well, it's the
11 actual list that's in that letter, are the
12 identified properties that may be affected.
13 But that is just the identification stage. And
14 then there's an assessment stage, where you
15 carefully go through looking at whether, in
16 fact, there is a visual adverse effect or a
17 direct effect. So, no.

18 Q. Okay. The "100" and the "10" are the big pool,
19 and then it gets sifted down through
20 determination?

21 A. (Widell) Yes.

22 Q. Okay. So, I've been hunting around for your
23 final analysis concerning the six properties,
24 as to which properties that they are and how

[WITNESS PANEL: Widell~Bunker]

1 they're adversely affected. And I'm rather
2 embarrassed to say I cannot find it in any of
3 our documents. Where is -- where are all your
4 conclusions documented?

5 A. (Widell) The six are discussed in my
6 supplemental testimony from April of this year.

7 Q. Yes.

8 A. (Widell) I think that's the date.

9 Q. Okay.

10 A. (Widell) And the documents and discussion of
11 the adverse effects on the historic properties
12 are in the effects tables that have been
13 completed, as well as in the assessment forms
14 that we submitted as part of the Application,
15 in Supplement Number 18.

16 Q. Okay. So, I've seen the prefiled testimony,
17 obviously. But I haven't seen those effects
18 tables. So, those are what have not been
19 provided to us yet, correct?

20 MS. WEATHERSBY: They were, okay.
21 I'm told they were provided to us on Friday.

22 MR. WALKER: Ms. Weathersby, I can
23 help here.

24 MS. WEATHERSBY: Okay.

[WITNESS PANEL: Widell~Bunker]

1 MR. WALKER: I think they were,
2 Exhibit 196 are the effects tables.

3 MS. WEATHERSBY: And we don't have
4 that exhibit yet. So, --

5 MR. WALKER: No, you -- okay.

6 MR. IACOPINO: Because you filed
7 it -- you filed it on a flash drive, as I
8 understand it, and it has to go through the IT
9 for the State.

10 But I do have a question about that.
11 Does that include all of the effects tables or
12 are there more coming?

13 WITNESS WIDELL: It is 56 effects
14 tables. There will be more that are being done
15 for the underground section within the next two
16 weeks.

17 MR. IACOPINO: And then will there be
18 effects tables for the cultural landscapes as
19 well?

20 WITNESS WIDELL: Yes.

21 BY MS. WEATHERSBY:

22 Q. So, just for the record, could you tell us the
23 names of the six properties that you believe
24 are adversely affected?

[WITNESS PANEL: Widell~Bunker]

1 A. (Widell) Yes. I want to make sure. They are
2 Maple View Farm; 65 Nottingham Road, which is
3 the Lindsay-Menard cabin; the Peaked Hill
4 Historic District; Weeks State Park; the North
5 Road Agricultural District; and the Dummer Pond
6 Sporting Club.

7 Q. Thank you. So, backing up to how you got
8 there. First started by having a determination
9 of the Area of Potential Effect, and we've
10 heard a fair amount about that this morning,
11 and that the below-ground section was the 20
12 feet from the edge of the pavement, and that
13 was established by DOE and DHR, correct?

14 A. (Widell) Yes.

15 Q. And that was true even if the pavement wasn't
16 centered in the right-of-way?

17 A. (Widell) They didn't make any clarification to
18 my knowledge.

19 Q. And, as Mr. Oldenburg discussed, it's possible
20 that Northern Pass Transmission Project could
21 be installed outside of the APE, so that there
22 may be some stone walls, foundations, etcetera,
23 that have not yet been identified that could be
24 affected?

[WITNESS PANEL: Widell~Bunker]

1 A. (Widell) No, I doubt that. I can't -- I don't
2 know how far out there is consideration of
3 going, but I think we were pretty
4 comprehensive.

5 Q. But you only studied within 20, in the
6 underground, within 20 feet, --

7 A. (Widell) Yes.

8 Q. -- and it's possible the Project --

9 A. (Widell) It is possible, yes.

10 Q. And, then, for overhead, you used the one mile
11 on either side, and that also -- that APE was
12 either side of the right-of-way, excuse me, and
13 that also was essentially sort of dictated to
14 you, it was given to you.

15 A. (Widell) Yes.

16 Q. It was decided by DOE and DHR, correct?

17 A. (Widell) Correct. Yes.

18 Q. But didn't DOE and DHR also say that the APE
19 might extend beyond a mile, if there were
20 topographical and historic features -- factors?

21 A. (Widell) Yes. And we took that into
22 consideration. An example would be the Weeks
23 State Park, which actually is located outside
24 of the Area of Potential effect, but we

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1 included the mansion, as well as the entire
2 State Park itself, and any of the historic
3 properties that were within the Area of
4 Potential Effect adjacent to Weeks State Park.

5 Q. Are there any other properties that were beyond
6 the one mile that you considered?

7 A. (Widell) Yes. I'm trying to think of another
8 example. And sitting here, I can't think of
9 any, but I will be happy to provide that after
10 a break maybe.

11 Q. Okay.

12 A. (Widell) Thank you.

13 Q. And the APE was determined essentially based on
14 potential visibility of the Project from a
15 historic site, is that correct?

16 A. (Widell) Well, I believe, in the letter, it
17 talks about "visual effects". But, generally,
18 when you're establishing an APE, you're looking
19 at whatever effects the federal agency is
20 likely to expect or the State Historic
21 Preservation Officer is likely to expect from
22 the type of project that's going to occur. So,
23 it would be a very different APE for a
24 different type of project.

[WITNESS PANEL: Widell~Bunker]

1 Q. So, for this Project, what was the -- how do
2 you think they reached that one mile?

3 A. (Widell) Based on the type of project, and the
4 type of effects that were likely to be caused
5 by it.

6 Q. And what --

7 A. (Widell) Visual. Visual.

8 Q. Visual effects.

9 A. (Widell) Visual, of course. Yes, I'm sorry,
10 I'm not -- visual effects, and, in the case of
11 the underground, direct.

12 Q. Okay.

13 A. (Widell) Yes. Sorry.

14 Q. Given that the visual impact of the Project on
15 an historic site was really the driver for the
16 APE, I'm wondering, and maybe you can't answer
17 this, but I'm wondering why the one mile was
18 used, when the SEC has a rule, it's Rule
19 102.10, that defines the "area of visual
20 impact", which sounds like what the APE was
21 designed to address. And that rule defines the
22 "area of potential visual impact" as "the
23 geographic area from which a proposed facility
24 would be visible, and would result in potential

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1 visual impacts, subject to certain geographic
2 limitations." And those geographic
3 limitations, for an electric transmission line
4 project longer than a mile, in a rural area,
5 which much particularly in the North Country
6 was, is a radius of ten miles, if it's going in
7 a new transmission corridor or an existing
8 transmission corridor, if either or both of the
9 width of the corridor or the height of the
10 towers, poles, or other supporting structures
11 would be increased.

12 So, it seems to me as though that rule
13 would help define the APE in rural areas as
14 extending for ten miles, which, of course,
15 would result in a much larger number of
16 properties.

17 Do you know why that rule was not used in
18 setting the APE?

19 A. (Widell) No. In the SEC rules, it specifically
20 refers to the APE for historic sites as that
21 which is established in the Section 106
22 process. I would say that just being visible,
23 for historic properties, does not necessarily
24 mean that it will have an adverse effect. The

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1 evaluation is very different, because, as
2 you've heard me say, you take into
3 consideration why the property is significant,
4 and whether seeing the Project would diminish
5 what we call the "character-defining features"
6 of the property, what makes the property
7 important. And does that visual effect really
8 take away from your understanding of the
9 importance of the property?

10 That's a little different than I think the
11 visual impact assessment. I am not an expert
12 on visual impact assessment.

13 Q. Understood. Can you point me to the place in
14 the SEC rules where it says that -- I think you
15 said that the APE that we need to use is that
16 as defined by the DHR?

17 A. (Widell) I know that it is in there, I can't
18 give you chapter and verse. Perhaps the
19 attorneys might be able to assist me.

20 MR. WAY: If I could, I think I have
21 it right here in front of me.

22 MS. WEATHERSBY: Okay.

23 WITNESS WIDELL: Thank you.

24 MR. WAY: I think we're talking about

[WITNESS PANEL: Widell~Bunker]

1 301.06(a), which is under "Effects on Historic
2 Sites". "Demonstration that project review of
3 the proposed facility has been initiated for
4 purposes of compliance with Section 106 of the
5 Historic Preservation Act." Is that what we're
6 looking at? I don't think it says -- I don't
7 see a reference to "APE" in the rules, just the
8 "106 process".

9 MR. WALKER: Mr. Way, if I could
10 help? I think it's (b), in 301.06.

11 MR. WAY: Is it (b)?

12 MS. WEATHERSBY: "Area of potential
13 effects", okay.

14 MR. WAY: Okay. Then, I stand
15 corrected.

16 MS. WEATHERSBY: Okay. I see that.
17 And it looks like I probably didn't need to do
18 my prior line of questioning. Okay.

19 WITNESS WIDELL: Mr. Chairman, --

20 CHAIRMAN HONIGBERG: We're going to
21 take a ten minute break.

22 WITNESS WIDELL: Thank you.

23 (Recess taken at 11:32 a.m.

24 and the hearing resumed at

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1 11:49 a.m.)

2 CHAIRMAN HONIGBERG: All right.

3 Rather than resume questioning immediately,
4 we're going to talk about the scheduling issue,
5 specifically related to the September 30
6 deadline that is currently in place that was
7 set by the Subcommittee sometime in spring or
8 early summer of 2016. It's statutory. The
9 statute says that a decision has to be made
10 within a year of the application being accepted
11 by the SEC. That would -- that would have
12 required a decision by December of 2016. And,
13 as I said, sometime in the spring or summer of
14 2016, the Subcommittee voted to reset that
15 deadline to September 30 of 2017. It is
16 apparent from where we are in the process that,
17 despite everyone's efforts to move as quickly
18 as reasonably possible, September 30th is
19 looking unrealistic to a number of people, both
20 inside and outside this process.

21 So, that is why this discussion needs
22 to take place. So, I think -- Commissioner
23 Bailey I think has the statute open. Can you
24 read that into the record so people know what

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1 we're talking about.

2 CMSR. BAILEY: It's RSA 162-H:14.

3 "If the site evaluation committee, at any time
4 while an application for a certificate is
5 before it, deems it to be in the public
6 interest, it may temporarily suspend its
7 deliberations and time frame established under
8 162-H:7."

9 CHAIRMAN HONIGBERG: All right. Does
10 anyone on the Subcommittee want to say anything
11 or move anything or do anything to start this
12 process beyond what I've said?

13 Ms. Weathersby.

14 MS. WEATHERSBY: Mr. Chairman, so
15 given that we're on, I think, Day 30 of our
16 hearings, and we still haven't heard from
17 witnesses for Counsel for the Public or
18 intervenors, and the prehearing conference
19 report, as I understand it, suggests that we
20 need to schedule a number of additional hearing
21 days. And, if those days are scheduled, it
22 will be unlikely that we will meet our
23 deadline, as you've just discussed, the
24 deadline of September 30th.

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1 And, because the statute that
2 Commissioner Bailey just read allows us to
3 suspend our time frames and deadlines if we
4 find it to be in the public interest, I'd move
5 that we extend the time frame to make a final
6 determination on the issuance or denial of the
7 Certificate of Site and Facility. I think it's
8 in the public interest to do this. Our
9 enabling statute, RSA 162-H, contemplates that
10 we hold adjudicatory hearings, as we've been
11 doing. And it's in the public interest for
12 this Subcommittee to hear the witnesses offered
13 by Counsel for the Public and the intervenors.
14 It's also in the public interest for the
15 Subcommittee to hear cross-examinations of the
16 remaining witnesses, and to take an appropriate
17 amount of time to consider the extensive record
18 before us, and the arguments of the parties.

19 It's in the public interest that we
20 comply with the purposes of RSA 162-H:1 and we
21 follow the process set forth in that statute.
22 And I don't see how we can accomplish that in
23 our pursuit of public interest within the
24 current deadline.

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1 Therefore, I move that we extend the
2 deadline to issue our final decision. I guess
3 I would suggest that maybe a December 31 date
4 would be appropriate. But I also would like to
5 hear from others concerning the actual -- the
6 deadline itself, and to how much time we think
7 we need and what the schedules -- the polling
8 for the schedules has resulted in.

9 CHAIRMAN HONIGBERG: All right. Is
10 there a second for that motion?

11 DIR. WRIGHT: Mr. Chair, I think I
12 would second that motion for all of the reasons
13 stated by Ms. Weathersby.

14 CHAIRMAN HONIGBERG: All right. Now,
15 we can have a discussion up here. I am
16 confident that there are parties and
17 intervenors who want to weigh in on this issue.
18 So, we could -- I think what makes sense is to
19 hear briefly from folks who want to weigh in,
20 and I know what many of them are going to say.
21 But give people an opportunity to address this
22 issue briefly, and then have a discussion among
23 ourselves on this question.

24 Mr. Needleman, I'm fairly certain you

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1 want to say something.

2 MR. NEEDLEMAN: I do. Thank you, Mr.
3 Chair.

4 I think Ms. Weathersby explained the
5 issue quite clearly, and I certainly appreciate
6 the way in which she framed it. I think we
7 would agree that, given the work the Committee
8 still has to do here, the September 30th
9 deadline is probably something that needs to be
10 extended. That being said, I wanted to go back
11 for a minute and revisit a little bit of the
12 context that you framed a moment ago.

13 As you indicated, the original
14 statutory deadline for a decision in the matter
15 was December of 2016. The Committee found it
16 in the public interest at some point to extend
17 that out nine months. And, so, here we are now
18 with the September 30th deadline. We now are
19 in a position where there is going to have to
20 be another extension. And all of the reasons
21 that Ms. Weathersby articulated are certainly
22 ones that relate to the public interest.

23 I think there is another critical one
24 that relates to the public interest as well,

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1 and I think there are various elements of the
2 statute that bear this out, and that includes
3 the interest of the Applicant in ensuring that
4 its Application is considered and disposed of
5 in a timely manner.

6 We very much appreciate the time and
7 energy that this Committee has been devoting to
8 consider this and will continue to devote to
9 that. That being said, I would sincerely urge
10 the Committee, as it considers this extension,
11 to do several things.

12 One of those things is to consider
13 that issue from the perspective of the
14 Applicant, and the desire and the urgency to
15 reach a point of clarity here where we have a
16 decision. And, then, the second thing is, in
17 the context of your discussions, to the extent
18 that it's possible at this point, give some
19 consideration to critical intermediate steps
20 that need to occur. And I would say most
21 notably, it's one thing to reach that final
22 decision and to get a written decision, but it
23 would be enormously helpful, from the
24 perspective of the Applicant, if we had an

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1 expectation as to when the Committee would hope
2 to deliberate and reach an oral decision as
3 well.

4 So, thank you.

5 CHAIRMAN HONIGBERG: Anyone else wish
6 to say anything briefly on this?

7 Mr. Roth.

8 MR. ROTH: Thank you, Mr. Chairman.
9 As Counsel for the Public, I share the
10 Committee's and Ms. Weathersby's concern about
11 the likelihood of completing this process in a
12 way that would serve the public interest, and I
13 think, at the same time, the Applicants'
14 interest, by September -- by the end of
15 September.

16 I have some concern, however, that
17 even completing it by the end of December may
18 be not realistic. And the reason I say that is
19 we have still an enormous number of witnesses
20 and time that will be necessary to get through
21 them. We don't know how many more hearing
22 dates can be scheduled in October and November,
23 and then we have the holidays interceding, and
24 then we have people needing to complete and

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1 file briefs, and some time for deliberation.

2 So, in light of those things, it
3 seems to me more realistic that the extension
4 should be until the end of February, and that
5 provides a more, I think, comfortable time
6 period in which to accomplish everything that
7 needs to be done.

8 I would also suggest that, in light
9 of what we've heard today about the requirement
10 -- or, not the "requirement", about the
11 Programmatic Agreement, there are other issues
12 about the testimony of at least this panel, and
13 maybe others. I know there is an outstanding
14 motion with respect to the Department of
15 Transportation issues as well, if I'm not
16 mistaken. So, there may be a need to bring
17 back some of the Applicants' panels sometime in
18 the next couple of months to clarify those
19 issues and complete those issues.

20 So, I think that, in light of all of
21 those moving parts, we would -- it would make
22 sense to go out further. And, you know,
23 conceivably, we could finish it earlier than
24 that. And it doesn't necessarily mean that,

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1 you know, the old adage "work expands to fill
2 the time allowed for" has to be true in this
3 case. I think, if the parties work diligently,
4 we could make that deadline or do better.

5 But, I think, to make it more
6 comfortable, and making sure that we do have
7 enough time, it would make sense to go to the
8 end of February.

9 Thank you.

10 CHAIRMAN HONIGBERG: Anyone else want
11 to offer any thoughts?

12 Mr. Whitley.

13 MR. WHITLEY: Thank you, Mr. Chair.
14 I just, for the record, wanted to state that I
15 think the Joint Municipalities support Ms.
16 Weathersby's motion, with the way it's been
17 amended, however, by Attorney Roth.

18 I think that due to the number of
19 witnesses -- I don't want to say it all over
20 again. But, for those reasons, I think that
21 beyond December 31st is more reasonable.

22 And I would also just point out that
23 the report of the prehearing conference that
24 just happened suggested 39 additional days.

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1 And that's a substantial number of days to add,
2 and doesn't include questions from the
3 Committee or any witnesses that may have to
4 come back.

5 And, so, I would suggest that, if the
6 Committee is going to extend the decision date,
7 it do -- it err on the side of caution and only
8 try to do it one time, and so go a little
9 further out. And, for those reasons, I would
10 also suggest an end of February decision date.

11 CHAIRMAN HONIGBERG: Would it be fair
12 to assume that the rest of the intervenors
13 generally agree with what Mr. Roth said?

14 *[Multiple indications given.]*

15 CHAIRMAN HONIGBERG: Is there anyone
16 of the intervenors who wants to say anything
17 other or different on this topic?

18 *[No verbal response.]*

19 CHAIRMAN HONIGBERG: All right.

20 MR. ROTH: And, Mr. Chairman, I would
21 never presume to attempt to amend a Committee
22 member's motion.

23 CHAIRMAN HONIGBERG: I understood
24 what you meant. I think we all understood what

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1 you meant. You were making an alternative
2 suggestion.

3 MR. NEEDLEMAN: Mr. Chairman, may I?

4 CHAIRMAN HONIGBERG: Yes.

5 Mr. Needleman.

6 MR. NEEDLEMAN: Thank you. Just in
7 response to Mr. Roth's suggestion. We believe
8 that Ms. Weathersby's initial deadline was the
9 right one, and feel quite strongly about that.

10 Again, I would ask the Committee, if
11 there is any inclination whatsoever to take up
12 Mr. Roth's idea, if there can at least be a
13 clear articulation that there is a goal here to
14 get an oral decision by a specific date and as
15 soon as possible. That kind of certainty is
16 something that would be very important to the
17 Applicant.

18 CHAIRMAN HONIGBERG: Let me make sure
19 I understand what you just said, Mr. Needleman.
20 Is what you're thinking that, in the course of
21 this discussion, not so much as a part of the
22 motion, but, in the course of the discussion,
23 we'd say "well, the goal will be to finish the
24 presentation of all witnesses and evidence by

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1 X, the briefing" -- I've forgotten what the
2 suggestion was, and we'll be issuing a specific
3 order -- you know, "post hearing briefs by a
4 particular date, deliberations over however
5 many days following that, with a decision by
6 the end of those deliberations"?

7 MR. NEEDLEMAN: That's the gist of
8 it.

9 CHAIRMAN HONIGBERG: Okay.

10 MR. NEEDLEMAN: And, if that kind of
11 detail is a bridge too far for this discussion
12 today, at least the last point, you know, you
13 will "have a goal of deliberating and deciding
14 by X date", you know, say "December 1st",
15 whatever that might be.

16 CHAIRMAN HONIGBERG: All right.

17 MR. NEEDLEMAN: Again, that I think
18 would be extraordinarily helpful.

19 CHAIRMAN HONIGBERG: Okay.

20 MR. ROTH: Mr. Chairman, I think
21 just, --

22 CHAIRMAN HONIGBERG: Mr. Roth.

23 MR. ROTH: -- if peace is breaking
24 out all over, we would, I think, support that

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1 kind of an approach as well.

2 CHAIRMAN HONIGBERG: All right.

3 Other thoughts from the Subcommittee?

4 Commissioner Bailey.

5 CMSR. BAILEY: Ms. Monroe, do you
6 know how many days that we can achieve a quorum
7 in the next few months?

8 ADMIN. MONROE: Yes. Tentatively, at
9 this point, based on the polls that I've sent
10 to the Committee, we have -- we'll have five
11 days left in September, based on the estimates
12 that we have that are already scheduled. And
13 we've got eleven days in October, eight days in
14 November, and five in December.

15 CHAIRMAN HONIGBERG: Can you clarify
16 September? I'm fairly certain we're meeting
17 more than five days in September.

18 ADMIN. MONROE: What I'm clarifying
19 is, based on the estimates for the Applicants'
20 remaining witnesses that we received at the
21 prehearing conference, we would finish with
22 their witnesses approximately on the 21st of
23 September, leaving the five remaining days,
24 22nd, 25th, 26th, 28th, 29th of September to

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1 start the presentation of witnesses starting
2 with Counsel for the Public. So, five days in
3 September. And I've got an additional 24 days
4 through the end of the year available for where
5 we have a quorum available.

6 CHAIRMAN HONIGBERG: All right.
7 Thank you for that clarification.

8 CMSR. BAILEY: So, what I was
9 thinking is, if we have 29 days left in the
10 year that we can achieve a quorum, it's
11 probably going to take us those 29 days to hear
12 from the rest of the parties. And I don't see
13 how we're going to get it done before the end
14 of December in that case.

15 MS. WEATHERSBY: The estimate from
16 the prehearing conference, I believe, was 39
17 days, is that correct?

18 CHAIRMAN HONIGBERG: We're going to
19 have to take this up at some point. But the
20 "friendly cross" issue is really what creates
21 that number of days to get through the
22 intervenor witnesses. And, obviously, there's
23 a pending motion, hasn't been decided. I think
24 it's unrealistic for people to expect that

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1 there will be multiple hours of friendly
2 cross-examination of most of the intervenor
3 witnesses. That's not realistic. Because
4 there's only so many questions that can be
5 asked of those witnesses that they're competent
6 to answer. There are examples of intervenor
7 witnesses who may have extensive knowledge.
8 But there's many intervenor witnesses who know
9 little beyond the boundaries of their property,
10 and asking them about what's going on elsewhere
11 is not going to be within the scope of their
12 competence to testify. So, there were many of
13 those estimates, if you look at that
14 spreadsheet, that include completely
15 unrealistic expectations of questioning of
16 witnesses.

17 There's no order issued yet on the
18 pending motion. I would -- I don't think
19 there's going to be a "blanket order", which
20 was requested originally in an earlier motion
21 and denied. So, I don't think that that
22 particular request is going to be revisited,
23 and, frankly, I don't think the Applicant
24 expects that.

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1 I think there needs to be some
2 reasonable limits placed on friendly
3 cross-examination. And the notion that it's
4 going to go on and on and on, and take that
5 number of days, is unrealistic and
6 unreasonable. But there will be a written
7 order issued at some point on that topic in the
8 near future. It won't be, you know, you won't
9 have to wait much longer for that I don't
10 expect.

11 So, I don't think that the 30 X days
12 that are, when you add up all the hours in the
13 prehearing conference report, are -- that we
14 need to necessarily take those as a given.
15 That number is going to be lower I'm fairly
16 certain.

17 DIR. WRIGHT: Mr. Chair, could I ask
18 a question? If we're thinking that 39 days is
19 not a realistic number, how do we, as a
20 Committee, try to reassess what the real number
21 of days may be sitting here today?

22 CHAIRMAN HONIGBERG: Well, we know
23 it's less than that to get through the
24 evidence.

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1 DIR. WRIGHT: Okay.

2 CHAIRMAN HONIGBERG: However many
3 days it's going to take to deliberate? I mean,
4 this is just me, spit-balling, but 39 doesn't
5 sound like a ridiculous number to get through
6 deliberations, to get through the evidence and
7 deliberations.

8 CMSR. BAILEY: Thirty-nine days of
9 deliberations?

10 CHAIRMAN HONIGBERG: No. The total,
11 evidence, plus deliberations, equals 39, or
12 thereabouts.

13 DIR. WRIGHT: So, Mr. Chair, using
14 simple math, then that would get us, the number
15 of days Ms. Monroe went through, we have 29
16 days between now and the end of December. I
17 may be an engineer, but I still remember simple
18 math. That seems to me it puts us beyond
19 December 31st.

20 CMSR. BAILEY: And we have to wait
21 for briefs and we have to be able to have time
22 to read them.

23 CHAIRMAN HONIGBERG: Mr. Roth's
24 suggestion is sounding more appropriate to

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1 people, it sounds like.

2 CMSR. BAILEY: Can we ask the parties
3 what their expectations about briefs are or is
4 that just something that we set up?

5 CHAIRMAN HONIGBERG: There's
6 something in the prehearing conference report
7 on that. Mr. Iacopino, can you refresh our
8 memory on that?

9 MR. IACOPINO: On briefs?

10 CHAIRMAN HONIGBERG: Yes.

11 MR. IACOPINO: There were proposals
12 that were made by the various -- I'm sorry.
13 There were proposals that were made by the
14 various parties. I believe that the Applicant
15 came in and suggested that -- that the parties,
16 other than the Applicant, be required to file
17 their final briefs within two weeks after the
18 conclusion of the hearings, and that the
19 Applicant will file their reply brief within
20 three days after that.

21 And this is not getting into the
22 argument about whether who should go first and
23 who should go last. The Joint Municipalities
24 proposed a series of briefs, where the

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1 Applicant files an opening brief, the other
2 parties respond to that, and then the Applicant
3 and the other parties can file reply briefs.
4 And they wanted four weeks after the closing of
5 the record for those reply briefs.

6 Other parties argued that there
7 should be simultaneous briefing within four to
8 six weeks, that the deadline should be four to
9 six weeks after the closing of the record.

10 There was some discussion about what does the
11 "closing of the record" versus the "end of
12 hearings" mean, because there are some
13 materials that had been requested by the
14 Committee that had not yet been, at least at
15 the time of the prehearing conference, had not
16 been filed. But I think that, actually, the
17 Applicant has made some pretty good progress on
18 some of those things.

19 So, that's what came out of the
20 suggestions that were made at the time of the
21 prehearing conference. And the report says
22 that "the Chair would make a final decision on
23 the issuing of briefs."

24 CHAIRMAN HONIGBERG: Oh. So, we're

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1 waiting on that guy?

2 MR. IACOPINO: Yes. We did also
3 discuss the fact that there is no page limit in
4 our rules for briefs. However, I tried to
5 encourage the parties that briefs should be
6 organized and succinct. Understanding that
7 this is an extensive record, I did have to
8 discuss with some of the parties that they
9 don't have to attach every exhibit they're
10 going to reference to their brief. But, other
11 than that, we -- oh, and they were also advised
12 to use table of contents.

13 So, that's pretty much the extent of
14 what came out of the prehearing conference with
15 respect to the briefing schedule.

16 CHAIRMAN HONIGBERG: Assume for
17 purposes --

18 MR. IACOPINO: Oh, one other thing,
19 I'm sorry.

20 CHAIRMAN HONIGBERG: Oh. One other
21 thing.

22 MR. IACOPINO: It was one intervenor
23 group gets one brief. They don't get, you
24 know, everybody within the intervenor group

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1 does not get to file their own brief.

2 CHAIRMAN HONIGBERG: So, assume for
3 purposes of discussion, that all the briefing
4 is going to be completed following the close of
5 the hearings no more than four weeks. It might
6 be shorter. It might be three weeks. Assume
7 that for purposes of the rest of the discussion
8 as we talk about schedule.

9 MS. WEATHERSBY: Mr. Chair? Oh,
10 sorry.

11 CHAIRMAN HONIGBERG: Ms. Weathersby,
12 go ahead.

13 MS. WEATHERSBY: Commissioner Bailey,
14 would you --

15 CMSR. BAILEY: No. Go ahead.

16 MS. WEATHERSBY: So, I would like to
17 amend my motion, because I feel as though my
18 December 31 deadline was overly optimistic. I
19 do feel the need for this process to move as
20 expeditiously as possible, both for the
21 Applicant and for all of the people that are
22 involved and have their lives on hold,
23 including us, especially us -- no, but,
24 certainly, I mean the people need to --

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1 everyone needs certainty one way or another
2 concerning this Project.

3 That said, I think that December 31
4 was overly optimistic. And given the
5 information I just heard, I would actually
6 extend it such that we have a final decision by
7 March 31st, with the goals of having all
8 witnesses' testimony received by December 31,
9 all briefing by January 31, and oral -- our
10 deliberations complete and an oral decision by
11 February 28th. It's not a leap year. So,
12 we're at February 28th. And, then, a final
13 written decision issued by March 31, 2018.

14 CHAIRMAN HONIGBERG: Mr. Wright,
15 would -- you seconded the motion, did you not?

16 DIR. WRIGHT: Yes, I did.

17 CHAIRMAN HONIGBERG: Will you second
18 the amendment?

19 DIR. WRIGHT: Yes, I will.

20 CHAIRMAN HONIGBERG: All right. Any
21 further discussion or thoughts on the amended
22 motion?

23 Mr. Needleman.

24 MR. NEEDLEMAN: Thank you, Mr. Chair.

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1 Again, I appreciate the difficulties
2 confronting the Committee. I appreciate the
3 efforts of Ms. Monroe to find as many days as
4 possible. I would again suggest that, with an
5 extension of this type, and with an expectation
6 that we would not get an oral decision until
7 the date proposed by Ms. Weathersby, that puts
8 us very far beyond the original statutory
9 deadline. And, if there is any way for the
10 Committee to be creative in approaching this
11 process to get us to an oral decision sooner
12 than that, I would urge that type of
13 consideration.

14 I'm happy to work with the Committee
15 or make suggestions. I understand these
16 constraints. But, again, before this gets set
17 in stone, I would ask that you think about that
18 one more time.

19 CHAIRMAN HONIGBERG: Okay. I think,
20 for myself, that that is a concern. I do -- I
21 mean, I would prefer that we set a more
22 ambitious deadline, but I understand this one.
23 I think I would encourage us all to work on our
24 schedules and see what else we might be able to

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1 free up, so that we can use more days in 2017
2 and reach a decision earlier than that.

3 I understand what Mr. Roth said, just
4 because we've set a deadline doesn't mean we
5 have to go to the full extent of it. It's
6 encouraging that we would hope and try to do
7 that. I'm not sure how realistic it is
8 ultimately. But I think it's possible in this
9 circumstance, because, essentially, the
10 discovery and all the process is done here and
11 we're in the hearing mode.

12 So, I think, if we do work at it and
13 try to think about some ways to free up some
14 additional days, maybe we can finish earlier
15 than that. But I do think that the schedule as
16 outlined -- the deadlines as outlined by Ms.
17 Weathersby probably make sense at this time.

18 Other thoughts? Mr. Way.

19 MR. WAY: Excuse me. Just I concur
20 with what I've been hearing. And I think all
21 of us can get "creative", as was mentioned by
22 Mr. Needleman. And, you know, I think it is in
23 the public interest for us to do as complete a
24 job as possible and to take the right time to

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1 do it. And I think what we have before us will
2 allow us to do it, but it also gives us
3 opportunity to get creative to find
4 opportunities to move it along.

5 CHAIRMAN HONIGBERG: Yes. I do want
6 to caution people, though, that I think the
7 notion that we would routinely go longer during
8 the day is going to be very difficult for
9 people. You can see that everyone, the
10 witnesses, the members of the Subcommittee, the
11 lawyers, the nonlawyers, everybody flags after
12 about 3:30 every day, and we push along for
13 another hour and a half, sometimes two,
14 sometimes even more hours, but that time seems
15 to me to be much less productive late in the
16 day. We'll consider it, and we do it on an "as
17 needed/as appropriate" basis, which we've done
18 a couple of times. But I don't want people to
19 be thinking that that's the creative line we
20 should be taking, because it's not something I
21 think most of the people in this room would
22 support.

23 Mr. Whitley.

24 MR. WHITLEY: I just was asking,

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1 Mr. Chair, for a clarification from
2 Mr. Needleman. He mentioned some "creative
3 measures" to try to get a decision as quickly
4 as possible. And I'm just hoping that he could
5 articulate what he had in mind, because --

6 CHAIRMAN HONIGBERG: I don't think
7 that's productive right now. I appreciate the
8 thought, but that's a conversation that can
9 take place off line.

10 MR. WHITLEY: Okay. Thank you.

11 CHAIRMAN HONIGBERG: Other thoughts
12 on the pending motion from the members of the
13 Subcommittee?

14 *[No verbal response.]*

15 CHAIRMAN HONIGBERG: Are you ready
16 for a vote?

17 *[Multiple members nodding in the*
18 *affirmative.]*

19 CHAIRMAN HONIGBERG: All in favor of
20 Ms. Weathersby's motion please say "aye"?

21 *[Multiple members indicating*
22 *"aye".]*

23 CHAIRMAN HONIGBERG: Are there any
24 opposed?

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1 [No indication given.]

2 CHAIRMAN HONIGBERG: All right. That
3 motion carries.

4 All right. We need to resume
5 questioning. Ms. Weathersby has some more
6 questioning, and I know that she has to leave
7 at the lunch break. So, she's going to resume
8 questioning of the panel.

9 Thank you all for your thoughts on
10 this, by the way.

11 MS. WEATHERSBY: Thank you,
12 Mr. Chair. Hello again, --

13 WITNESS WIDELL: Hello.

14 MS. WEATHERSBY: -- Ms. Widell and
15 Dr. Bunker.

16 BY MS. WEATHERSBY:

17 Q. I was starting to go through the process, and
18 we got as far as, of course, your conclusion,
19 and then back concerning the APE, which I
20 appreciated counsel's clarification on how and
21 why that was set.

22 So, for the aboveground, we have an APE of
23 one mile on either side of the corridor. And,
24 Ms. Widell, you identified historic resources

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1 within that APE and came up with a total of
2 1,284 historic properties?

3 A. (Widell) Properties that were constructed
4 before 1968. So, then, they went through a
5 process of being determined, first, whether
6 there actually was a visual relationship with
7 the Project, and then whether they had
8 significance and integrity.

9 Q. Okay. So, that was the next step, --

10 A. (Widell) Uh-huh.

11 Q. -- was whether the property had visual
12 significance in relation to the Project?

13 A. (Widell) Yes.

14 Q. I think you've used the term has a "significant
15 visual relationship"?

16 A. (Widell) Yes.

17 Q. And, then, you've also used the phrase "more
18 than minimal views" --

19 A. (Widell) Uh-huh.

20 Q. -- and "Zone of Visual Impact". Are you trying
21 to -- are those all pretty much the same
22 concept or is there a difference?

23 A. (Widell) Yes. Zone of Visual Impact is related
24 to the viewshed mapping.

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1 Q. Okay. How did you determine whether there was
2 a significant visual relationship with the
3 Project? That's the viewshed -- I'm sorry, go
4 ahead.

5 A. (Widell) We mapped out the parcels of land that
6 were associated with the historic property, and
7 then also used the viewshed mapping, on-site
8 visits. And, in many cases, that showed that
9 there was no possible views from the associated
10 land or the property. And, then, if necessary,
11 we moved into using desktop modeling. Those
12 were just a few of the tools that we used.

13 Q. Okay. And using those tools, you originally
14 determined that there were 12 historic
15 resources that would have a indirect adverse
16 effect from Northern Pass and one would have a
17 direct adverse effect?

18 A. (Widell) It was actually 11, originally 11 that
19 would have a visual adverse effect, and one
20 that would be a direct adverse effect, in that
21 it would be demolished.

22 Q. And then that has now been whittled down to
23 your six?

24 A. (Widell) Correct.

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1 Q. And the focus of the visual impact on it was
2 whether there were views of the Project from
3 the historical resource, correct? You're out
4 at the historic site, you're looking out, and
5 whether you can see the Project, and whether
6 that changes the historical integrity, you
7 know, the factors, but it was from the
8 resource?

9 A. (Widell) That is one of the ways. Now,
10 overall, we were looking -- using the
11 definition of "adverse effect" that is in the
12 federal 36 CFR, which we have talked about at
13 length, I won't go into that. But the tool
14 that we used was whether you could see the
15 Project from the property, important views from
16 it, to the property, or whether it created a
17 focal point, or it isolated the property from
18 its setting. So, those were four of the
19 measurements that we took a look at. And, if
20 you look at the Assessment Forms, we indicated
21 that.

22 Q. Okay. So, you did look at the views of the
23 historic property from another scenic resource,
24 looking towards the historic property? So, for

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1 example, you know, --

2 A. (Widell) Give me an example.

3 Q. -- a hiking trail. A hiking trail, you're on a
4 hiking trail, and you can look over and see an
5 historic property, and, you know, whether or
6 not the Project is in that viewshed?

7 A. (Widell) Not unless it was a real public way.
8 I cannot say that we looked specifically from a
9 hiking trail, no.

10 Q. Okay. So, don't our rules require, this is
11 301.14, "Criteria Relative to Findings of
12 Unreasonable Adverse Effects", and this isn't
13 an effect on aesthetics, granted, but we've
14 talked about how everything is visual here.
15 And Section (6) of 301.14(a) asks us, the SEC,
16 to consider "the extent to which the proposed
17 facility would be a dominant and prominent
18 feature within a natural or cultural landscape
19 of high scenic quality or as viewed from scenic
20 resources of high value or sensitivity." And
21 scenic resources are things like conservation
22 lands, recreational areas, lakes, ponds,
23 rivers, trails, other historic sites, and the
24 public, of course, needs to be able to access

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1 those.

2 But what I'm hearing is that that -- the
3 views from those sorts of resources were not
4 analyzed for the impact on a historic site?

5 A. (Widell) I'm going to talk just briefly, and
6 then give more information if you need it.
7 That is related to visual impact assessment.

8 Q. Uh-huh.

9 A. (Widell) Not related to assessment of visual
10 effect on historic properties. Now, what you
11 just read said "historic sites", and those are
12 public ones that are included in the visual
13 impact assessment. That is not what we did in
14 the assessment of the broad historic properties
15 affected by the Project.

16 Q. Okay.

17 A. (Widell) And, if I may, I want to clarify one
18 thing about the hiking trails. Because, for
19 example, the hiking trails in Weeks State Park,
20 we definitely viewed from those public trails,
21 whether you were able to see the Project and
22 whether it would have an effect on that
23 historic trail. So, I must correct myself, I'm
24 wrong. We did look at views from historic --

[WITNESS PANEL: Widell~Bunker]

1 historic hiking trails, where they were
2 identified in the Area of Potential Effect.

3 Q. But, again, it was being on that trail looking
4 out at the Project.

5 A. (Widell) Yes.

6 Q. Not being at another trail, perhaps, or
7 mountaintop, and looking over at the trail and
8 seeing whether the Project impacts that
9 historic trail?

10 A. (Widell) Yes. That's correct. Yes.

11 Q. So, that wasn't -- that wasn't part of your
12 analysis. You've indicated that you use the
13 3-D modeling, and other computerized
14 programs -- I'm not saying that well. You used
15 various programs to help determine what the
16 Project would look like from an historic
17 resource.

18 A. (Widell) Uh-huh.

19 Q. What was the model -- what were those models
20 that you used and who created them?

21 A. (Widell) The model of the line itself was
22 developed by the engineers, with the placement
23 of the structures, the drop of the conductors,
24 and so that was a computerized model created by

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1 the engineers. The other tools that we used
2 were Google Earth, and we also used
3 photosimulation sometimes in specific areas
4 that were identified, where we felt that we
5 needed more precise definition of the views.

6 Q. And the model that was created by the
7 Applicant, does it have a name?

8 A. (Widell) The model?

9 Q. The model -- the tool, I'm sorry.

10 A. (Widell) The one tool for the viewshed, --

11 Q. Is that the one --

12 A. (Widell) -- that was the Terry DeWan viewshed
13 mapping. I don't know if that was the
14 developed specifically by Terry DeWan. I'm
15 sorry, I can't answer that question.

16 Q. Do you know if anyone checked these programs
17 for accuracy or reliability? Or, how does the
18 SEC know that this is -- the tools that you
19 used were reliable and accurate?

20 A. (Widell) I can't speak to that directly. Terry
21 DeWan is going to be doing testimony. I'm sure
22 he can speak to you precisely about the model
23 that was used.

24 Q. Okay. Thank you.

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1 MR. IACOPINO: Can I ask a quick
2 question about that?

3 MS. WEATHERSBY: Yes.

4 BY MR. IACOPINO:

5 Q. When you used the 3-D modeling, did you keep
6 any record of it? So, like if you were
7 identifying or attempting to identify the view
8 from a particular historic resource, and you
9 used the 3-D modeling, did you do a screen shot
10 or did you -- is there some mathematical
11 equation that was written down, or something
12 that you could go back and recreate it by just
13 clicking on it or otherwise? In other words,
14 was it recorded in any way by you, other than
15 just to say "No view based on our 3-D
16 modeling"?

17 A. (Widell) No, I do not believe that. But I
18 would have to talk our team member, Reagan, who
19 worked on actually showing it to us. She may
20 have captured it in a screen shot. But, where
21 there were photosimulations used, they were
22 included as part of our documents. Where there
23 were photo -- the viewshed models, too, the
24 viewshed mapping was also included as part of

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1 our documentation. And there is an example in
2 the Assessment Form of the type of 3-D modeling
3 that we used, and what it looked like on the
4 screen.

5 BY MS. WEATHERSBY:

6 Q. Concerning avoidance, minimization and
7 mitigation, not having seen the Programmatic
8 Agreement, are those -- or, does the
9 Programmatic Agreement contain specific
10 recommendations or just -- are there just
11 general guidelines for -- let me back up.
12 Avoidance for historic sites has already
13 been -- that analysis has been completed and
14 taken into consideration, and, in fact, some
15 sites are being avoided because of that
16 analysis, correct?

17 A. (Widell) Yes.

18 Q. And the same, essentially, for minimization of
19 the effects, that analysis is complete,
20 correct?

21 A. (Widell) Yes.

22 Q. But their mitigation, the mitigation strategies
23 for particular properties have not yet been
24 developed, is that correct?

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1 A. (Widell) Yes.

2 Q. And these will be determined by -- in
3 consultation with DHR, DOE, and the Applicant,
4 is that correct?

5 A. (Widell) Yes. And there is provisions for the
6 consulting parties to be part of that. And DHR
7 may also have recommendations for more
8 avoidance and minimization.

9 Q. Okay.

10 BY MR. WAY:

11 Q. So, in terms of the Programmatic Agreement, do
12 they typically have those strategies in there?
13 Don't they get to a degree of specificity on
14 mitigation strategies typically, whether it's a
15 Programmatic Agreement or a Memorandum of
16 Agreement for more minor projects? But isn't
17 that the venue by which you're describing your
18 mitigation strategies?

19 A. (Widell) It depends. The two agreement
20 documents most often used in the Section 106
21 process are the Memorandum of Agreement, which
22 normally talks precisely about a particular
23 project, and not normally do you use a
24 Memorandum of Agreement for a project of this

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1 size, because you have different, you know, you
2 have -- it's a large and long-term project that
3 you have many pieces and parts.

4 So, in a Memorandum of Agreement, which is
5 for one property or a collection of properties,
6 often you might identify a specific mitigation
7 in there. In a Programmatic Agreement, it can
8 certainly be done between the parties as it
9 develops the full project. So -- and the full
10 effects of the project are comprehended by all,
11 and how to mitigate them is decided upon by the
12 consulting parties, and that includes DHR, the
13 federal agency, the Applicant, in this case,
14 the other signers are the Forest Service, even
15 the Park Service, because of the Appalachian
16 Mountain Trail, I believe is a signator.

17 Once again, I haven't worked precisely on
18 the precise provisions in this Programmatic
19 Agreement. I'm just telling you broadly
20 what --

21 MR. WAY: It just seems to me that
22 that would almost be like the last thing you
23 would put together. Once all the information
24 in, all the decisions have been made, the

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1 mitigation strategies have been agreed upon,
2 that's like the binding agreement. But I'm
3 going to have to look at it and get some more
4 information. But that's my -- I guess that's
5 just a comment.

6 BY MS. WEATHERSBY:

7 Q. So, the Programmatic Agreement doesn't -- at
8 this point, there's no agreement, whether it's
9 a Memorandum of Understanding or a Programmatic
10 Agreement, that has specific mitigation
11 techniques for specific properties, is that
12 correct?

13 A. (Widell) That's correct.

14 Q. In part, because we haven't even reached any
15 conclusions as to which are the adversely
16 affected properties between the various
17 parties.

18 A. (Widell) DHR and Department of Energy have not
19 fully agreed on that at this point, yes.

20 Q. So, part of the SEC's role is to evaluate the
21 effectiveness of mitigation, minimization, and
22 avoidance mechanisms proposed. And we're
23 really in a bind, because we don't have
24 anything to review. We need to know, I mean,

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1 what is it, 301.14(5) [301.14(b)(5)?], says
2 that "The effectiveness" -- we need to
3 determine "the effectiveness of the measures
4 proposed by the Applicant to avoid, minimize,
5 or mitigate unreasonable adverse effects on
6 historic sites and archeological resources, and
7 the extent to which such measures represent
8 best practical measures."

9 Could you tell me how we can do that?

10 A. (Widell) There have been a number of avoidance
11 and minimization, probably the largest, of
12 course, is undergrounding the Project for
13 60 miles. And it is my understanding that, in
14 the past, often, when the SEC issues a
15 certificate, that they depend on an agreement
16 document of some sort in the Section 106
17 process to continue beyond your decision, to
18 delegate to DHR the responsibilities of
19 monitoring, mitigation, and that sort of thing.

20 Q. I agree with you concerning monitoring and
21 implementation of strategies that have been
22 developed. But, at this point, we don't even
23 have those strategies developed. And we're
24 being asked to essentially delegate our role

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1 here as deciding what's effective and how it --
2 whether it causes an adverse effect to be
3 unreasonable or not to DHR. And that's --
4 there's no question there, it's just I'm
5 venting.

6 DIR. WRIGHT: Patty, can I just ask,
7 I know you're interested in getting out of
8 here, but you went down this road that I was
9 going to go down later.

10 BY DIR. WRIGHT:

11 Q. And looking at number (5) that she just cited
12 there, the question of "effectiveness of the
13 measures proposed by the applicant to avoid".
14 In the instance of the six areas where you
15 identified as "significant impact", an "adverse
16 impact", --

17 A. (Widell) Yes.

18 Q. -- wouldn't an avoidance technique be burial?
19 You just mentioned burial of the line across 60
20 miles. Would that have been an avoidance
21 technique for these six particular sites that
22 could have been considered?

23 A. (Widell) I'd have to look at those
24 specifically. Obviously, burial is a

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1 mitigation possibility. Not always one that is
2 appropriate, because there may be archeological
3 sites, too, that have to be taken into
4 consideration. So, I would never immediately
5 say that.

6 DIR. WRIGHT: Okay. Thank you.

7 MS. WEATHERSBY: And I've got plenty
8 of time.

9 DIR. WRIGHT: Okay.

10 MS. WEATHERSBY: So, I'm not like
11 rushing or anything. So, if you have -- if
12 anyone else wants to jump in on these topics,
13 please do.

14 BY MS. WEATHERSBY:

15 Q. I'm going to leave that topic, I think, and
16 just get back a little bit to the
17 numerator/denominator question that we had.
18 Because we have six properties that you believe
19 are adversely affected, correct?

20 A. (Widell) Yes.

21 Q. And I'm trying to understand the dilution
22 effect, if any, because of the extent of this
23 massive project. So, hypothetically speaking,
24 if these six sites were even more significantly

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1 impacted, assume that they were completely
2 destroyed by the Project, but the APE for the
3 Project, you know, that the Project itself is
4 192 miles long, would you then believe there
5 would be an unreasonable adverse effect? So,
6 the intensity of the destruction -- or, the
7 intensity of the impact is greater.

8 A. (Widell) Hypothetically, if they were
9 demolished, and I can't imagine Weeks, Mount
10 Prospect, being entirely demolished, but --

11 Q. No. I said, if something happened to it to
12 cause it to lose its significance and make it
13 no longer eligible for historic listing,
14 Historic Register listing, for example.

15 A. (Widell) It's hard for me to say exactly how
16 many numbers, which is why, when I was asked
17 this before, I would never look at six over 194
18 and come up with some arithmetic that would say
19 "no", because you could have one property that
20 was so important that it could cause an
21 unreasonable effect by the Project. Or, you
22 could have many, many smaller ones, and it not,
23 say, 50 very small ones, and it wouldn't be an
24 unreasonable adverse effect.

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1 So, in my professional opinion, these six
2 do not meet the threshold as laid out in your
3 legislation and your rules for determining
4 unreasonable adverse effect. Has nothing to do
5 with six over 194.

6 Q. Okay. Just a totally off-topic question. You
7 indicated that the scenic byways weren't
8 considered as historic sites under our
9 definition and you didn't analyze those,
10 correct?

11 A. (Widell) No, not exactly. You will see in our
12 materials that we identify them within and
13 refer to them in our materials. But they
14 are -- we found that they were not in and by
15 themselves eligible for the Register.

16 Q. So that, again, I guess goes back to our
17 definition of "historic sites", which includes
18 properties registered in the Historic Register,
19 but is really much broader than that?

20 A. (Widell) No. I would respectfully disagree,
21 because scenic byways wouldn't be considered
22 "historic sites".

23 Q. So, again, I'm going to refer you to our SEC
24 Site 102.23, which defines "historic sites",

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1 which is "any building, structure, object,
2 district, area or site that is significant in
3 the history," one topic, "architecture", second
4 topic, "archeological", third, "or culture of
5 this state, its communities, or the nation".

6 A. (Widell) But, first and foremost, they have to
7 be historic, that's the definition. And that's
8 how I read it.

9 Q. Okay. I understood that's how you read it.

10 BY MR. WAY:

11 Q. Not to beat a dead horse, but you just said
12 something "first, it has to be historic". And
13 where in that definition does it say "first,
14 you have to be historic", other than the fact
15 that the definition says "historic sites" or
16 "historic property", but the word "historic"
17 there doesn't -- in the label doesn't define
18 it? Everything she just said about a scenic
19 byway would seem to fit within that sentence.
20 I'm just -- I'm very interested on this point,
21 how you then define that as it's somehow not
22 historic, where that doesn't seem to be the
23 only criteria, or maybe even the criteria.

24 A. (Widell) The first word is "historic".

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1 Everything has a history. But things that are
2 historic are different than everything that has
3 a history. And, so, that's why we have this
4 special collection of places and whatever, they
5 might be objects or districts. And we
6 comprehensively looked at things. A scenic
7 byway is an important element in the landscape.
8 I believe it is talked about in the Visual
9 Impact Assessment. I don't know that
10 precisely, because that's not my area.

11 But our charge is to look at how the
12 Project would affect an historic site resource.
13 And an historic site resource has component
14 parts to it that is able to convey a feeling of
15 a different place in time. And I don't know
16 that a scenic byway necessarily can do that.
17 It gives us a full and wonderful appreciation
18 of the scenery around us. I don't know that
19 necessarily, in my opinion, that it conveys a
20 feeling of history.

21 MR. WAY: All right. Thank you.

22 MS. WEATHERSBY: I think that's all
23 my questions for Ms. Widell, but I do have just
24 a couple for Dr. Bunker concerning

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1 archeological resources.

2 WITNESS BUNKER: Sure.

3 MS. WEATHERSBY: Much shorter, you'll
4 be happy to know.

5 BY MS. WEATHERSBY:

6 Q. For archeological purposes, the APE for the
7 underground portion was 20 feet from the edge
8 of the pavement, correct?

9 A. (Bunker) Yes.

10 Q. What about for aboveground, was there -- were
11 any archeological studies or properties
12 identified for the aboveground portion?

13 A. (Bunker) Yes. For aboveground, within existing
14 or proposed new corridor construction, the APE
15 was wall-to-wall, the existing width or the
16 newly proposed width. For other locations,
17 such as properties to be developed for a
18 transition station and such, it was the
19 property boundaries, the lot line.

20 Q. Okay. Thank you. And, after identifying
21 potentially sensitive, --

22 A. (Widell) Yes.

23 Q. -- I'm trying trying to remember the
24 terminology, sites, you found ultimately that

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1 there were four that were archeologically
2 significant, is that correct?

3 A. (Bunker) Yes. That's correct.

4 Q. And could, without divulging anything
5 confidential, could you tell us what those
6 sites are and why they're significant, briefly?

7 A. (Bunker) Yes. Yes. I'd be glad to. Through
8 the process of completing the Phase I-B
9 subsurface sampling, we recognized certain
10 sites that exhibited the potential to be
11 significant. At those sites, and there's 22 of
12 those, we continued our excavations and
13 research at what is called the Phase II level.
14 Phase II looks at nature and extent. It looks
15 at a variety of qualities, including all the
16 ones in the National Register, that is
17 integrity, setting, that whole list, and the
18 criteria for eligibility, (a), (b), (c) and
19 (d).

20 Most -- in all four cases, the criteria --
21 the criterion that was selected to inform us of
22 significance was Criterion (d), the ability of
23 that site to contribute to knowledge. We
24 derived that conclusion by looking at the

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1 integrity of sites. In other words, some sites
2 that may have had prior impact did not retain
3 the right context in the underground -- in the
4 subsurface remains for us to be able to develop
5 knowledge from it.

6 The sites that are significant are ones
7 that contain important artifacts. They contain
8 information on cultural chronology. They
9 contain features, which are, in this particular
10 case, for example, a camp fire or what we call
11 an "occupation floor". In other words, they
12 contain the types of artifacts and the context
13 combined that can be used to answer current
14 research questions, and that fit into Division
15 of Historic Resources' contexts for
16 interpreting archeological sites.

17 Q. Okay. Thank you.

18 A. (Bunker) You're welcome.

19 Q. The adverse effects on those sites, obviously,
20 there may -- the most likely adverse effect
21 would be disturbance during construction,
22 whether it's the underground digging or the
23 placement or, for the aboveground, the
24 construction of the line, placement of the

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1 poles, etcetera. Do you consider that there
2 will be any ongoing adverse effects to those
3 sites, once construction is complete?

4 A. (Bunker) "Ongoing", can you --

5 Q. Does the presence of the line overhead or a
6 pole perhaps in the middle of the site, does
7 that change -- does that create an adverse
8 effect that continues?

9 A. (Bunker) I see. That's been addressed. By
10 looking at the entire APE, we addressed not
11 just construction elements, but, by looking at
12 it, we developed an understanding of the whole
13 line as a whole, not just structure by
14 structure or access road by access road.
15 Therefore, any site that would be found
16 "significant" was independently defined that
17 way, regardless of the type of impact. So,
18 future impacts were part of our mindset. We
19 were aware of that, and those were considered.

20 Q. And what would be some future impacts?

21 A. (Bunker) As you just said, a maintenance of a
22 pole, maintenance; erosion; opening up for
23 access by unauthorized people.

24 Q. Okay. And I believe your conclusion concerning

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1 those four archeologically significant sites
2 were that one or two will probably not be able
3 to be avoided. Is that correct?

4 A. (Bunker) Yes. That's correct.

5 Q. And, then, that pool of potentially significant
6 properties may increase, based on DHR's -- DHR
7 is still involved in the process, as I
8 understand it. And I think that they
9 determined that there may be more sites that
10 need investigating, is that correct?

11 A. (Bunker) Partially correct. I can clarify for
12 you. The Phase II archeological study has been
13 done over two seasons of field investigation,
14 2016 and this field season. The work for the
15 2016 effort has been written and the reports
16 have been reviewed by DHR. The 2017 reports
17 are still in progress. They have not reviewed
18 those reports, because they have not been
19 finished. And, therefore, the conclusions that
20 I've presented today are open to further
21 discussion, evaluation, etcetera, by DHR.

22 MS. WEATHERSBY: That's all I have.

23 Thank you.

24 WITNESS BUNKER: Thank you.

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1 CHAIRMAN HONIGBERG: All right.
2 We're going to take the lunch break, and return
3 a few minutes before two o'clock.

4 (Lunch recess taken at 12:54
5 p.m. and concludes the **Day 30**
6 **Morning Session.** The hearing
7 continues under separate cover
8 in the transcript noted as
9 **Day 30 Afternoon Session ONLY.**)

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C E R T I F I C A T E

I, **Steven. E. Patnaude**, a Licensed Shorthand Court Reporter, 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.

Steven E. Patnaude, LCR
Licensed Court Reporter
N.H. LCR No. 52
(RSA 310-A:173)