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*(resumed)*                                **JESSICA KIMBALL**

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[WITNESS PANEL: DeWan|Kimball]

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

2                                   CHAIRMAN HONIGBERG: Good morning,  
3 everyone. We're going to resume with the  
4 aesthetics panel. Ms. Boepple, from the Forest  
5 Society, you may proceed.

6                                   MS. BOEPPLE: Thank you. Good  
7 morning, Chair. Good morning, Subcommittee.

8                                   (Continuation of the  
9 cross-examination of **Terrence**  
10 **DeWan** and **Jessica Kimball**.)

11                                  MS. BOEPPLE: Good morning, Mr. DeWan  
12 and Ms. Kimball.

13                                  WITNESS KIMBALL: Good morning.

14                                  WITNESS DeWAN: Good morning.

15                                  MS. BOEPPLE: Beth Boepple, with BCM  
16 Environmental & Land Law, for Forest Society.  
17 So, we're just going to make sure we have the  
18 right screen up.

19                                           *[Short pause.]*

20                                  MS. BOEPPLE: Okay. Great. So,  
21 Chair, for your planning purposes, I did spend  
22 some time going back through my questions and  
23 my time estimate, and I'm able to shorten the  
24 time quite a bit.

{SEC 2015-06} [Day 32/Morning Session ONLY] {09-12-17}

[WITNESS PANEL: DeWan|Kimball]

1 CHAIRMAN HONIGBERG: I'm sure  
2 everybody appreciates that.

3 BY MS. BOEPPLE:

4 Q. Mr. DeWan, so, yesterday you testified that you  
5 did a visual impact assessment for the Maine  
6 Power Reliability Project, is that correct?

7 A. (DeWan) It is correct.

8 Q. So, we're going to look at a few images related  
9 to that particular project.

10 CHAIRMAN HONIGBERG: We don't.

11 MS. DORE: Excuse me. We don't have  
12 images on these two laptops.

13 *(Short pause.)*

14 BY MS. BOEPPLE:

15 Q. Okay. Now, so, as I ask you a few questions --

16 A. (DeWan) Yes.

17 Q. -- related to the Maine Power Reliability  
18 Project that you testified about yesterday, at  
19 least as it relates to your experience, we're  
20 going to see a few of those images. So, that's  
21 what you will be seeing on your screens. And  
22 it will be -- it is labeled "SPNF 251", and we  
23 will be filing that as an exhibit later today.

24 So, do I understand, Mr. DeWan, from your

[WITNESS PANEL: DeWan|Kimball]

1 testimony that you consider the MPRP Project to  
2 be one that's similar to the Northern Pass  
3 Project?

4 A. (DeWan) It's similar in some situations, in  
5 some response -- respects, rather. It's a very  
6 long-term project. I think we've been involved  
7 in this for about seven years. It's a lengthy  
8 project, over 400 miles. It has -- I believe  
9 it has affected 80 different communities. I  
10 think we looked at something like 12 different  
11 substations. So, in some respects, it's  
12 similar.

13 Q. And is it correct to assume that, because of  
14 those similarities, you consider those -- that  
15 project to be an indication of your  
16 qualifications to be a visual -- to conduct the  
17 visual impact assessment for the Northern Pass  
18 Project?

19 A. (DeWan) Well, that's one of many, many projects  
20 that we've done for a variety of different  
21 transmission line projects over the years.  
22 There's probably another 15 to 20 of -- I won't  
23 say a "similar nature", but of other  
24 transmission projects that we've done for

[WITNESS PANEL: DeWan|Kimball]

1 Central Maine Power Company and for a Bangor  
2 Hydroelectric project, for a lot of wind power  
3 projects that had generator lead lines, and so  
4 forth.

5 Q. Right. And, so, I wanted to just talk about  
6 the Maine Power Reliability Project. And the  
7 reason I bring that up is there are also  
8 differences, aren't there, between that project  
9 and the proposed Northern Pass Project?

10 A. (DeWan) There are many differences.

11 Q. Okay. And isn't one of those, in fact, that  
12 that's a reliability project, and this one is a  
13 for-profit transmission line project?

14 A. (DeWan) I'm not -- I'm not an expert in those  
15 aspects of it. You know, we look at the visual  
16 effects of it, and not the purpose of the  
17 project.

18 Q. Isn't there an assessment that's somewhat  
19 different when there's a reliability project  
20 versus --

21 A. (DeWan) No.

22 Q. There's no difference at all?

23 A. (DeWan) No. We look at the visual impact.

24 What will it do to the visual landscape? You

1 know, how will it affect the user?

2 Q. In the planning stages for a project that would  
3 be a reliability project, for example, versus a  
4 project of this type, which let's just, for the  
5 purposes of our discussion, call it a  
6 "for-profit project", would there not be some  
7 difference in the planning of the route,  
8 perhaps, and, therefore, could that not affect  
9 the way you are asked to analyze the impact on  
10 scenic resources?

11 A. (DeWan) As I mentioned yesterday, when we get  
12 involved in projects, the routes have already  
13 been identified. And we look at the visual  
14 impact of those particular routes.

15 Q. And is that always the case or are you  
16 sometimes retained, as the aesthetic expert, to  
17 take a look at a route and suggest that maybe  
18 there are measures that could be taken or route  
19 changes that could be made that might lessen?

20 A. (DeWan) We have been involved in some work, I  
21 think of one in Bangor Hydroelectric's case,  
22 where we were asked to look at adjustments  
23 within, say, a half a mile of a particular  
24 route to avoid a view from a particular



1 mountaintop.

2 But, for the most part, when it comes to  
3 looking at the macro level of where you connect  
4 points A and B, those are decisions that we  
5 generally do not get involved with.

6 Q. So, let's just take, again, for discussion  
7 purposes, if you had been retained to look at a  
8 project from the perspective of "how can we  
9 mitigate" -- "how can we lessen, to the  
10 greatest extent possible, impacts on scenic  
11 resources?" Are you qualified to do that kind  
12 of work?

13 A. (DeWan) If you're just talking about visual  
14 resources, we could, you know, with a  
15 considerable amount of study, offer opinions on  
16 what different avenues, different approaches  
17 might be, and come up with an evaluation of,  
18 you know, Route A versus Route B.

19 Q. Okay.

20 A. (DeWan) But, again, we don't -- I don't think  
21 we've ever been asked to do that.

22 Q. Okay. But that's within your wheelhouse of --

23 A. (DeWan) Well, not in our experience. Now,  
24 within --

[WITNESS PANEL: DeWan|Kimball]

1 Q. But your skill set?

2 A. (DeWan) With our skill set.

3 Q. Okay. So, in doing that, would you also be  
4 considering the difference between, for  
5 example, what the standards are that need to be  
6 applied in one jurisdiction versus another?  
7 So, let's say, again, for discussion purposes,  
8 Northern Pass had come to you and said "You're  
9 experienced, your an experienced visual  
10 landscape architect, and you have experience  
11 looking at these wide range of projects. Now,  
12 under New Hampshire law, we have these set of  
13 standards that need to be met, and we've got to  
14 meet the burden, as the Applicant, to make sure  
15 that we've satisfied the standards."

16 So, would you take a look at that, would  
17 you take that specific situation and say "Okay,  
18 I can apply these standards. And, in my  
19 experience, I can also make recommendations for  
20 a route that might avoid some negative  
21 impacts"?

22 A. (DeWan) I would think that that would be part  
23 of the evaluation that we would do. It  
24 wouldn't be quite as simple as that, of course.

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[WITNESS PANEL: DeWan|Kimball]

1           Because every time you move a line, when you're  
2           looking at alternatives, there's positives and  
3           negatives. I think that's what we would  
4           probably be involved with. You know, looking  
5           at a balancing between, you know, what could  
6           happen in one situation versus what could  
7           happen in another situation.

8   Q.    Sure. Okay. Well, let's just sort of keep  
9           that in mind as I go through questions this  
10          morning.

11   A.    (DeWan) Knowing, of course, that we did not get  
12          involved in that process here.

13   Q.    I understand. You were not asked to do that in  
14          this case. But you have the skill set. So,  
15          therefore, you might be able to give opinions,  
16          if I give you some hypotheticals, for example?

17   A.    (DeWan) Perhaps.

18   Q.    Okay. Given that there are a wide range of  
19          factors always, and you always need to know  
20          what the specifics are to give specific  
21          opinions sometimes, correct?

22   A.    (DeWan) That's a very good characterization,  
23          yes.

24   Q.    Okay. All right. So, during --

[WITNESS PANEL: DeWan|Kimball]

1 MS. BOEPPLE: We can -- I just want  
2 to switch to one more of those pictures.

3 BY MS. BOEPPLE:

4 Q. So, do you recognize these images that we're  
5 looking at from the Maine Reliability Project?  
6 Maybe not the specific images --

7 A. (DeWan) I have never seen these images before.

8 MS. DORE: Excuse me. Can you  
9 identify the page number of those exhibits that  
10 we're looking at?

11 MS. BOEPPLE: Well, this is the one  
12 that I just referenced at the beginning.

13 MS. DORE: Yes. But we need to know  
14 the page number we're looking at, the images.

15 MS. BOEPPLE: SPNF 073 -- of SPNF  
16 Exhibit 251, Page 07387. Scroll to the next  
17 one please. 07 -- whoops. 07386 and 07385.

18 MS. DORE: Thank you.

19 BY MS. BOEPPLE:

20 Q. You don't know these specific images, but do  
21 they look like images that might have come from  
22 that project?

23 A. (DeWan) I can't say with any certainty.

24 Q. Okay. So, in your experience with utility line

[WITNESS PANEL: DeWan|Kimball]

1 projects, are these images that are  
2 representative of a utility project?

3 A. (DeWan) Oh, absolutely. Yes.

4 Q. Okay. Great.

5 A. (DeWan) Of some types of utility projects, yes.

6 Q. A utility project that we might see in the  
7 Northeast, for example?

8 A. (DeWan) They may be.

9 Q. Are these the type of poles that we might see  
10 in the Northern Pass Project, for example?

11 A. (DeWan) We've shown a variety of different  
12 structures as you've scrolled through here.  
13 Some of them may be similar, some of them may  
14 not.

15 Q. So, the one we're looking at right now?

16 A. (DeWan) This is a single pole lattice -- single  
17 pole, weathering steel structure. It's  
18 somewhat similar.

19 Q. To one we might see were Northern Pass  
20 approved?

21 A. (DeWan) Yes.

22 Q. Okay. And how about -- this looks like it's  
23 poles under construction?

24 A. (DeWan) I don't think that you would ever see a

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[WITNESS PANEL: DeWan|Kimball]

1 pair together this way.

2 Q. Okay. Next one. What about structures that  
3 look like this?

4 A. (DeWan) Well, you know, of course, that you're  
5 looking at a construction photograph here.  
6 And, so, a lot of the structures that you  
7 actually see are temporary structures. And not  
8 being involved in the construction end of the  
9 Project, I can't say whether or not it would  
10 look like this during construction.

11 Q. And, given that they are representative perhaps  
12 of some poles under construction, and you've  
13 just said that you don't -- you're not involved  
14 during the construction phase, is that what you  
15 just said?

16 A. (DeWan) Yes.

17 Q. So, you wouldn't be able to tell us how long  
18 this would be a site under construction that we  
19 would see?

20 A. (DeWan) That would be a question better posed  
21 to the construction panel.

22 Q. Okay. So, in your Visual Impact Assessment,  
23 you're not taking into consideration a site  
24 that's under construction, and what impact that

[WITNESS PANEL: DeWan|Kimball]

1 might have?

2 A. (DeWan) That's correct.

3 Q. Okay.

4 A. (DeWan) We look at the overall visual impact.

5 Q. Before and after?

6 A. (DeWan) That's correct.

7 Q. Not at all during?

8 A. (DeWan) That's right.

9 Q. Okay. During your previous testimony, you said  
10 you use public records to find and identify  
11 scenic resources, is that correct?

12 A. (DeWan) That's correct.

13 Q. Are you familiar -- and I believe that Ms.  
14 Kimball testified that you relied heavily on  
15 just public documents, is that accurate?

16 A. (Kimball) Documents that were available --  
17 sorry. Documents that were available to the  
18 public.

19 Q. Okay. And, generally speaking, you didn't  
20 consult with any organizations, is that  
21 correct?

22 A. (Kimball) That's correct.

23 Q. So, are you familiar with the Appalachian  
24 Mountain Club?

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[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) We are.

2 Q. Okay. And are you aware of AMC's history?

3 A. (DeWan) I am.

4 Q. So, then, do you know that it's the nation's  
5 oldest outdoor recreation and conservation  
6 organization?

7 A. (DeWan) If you say so, I can't vouch for that  
8 fact.

9 Q. Okay. But you're familiar enough to know that  
10 it's pretty well known?

11 A. (DeWan) It's been around for a while, yes.

12 Q. Okay. 1876. And, then, do you know that part  
13 of their -- their mission is to promote and  
14 preserve the enjoyment and understanding of the  
15 mountains, forests, waters, trails of America's  
16 Northeast and Mid-Atlantic Regions?

17 MS. BOEPPLE: Could we pull up SPNF  
18 252 please.

19 MS. MANTEAU: I'm doing it right now.

20 BY MS. BOEPPLE:

21 Q. So, you don't have to take my word for it.  
22 This is a fact sheet from AMC's website.

23 A. (DeWan) There it is, yes.

24 Q. Okay. So, would you agree, based on your

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[WITNESS PANEL: DeWan|Kimball]

1 knowledge of AMC, that that's probably a pretty  
2 accurate statement of what their mission might  
3 be?

4 A. (DeWan) Of their mission, yes.

5 Q. Okay. And, so, I assume you didn't consult  
6 with AMC?

7 A. (DeWan) We did not.

8 Q. Okay. So, would you agree that they have a --  
9 play a fairly prominent role in their -- in New  
10 Hampshire and New England, in terms of  
11 conservation and promotion of outdoors and the  
12 environment?

13 A. (DeWan) I know that they're a highly visible  
14 organization within any state that is passed  
15 with the Appalachian Mountain Club -- by the  
16 Appalachian Trail, rather.

17 Q. And is it a stretch to say that you might agree  
18 that they have a fairly, you know, high  
19 profile? That they're recognized as doing  
20 quality work and meeting, you know, some of  
21 those goals of their mission?

22 A. (DeWan) Yes.

23 Q. Okay. So, given that, and given that  
24 prominence, wouldn't you consider them a good

[WITNESS PANEL: DeWan|Kimball]

1 resource to go to, to find out more about the  
2 scenic resources in New Hampshire?

3 A. (DeWan) Well, they're one of many resources  
4 that we've identified, and, you know, we looked  
5 at as part of the work that we did to prepare  
6 our Visual Impact Assessment.

7 Q. Did you actually consult with them?

8 A. (DeWan) We did not, as I mentioned already.

9 Q. Okay. Okay. Now, during your testimony, you  
10 also said you identified scenic byways, in  
11 part, by reviewing town plans. Did you review  
12 anything else?

13 A. (Kimball) The scenic byways generally aren't  
14 listed in town plans. That would have been  
15 through the State DOT website that we would  
16 have received the byway information.

17 Q. Okay. Did you --

18 MS. BOEPPLE: Could we pull up SPNF  
19 253 please.

20 BY MS. BOEPPLE:

21 Q. So, this is a page from DOT's website.

22 A. (Kimball) We're familiar with this.

23 A. (DeWan) Very familiar with that.

24 Q. Okay. Are you familiar with the enabling

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[WITNESS PANEL: DeWan|Kimball]

1 statute?

2 A. (DeWan) Yes.

3 Q. So, you've looked at the language of the  
4 enabling statute?

5 A. (DeWan) Yes.

6 Q. Okay. So, then, you're aware that New  
7 Hampshire's Legislature --

8 MS. BOEPPLE: Could we pull up SPNF  
9 258 please.

10 BY MS. BOEPPLE:

11 Q. So, does this look familiar? Have you  
12 consulted with the statute, the enabling  
13 statute?

14 A. (DeWan) This is part of the introduction to  
15 that document.

16 Q. Okay. So, the purpose, if you --

17 MS. BOEPPLE: Can you zoom in a  
18 little bit on that please, Nicole? There we  
19 go.

20 BY MS. BOEPPLE:

21 Q. And, so, the purpose is "to provide the  
22 opportunity for residents and visitors to  
23 travel a system of byways which feature the  
24 scenic and cultural qualities of the state

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[WITNESS PANEL: DeWan|Kimball]

1 within the existing highway system, promote  
2 retention of rural and urban scenic byways,  
3 support the cultural, recreational and historic  
4 attributes along these byways and expose the  
5 unique elements of the state's beauty, cultural  
6 and history."

7 Is that an accurate reading of the  
8 purpose?

9 A. (DeWan) It seems to be.

10 Q. Okay. And did you know that, in -- the  
11 Legislature's goal in meeting the purpose of  
12 the statute, that part of what the Legislature  
13 also considered was how visual elements might  
14 impact those scenic byways? Were you able to  
15 gather -- glean that from a reading of the  
16 statute?

17 A. (DeWan) I know that is a consideration as they  
18 are enabled, and as management plans are  
19 developed for the scenic byways.

20 Q. Okay. So, there's a specific section of the  
21 statute, if we can scroll down. Keep going.  
22 "Advertising", Section 238:24. And this is on  
23 Page 07443 of SPNF Exhibit 258.

24 And, under this section, it talks about

[WITNESS PANEL: DeWan|Kimball]

1 "Advertising Devices on Scenic and Cultural  
2 Byways". And it states "advertising devices  
3 such as those defined in RSA 236:70, I, shall  
4 not be erected on any primary system highway  
5 that has been designated as a scenic and  
6 cultural byway."

7 Is that -- did I just read that correctly?

8 A. (DeWan) It seems to be, yes.

9 Q. Okay. And did you review that as you were  
10 reviewing the Northern Pass?

11 A. (DeWan) We reviewed the entire document.

12 Q. You did read the whole thing?

13 A. (DeWan) Yes.

14 Q. Okay. So, would you agree that this is an  
15 indication of the value that the State of New  
16 Hampshire, certainly the Legislature placed on  
17 scenic and cultural byways for our state?

18 A. (DeWan) Yes.

19 Q. Okay. And that perhaps we could, as  
20 Mr. Plouffe's cross-examination of you  
21 yesterday was, I think he was trying to go down  
22 the path of what happens here in New Hampshire  
23 versus what happens in Maine, and Vermont as  
24 well, in terms of advertising signs. And that

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[WITNESS PANEL: DeWan|Kimball]

1           isn't this an indication that they have called  
2           out a specific element that they don't -- that  
3           the state does not want to see imposed on the  
4           scenic byways, scenic and cultural byways? Is  
5           it a -- would it be in your professional  
6           assessment appropriate to also look at other  
7           industrial structures that might have an impact  
8           on the scenic and cultural byways of the state?

9   A.    (DeWan) Yes. And we are very interested to  
10       keep on reading through the statute to see what  
11       it says about utility lines.

12   Q.    And, even if a specific industrial structure,  
13       like a utility line, isn't called out, wouldn't  
14       it be fair to say that you should at least take  
15       into consideration what the goal is behind this  
16       statute?

17   A.    (DeWan) As part of the consideration, sure.

18   Q.    Okay.

19                   MS. BOEPPLE: Sorry. My pages are  
20       all messed up here. Hold on.

21                   Okay. Can we pull up -- 254, that's  
22       exactly what I was looking for. Thank you,  
23       Nicole. No. That's not the one.

24   BY MS. BOEPPLE:

{SEC 2015-06} [Day 32/Morning Session ONLY] {09-12-17}

[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay. This has not yet been labeled, it will  
2 be labeled as an exhibit. This is a map of the  
3 scenic byways. And this came straight off of  
4 New Hampshire DOT's website. Are you familiar  
5 with this map?

6 A. (DeWan) Very familiar with it.

7 Q. Okay. Great.

8 MS. BOEPPLE: So, can we zoom in a  
9 little bit? So, let's zoom in towards the top  
10 that shows -- yes, there we go. Whoops.  
11 Sorry. Okay. There we go. All right.

12 BY MS. BOEPPLE:

13 Q. Now -- sorry. All right. So, I just want to  
14 focus a little bit on -- I just want us all to  
15 get this image. Okay. So, it's clear that  
16 there are, in the legend, there are a variety  
17 of colors, correct? And they all indicate a  
18 different type of road, correct?

19 A. (DeWan) A wide variety of colors, yes.

20 Q. Okay. So, why don't you tell us, you've looked  
21 at this map. Did you consider this as you were  
22 looking at the scenic resources in the state to  
23 determine whether or not the Northern Pass  
24 Project might have an impact on any of these

[WITNESS PANEL: DeWan|Kimball]

1 resources?

2 A. (DeWan) We looked at every one of the scenic  
3 byways that the Project would have any effect,  
4 by either being visible from or crossing.

5 Q. So, you used this map as a resource?

6 A. (DeWan) Not really. We used the -- this is a  
7 starting point. From there, you go to the maps  
8 of the individual scenic byways. And, from  
9 there, you go to the current byway management  
10 plans.

11 Q. Okay. But this did come up as part of your  
12 research, correct?

13 A. (DeWan) Absolutely. Yes.

14 Q. Okay.

15 A. (DeWan) But, again, it's just a starting point.

16 Q. Okay.

17 MS. BOEPPLE: So, I'm going to ask if  
18 we could switch over to the ELMO please.

19 Sorry. Never mind. We have it on  
20 the computer. Sorry. Yes.

21 BY MS. BOEPPLE:

22 Q. So, this is labeled "SPNF 256". And I assume  
23 you have not seen this?

24 A. (DeWan) I have not.



[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay. So, this is an illustration map that was  
2 prepared by the Forest Society. And can you  
3 see in the legend that --

4 MS. BOEPPLE: Can you show us the  
5 whole thing please, Nicole? Thank you.

6 BY MS. BOEPPLE:

7 Q. Now, can you see in the legend where it shows  
8 the proposed Northern Pass route is in red --  
9 well, the color is not showing up quite the  
10 same as the original, but sort of the red and  
11 ocher kind of color?

12 A. (DeWan) I can see different colors representing  
13 the aboveground and underground routes.

14 Q. Of the Northern Pass route?

15 A. (DeWan) Of Northern Pass, yes.

16 Q. Okay. And do you see the green line that's  
17 also depicted on this illustration map?

18 A. (DeWan) I see that, yes.

19 Q. Okay. And do you see what that is labeled as?

20 A. (DeWan) Well, there's two components to the  
21 green line. One's the existing HVDC line, and  
22 the other has a dotted line on top of it is the  
23 proposed AC portion of the existing line.

24 Q. Okay. And do you see there's a third line on

[WITNESS PANEL: DeWan|Kimball]

1 here? And do you see that, in sort of the  
2 ocher color?

3 A. (DeWan) On the left side of the map.

4 Q. To the left. Correct.

5 A. (DeWan) The proposed underground/underwater  
6 line.

7 Q. And do you also see that there's a section that  
8 says "New England Clean Power Link"?

9 A. (DeWan) Yes.

10 Q. That veers over into New Hampshire, correct?

11 A. (DeWan) It stops at Ludlow.

12 Q. You see that on the map, correct?

13 A. (DeWan) Yes.

14 Q. Okay. So, can we just assume for -- and you  
15 see where Route 91 is located, correct?

16 A. (DeWan) Yes.

17 Q. So, can we assume for the next couple of  
18 questions that this is a relatively accurate  
19 depiction of where those lines would be -- are  
20 or would be located?

21 A. (DeWan) For purpose of this discussion,  
22 certainly.

23 Q. Just for that purpose alone?

24 A. (DeWan) Yes.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay.

2 MS. BOEPPLE: Can we go back to the  
3 scenic byways map please?

4 BY MS. BOEPPLE:

5 Q. Now, if you can keep that image in mind that  
6 you just saw, the illustration map showing  
7 those different routes, and now we're looking  
8 at the Scenic Byways map. And can you see  
9 where 91 is located on this map?

10 A. (DeWan) Could you point it out please? I see  
11 it now, yes.

12 Q. It's on the left.

13 A. (DeWan) I do see it now.

14 Q. Can you see it?

15 A. (DeWan) Yes.

16 Q. Okay. I'm going to give you two hard copies,  
17 so that you can look at them side-by-side,  
18 which is what I had --

19 MS. BOEPPLE: Actually, let's switch  
20 to the ELMO, so we can do that. Then everybody  
21 can see them side-by-side.

22 MS. MANTEAU: I think that will work  
23 better. Kind of like that?

24 MS. BOEPPLE: Yes. Great.

[WITNESS PANEL: DeWan|Kimball]

1 MS. MANTEAU: Is that okay?

2 MS. BOEPPLE: Yes.

3 MS. MANTEAU: Okay.

4 BY MS. BOEPPLE:

5 Q. Okay. Can you see clearly enough where Route  
6 91 is now on the Scenic Byways map?

7 A. (DeWan) I can't make out the label. I see  
8 generally where it is, yes.

9 MS. BOEPPLE: Can you point to it  
10 please, Nicole?

11 WITNESS DeWAN: Ah, yes. Thank you.

12 MS. BOEPPLE: There we go. Okay.

13 BY MS. BOEPPLE:

14 Q. So, when you look at this, assuming again just  
15 for the purposes of discussion, you see where  
16 certain lines are located, you see where there  
17 are scenic byways, you see where there are  
18 other roads -- designated roads on the map of  
19 New Hampshire, and we see where these other  
20 lines are located.

21 Would it be fair to say that the green  
22 line and the orange lines would have less of an  
23 impact on the State of New Hampshire and the  
24 roadways in New Hampshire? Based on just what

[WITNESS PANEL: DeWan|Kimball]

1 we're looking at here, and, again, assuming  
2 those are a relatively accurate depiction of  
3 where those lines are located geographically.

4 A. (DeWan) By the "orange line", you mean the one  
5 that stops in Ludlow?

6 Q. Yes.

7 A. (DeWan) So, that obviously would have no effect  
8 on New Hampshire, because it doesn't go into  
9 New Hampshire. The green line looks like it  
10 crosses the State of New Hampshire on the  
11 borderline then, and continues in a generally  
12 southeasterly direction. And I don't know what  
13 the resources are along there. So, I can't  
14 judge whether or not -- what effect it would  
15 have on New Hampshire.

16 Q. Well, I believe the green line is a depiction  
17 of the existing AC line.

18 A. (DeWan) I thought you asked us to compare the  
19 green and the orange line. I'm sorry.

20 Q. Well, yes. So, if the green line -- okay. So,  
21 if we're going to compare the green line and  
22 the new Northern Pass line, would the green  
23 line, as it exists today, have less of an  
24 impact than the red line?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) I have no idea.

2 Q. The green line is current -- let's say, for the  
3 purpose of discussion, that the green line  
4 exists today.

5 A. (DeWan) Correct.

6 Q. It's on -- it's on the ground.

7 A. (DeWan) It's on line.

8 Q. Right.

9 A. (DeWan) So, what's the question then?

10 Q. So, the question is, the green line exists on  
11 the landscape today.

12 A. (DeWan) Okay.

13 Q. Would that line, if it were utilized for  
14 Northern Pass's purposes, have less of an  
15 impact going into an existing right-of-way line  
16 than the new proposed Northern Pass line?

17 A. (DeWan) I would not be able to evaluate that,  
18 unless I actually looked it and knew more of  
19 the details. First of all, is the line --  
20 would the line have to be widened at all? What  
21 would be the size of the structures that would  
22 have to be built? What are the scenic  
23 resources that abut or be visible from the  
24 green line?

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[WITNESS PANEL: DeWan|Kimball]

1           A lot of considerations. It's not simply  
2           a matter of looking at one, comparing one map  
3           to another.

4   Q.    Okay. So, do I understand that, even if  
5           there's an existing right-of-way, if there's a  
6           widening of the corridor, for example, or  
7           taller structures that are proposed to be  
8           built, that that could have an impact on the  
9           scenic resources?

10   A.    (DeWan) Certainly. Yes. Widening the  
11           right-of-way or adding structures always will  
12           have some effect.

13   Q.    Okay. Thank you. I want to go back to these  
14           maps for just a minute. So, we see where 91 is  
15           on both maps. Do you see where 91 is on both  
16           maps?

17   A.    (DeWan) Right by the word "Station" in  
18           "Conversion Station" there on the left-hand  
19           map. Yes.

20   Q.    Do you see -- do you see any scenic byways --  
21           let's just go to the Scenic Byways map. Do you  
22           see that 91 is sort of removed from the area of  
23           a lot of the scenic byways?

24   A.    (DeWan) It appears to us, again, the maps are

[WITNESS PANEL: DeWan|Kimball]

1 at different scales. So, it's hard to make the  
2 comparison. But it looks like the green line  
3 intersects with what appears to be scenic  
4 byways in a number of locations.

5 Q. That's not what I asked.

6 A. (DeWan) Oh.

7 Q. I was talking about 91, Route 91, the northern  
8 part of --

9 A. (DeWan) Okay. Could you restate the question  
10 then? I'm sorry.

11 Q. Certainly. So, the northern section of Route  
12 91, that's what I'm focused on?

13 A. (DeWan) In Vermont?

14 Q. In Vermont. And just to the northern -- yes,  
15 in Vermont.

16 A. (DeWan) Coming down from Quebec?

17 Q. Yes. And it's not -- unfortunately, it's not  
18 on the Scenic Byways map, but let's just assume  
19 that it is. Since it's in Vermont, obviously,  
20 there aren't any New Hampshire scenic byways  
21 that are impacted by Route 91 north in Vermont,  
22 is that correct?

23 A. (DeWan) Well, I'm sorry, I'm confused. Are you  
24 talking about Route 91 or are you talking about



[WITNESS PANEL: DeWan|Kimball]

1 the green line coming down from Quebec?

2 Q. I'm talking about Route 91.

3 A. (DeWan) In Vermont?

4 Q. Correct.

5 A. (DeWan) Okay. I don't know what the scenic  
6 byways situation is like in Vermont. I can't  
7 testify to that.

8 Q. I didn't ask you that question. I said, Route  
9 91 north that's depicted on this map is located  
10 in Vermont, correct?

11 A. (DeWan) That's an established fact. Yes.

12 Q. Okay. And, therefore, there aren't any scenic  
13 byways, New Hampshire scenic byways, that are  
14 impacted by Route 91 in Vermont, correct?

15 A. (DeWan) Absolutely not.

16 Q. Okay. Great. I just wanted to make sure we're  
17 on the same page and looking at the same  
18 section of Route 91. Okay. Thank you.

19 If Route 91 were a path, for example, the  
20 Northern Pass Project, and Route 91 is -- we've  
21 just -- we have just determined Route 91, that  
22 stretch of Route 91 is in Vermont. Would it  
23 be -- could you admit that, if Northern Pass  
24 were located along that route, it would not

[WITNESS PANEL: DeWan|Kimball]

1 have an impact on the scenic byways of New  
2 Hampshire?

3 A. (DeWan) Absolutely not. In other words, if it  
4 was -- if Northern Pass was along 91, I would  
5 say it would not be in New Hampshire,  
6 therefore, it would not have any effect on New  
7 Hampshire.

8 Q. Okay. Thank you. Whew. Thank you. Okay.  
9 So, we're going to focus on something -- we're  
10 going to move onto something else. We'll put  
11 the maps aside for now.

12 A. (DeWan) Thank you. I suppose I should also add  
13 then that, you know, if it was in Vermont,  
14 there may be scenic resources up there that  
15 would have to be considered.

16 Q. Of course.

17 A. (DeWan) That would not be the SEC's concern.

18 Q. Correct. It would not. We're in agreement  
19 there.

20 A. (DeWan) They have enough to do as it is.

21 Q. During your -- during your technical session,  
22 and I believe in your prior testimony here, and  
23 certainly during your technical session, you  
24 referred to the rating system that you used in

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[WITNESS PANEL: DeWan|Kimball]

1 evaluating scenic resources as "objective". Do  
2 you recall making that statement?

3 A. (DeWan) Yes.

4 Q. Okay. So, aren't you, though, using your  
5 judgment when you allocate a numerical scoring,  
6 when you create a numerical scoring system?  
7 Isn't there a level of judgment involved?

8 A. (DeWan) Yes. Of course, any time you evaluate  
9 anything there is a level of judgment.

10 Q. Okay.

11 A. (DeWan) I don't know if it was -- if I said it  
12 was "totally objective". There certainly is an  
13 element of evaluation in looking at the  
14 landscape.

15 Q. And, therefore, subjective and judgmental on  
16 your part, correct?

17 A. (DeWan) We are making an evaluation of how we  
18 perceive the landscape.

19 Q. Correct. And isn't there also a judgment  
20 involved in what elements you're ranking when  
21 you're creating a numerical system?

22 A. (DeWan) Yes. And we've provided a table that  
23 shows those elements that we evaluate to judge  
24 both the landscape and the effect.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. So, all of that being said, isn't it a fair  
2 statement to say that there's a level of your  
3 judgment that comes in to the system that  
4 you've used, the rating system you have used  
5 and devised to determine the high, high medium,  
6 medium, and medium low and low system? The  
7 values you have assigned to the scenic  
8 resources?

9 A. (DeWan) We like to think of it as a  
10 professional judgment, based upon 30 years of  
11 experience looking at these sort of situations,  
12 resources, and development proposals.

13 Q. And you left out something else. What else do  
14 you need to consider?

15 A. (DeWan) And the current rules as applied, you  
16 know, and as developed by the SEC.

17 Q. We spent a lot of time talking about those.  
18 That's a whole section of questions I've  
19 eliminated, you'll be glad to hear.

20 But the bottom line is, yes, sure, you're  
21 a professional, but there's a level of  
22 judgment. There's a level of subjectivity.  
23 It's not strictly objective, is it? I mean,  
24 using the term "objective", doesn't that

[WITNESS PANEL: DeWan|Kimball]

1 indicate that somehow anybody, Joe Public,  
2 could pick up your rating system and arrive at  
3 the same conclusions?

4 A. (DeWan) I don't believe that's necessarily the  
5 case.

6 Q. Okay.

7 A. (DeWan) And I say that, because the words we  
8 use have meanings for us. And we've supplied  
9 those meanings in -- as part of our methodology  
10 in our VIA, to show, in this case, the SEC how  
11 we arrived at our evaluation.

12 Q. But you're using a weighted system, though, as  
13 well, aren't you? Isn't part of your numeric  
14 scoring a weighted system?

15 A. (DeWan) Well, we are assigning numerical values  
16 to our evaluations, in many cases, to a high,  
17 medium, or low, let's say.

18 Q. And how did -- where is that? Where do you  
19 find that under the SEC rules? What are the  
20 factors weighted under the SEC rules that  
21 you're supposed to be looking at when you're --

22 A. (DeWan) It does not -- well, the SEC rules does  
23 not prescribe how to do it. They say it has to  
24 follow a professional methodology. And, you

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[WITNESS PANEL: DeWan|Kimball]

1 know, we bring our professional judgment to  
2 bear.

3 Q. And isn't the SEC required to look at this  
4 using their judgment as well?

5 A. (DeWan) That's right. They are the final  
6 arbiters.

7 Q. They're not just arbiters, though, are they?

8 A. (DeWan) They're the decision-makers.

9 Q. Sure. But aren't they also supposed to look at  
10 this from the perspective of the rules they  
11 have created?

12 A. (DeWan) That's our assumption. That's why the  
13 rules are there. To guide us and also to guide  
14 them in making the final evaluation.

15 Q. But it's not necessarily your definition or  
16 your opinion of what -- how those words are  
17 defined under the rules, is it? You're  
18 offering that, and certainly the Applicant has  
19 the burden of proving that your interpretation  
20 is the one they should adopt. Is that a fair  
21 assessment?

22 A. (DeWan) Well, we've presented our understanding  
23 of the rules, absent some way to gain further  
24 definition of the rules.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. Right. So, for example, you decided that the  
2 rule that required there to be a 10-mile -- a  
3 review of the visual impact assessment out to  
4 10 miles was too far. So, you decided you  
5 would do 3 to 5 miles, because you decided --

6 A. (DeWan) That's totally incorrect.

7 Q. Then, I've completely misunderstood your  
8 testimony over the last couple of days.

9 A. (DeWan) Okay.

10 Q. What did you say about not doing the 10-mile?

11 A. (DeWan) Okay. When we provided the initial  
12 visual impact assessment, we went out to  
13 3 miles for evaluation, we went out to 5 miles  
14 with our computer analysis. And that's in line  
15 with professional practice for projects of this  
16 scale and magnitude.

17 That was before the SEC rules were adopted  
18 in December of that year. Once we had those  
19 rules in place, we read them carefully. And we  
20 realized, in some situations, like around  
21 Concord, we had to go out 2 miles. So, we were  
22 over in Concord. In other situations, in rural  
23 areas, where we met certain criteria, the SEC  
24 rules require that you go out 10 miles. So, we

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1 went back and amended our initial application  
2 to go out to 10 miles to the APVI.

3 Q. At no point in your testimony yesterday, or  
4 last week, did you say that you determined, you  
5 made the determination that 3 to 5 miles was  
6 sufficient? Did you not say that?

7 A. (DeWan) I probably did, because that's -- we  
8 felt and still feel that it's sufficient --

9 Q. Okay.

10 A. (DeWan) -- in evaluating that. That's what we  
11 based our initial VIA on.

12 Q. I just wanted to make sure I understood what  
13 you had said.

14 A. (DeWan) Yes. Okay.

15 MS. BOEPPLE: Could we pull up SPNF  
16 257.

17 BY MS. BOEPPLE:

18 Q. I'm not sure you testified specifically to  
19 the --

20 MS. BOEPPLE: Can we -- we've got it,  
21 Nicole. It's up.

22 BY MS. BOEPPLE:

23 Q. You talked about, Mr. DeWan, you talked about  
24 looking at other resources outside of New



[WITNESS PANEL: DeWan|Kimball]

1 Hampshire to understand how the rules apply to  
2 a visual impact assessment. And I think you  
3 talked about Maine, and you've talked about  
4 Vermont, you've talked about the Bureau of Land  
5 Management's guidelines, is that correct? You  
6 certainly talked about those during the  
7 technical session?

8 A. (DeWan) That's correct. We like to be informed  
9 about what current practice is. You know, and  
10 then to try and understand a little bit more,  
11 you know, the intent behind the SEC rules. To  
12 make sure --

13 Q. So, --

14 A. (DeWan) Yes, keep going.

15 Q. No. Go ahead.

16 A. (DeWan) I think that is part of what we do, to  
17 make sure that we're current.

18 Q. So, do you look at those, for example, the  
19 Bureau of Land Management's guidelines, and say  
20 "we're going to use some elements of that  
21 here"?

22 A. (DeWan) We used, in this particular case, we  
23 used the -- that part of the guideline, which  
24 helped us to identify and rate the quality of

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[WITNESS PANEL: DeWan|Kimball]

1 the existing scenic resources.

2 Q. Okay. So, let's just take a look at the Bureau  
3 of Land Management's Manual 8400, SPNF 257. I  
4 take that -- yes, 257. I'm sorry, 22.

5 So, this is SPNF 22, which is Manual 8400,  
6 Visual Resource Management of the Department of  
7 the Interior, Bureau of Land Management's  
8 Manual. Are you familiar with this, Mr. DeWan?

9 A. (DeWan) Very familiar with it, yes.

10 Q. Okay. So, are you also familiar with the  
11 "Purpose" and the "Objectives" sections?

12 A. (DeWan) Yes. As it applies to the lands which  
13 are under the jurisdiction of the Bureau of  
14 Land Management.

15 Q. And what kind of land is that that's under  
16 their jurisdiction?

17 A. (DeWan) Most of the land is scattered  
18 throughout the United States. Most of it is in  
19 the west and southwestern part of the United  
20 States.

21 Q. Right. Is it private land?

22 A. (DeWan) It's all public land.

23 Q. All public land. And would you agree that the  
24 purpose of the guidelines that the Bureau of

[WITNESS PANEL: DeWan|Kimball]

1 Land Management establishes is very specific to  
2 the purpose of managing public lands?

3 A. (DeWan) Yes, it is.

4 Q. Okay. And would you agree that that makes it  
5 different than the review that the SEC does of  
6 projects that come before us -- before it?

7 A. (DeWan) It makes it quite a bit of -- quite  
8 different, right. Because, in the Bureau of  
9 Land Management's case, you know, all the land  
10 is under their jurisdiction.

11 Q. Right. And, therefore, the difference --

12 A. (DeWan) Any visual impacts would affect land  
13 that they or, essentially, that we all own and  
14 control under the BLM. Of course, that's not  
15 the case here.

16 Q. Right. So, aren't there a set of guidelines  
17 and rules, if you will, that the Bureau of Land  
18 Management has established for its evaluation  
19 purposes of those public lands that are  
20 specifically tailored for those purposes?

21 A. (DeWan) I believe so.

22 Q. Okay. So, when you say you used those to  
23 inform you here, isn't that a little like  
24 saying "we're going to use the football rules

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[WITNESS PANEL: DeWan|Kimball]

1 in the baseball game"?

2 A. (DeWan) Absolutely not.

3 Q. And why not?

4 A. (DeWan) Because what we have selected, as we  
5 have testified before, is the chart from the  
6 BLM methodology as a way of looking at the  
7 existing landscape and determining its level of  
8 scenic quality.

9 Q. But it's a very different purpose and function  
10 that those rules are -- were created for, isn't  
11 it?

12 A. (DeWan) Well, it may be a different function  
13 and purpose. In the long run, we felt it's a  
14 very good way to evaluate the landscape, and to  
15 arrive at a sense of its scenic value. And the  
16 fact that it looks at recognizable features,  
17 such as color, land form, water form, and so  
18 forth. Things which are common throughout the  
19 landscape in general, not just the BLM  
20 landscape.

21 Q. So, historic villages would be considered under  
22 the Bureau of Land Management's guidelines? Do  
23 they look at historic villages, for example?

24 A. (DeWan) I believe -- well, they don't call them

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[WITNESS PANEL: DeWan|Kimball]

1 that specifically as "historic villages".

2 Q. Are there public lands that include historic  
3 village centers, Deerfield, for example?

4 A. (DeWan) Are there public lands within the  
5 Bureau of Land Management?

6 Q. Yes.

7 A. (DeWan) I can't answer that question. I am not  
8 that familiar with the BLM lands.

9 Q. Okay. Is it possible that there are the type  
10 of landscapes that we find that are  
11 quintessential New England and New Hampshire  
12 that aren't anywhere near the kind of lands  
13 that the Bureau of Land Management -- aren't  
14 even similar to the kinds of lands that the  
15 Bureau of Land Management is managing? The  
16 public lands that the Bureau of Land Management  
17 is managing?

18 A. (DeWan) Well, they manage a wide variety of  
19 different types of landscapes. None that I  
20 know of in New Hampshire. I don't think  
21 there's any in New England. But there may be  
22 some, you know, forested landscapes,  
23 mountainous landscapes that may come under  
24 their jurisdiction.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. But probably not a New England village,  
2 correct?

3 A. (DeWan) I think that's a fair assumption.

4 Q. Okay. And there may be some cultural landscape  
5 in New Hampshire that's not at all similar to  
6 anything that the Bureau of Land -- that's  
7 within the public lands that the Bureau of Land  
8 Management manages?

9 A. (DeWan) That's correct.

10 Q. Okay. Perhaps I missed this, but can you point  
11 me to where in your testimony you actually  
12 defined "cultural value"? I did not see it in  
13 your initial report.

14 A. (Kimball) Page M-8 of our initial report,  
15 Section 5.2.1.

16 MS. BOEPPLE: Can we pull that up on  
17 the -- do we have any idea what that exhibit  
18 number is for the Applicant?

19 MR. NEEDLEMAN: I believe it's  
20 Applicant 1, Appendix 17.

21 *(Short pause.)*

22 MS. BOEPPLE: Could you tell us again  
23 what page that was on?

24 WITNESS DeWAN: M-8.

[WITNESS PANEL: DeWan|Kimball]

1 MS. BOEPPLE: Thank you.

2 WITNESS DeWAN: Yes.

3 BY MS. BOEPPLE:

4 Q. So, there we go. "Cultural value". So, could  
5 you read that for us please, Ms. Kimball.

6 A. (Kimball) Sure. It says "The value" --  
7 "Cultural value is the value" --

8 Q. Slowly, for the reporter.

9 A. (Kimball) "Cultural value is the value that has  
10 been placed on a particular resource by a  
11 public agency or non-governmental organization,  
12 and indicated by formal designation, inclusion  
13 in current planning documents, or similar  
14 sources of information. Scenic resources are  
15 classified as having a high, medium, or low  
16 cultural value." And then it goes on to define  
17 what each of those are at the top of the page.

18 Q. So, again, unless I'm missing something, I  
19 don't see where historic or vernacular  
20 landscapes are included within a cultural  
21 value?

22 A. (DeWan) Look under "High Cultural Value".

23 A. (Kimball) If you go up the page, --

24 A. (DeWan) There's a series of six or seven dots

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1           there. And the bottom one, "Publicly  
2           accessible properties proposing on the National  
3           Register of Historic Places that derive their  
4           significance from their landscape setting" is  
5           determined to be an area of "high cultural  
6           value". If you go under "Medium Cultural  
7           Value", the second bullet, "Publicly accessible  
8           State historic sites that have a scenic  
9           component related to their historic  
10          designation."

11 Q.       Where are there vernacular landscapes here?

12 A.       (DeWan) I don't know what you mean by  
13         "vernacular landscapes". I don't believe  
14         that's a term that we see in the SEC rules.

15 Q.       That's not a term that you're familiar with in  
16         your professional experience? Is that just a  
17         term that historic experts use?

18 A.       (DeWan) It's generally not a term that we use.

19 Q.       Okay. What about local historic significance?  
20         Is it possible that your definition is not  
21         quite as comprehensive as what I think we have  
22         discussed the SEC rules imply, and certainly  
23         the statutes imply?

24 A.       (DeWan) This is a way of breaking down

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[WITNESS PANEL: DeWan|Kimball]

1           significance that we typically use, and it's  
2           generally used by others in our profession. I  
3           think we've seen similar examples of this type  
4           of chart used in applications and material  
5           before the SEC, for example, the Antrim case.

6   Q.    So, would it be fair to say you're sort of  
7           compartmentalizing some of these components?

8   A.    (DeWan) I don't know if that's the word that we  
9           would use. This is a way of getting -- one of  
10          the components to address the question of  
11          "significance", which is one of the  
12          requirements of the SEC rules.

13   Q.    Right. But you've just said that you broke it  
14          down, correct?

15   A.    (DeWan) It's one step of our evaluation of  
16          what -- how we consider "significance" to be  
17          defined.

18   Q.    So, if you break things down, when do you put  
19          them back together to do an overall review?

20   A.    (DeWan) Well, cultural value is one of the  
21          components that we look at. We also look at  
22          scenic value.

23   Q.    Right.

24   A.    (DeWan) You merge those together to get a sense

1 of overall significance.

2 Q. Right. Don't you have to put those together to  
3 get an overall view, correct?

4 A. (DeWan) It's an evaluation of two difference  
5 components.

6 Q. So, from Joe Public's view, are they breaking  
7 those things down when they're looking at a  
8 scenic resource, for example, or are they  
9 taking in the entirety of the landscape?

10 A. (DeWan) Well, I would say -- I don't know if I  
11 would approach it that way. But let's just  
12 take Joe Q. Public. You know, if they go out  
13 to drive the Connecticut River Scenic Byway,  
14 they do so with a certain anticipation that  
15 there's an area that they're going to see high  
16 scenic value throughout here.

17 Q. That might include?

18 A. (DeWan) Like rivers and forests and village  
19 centers and so forth.

20 Q. And a farm on the landscape?

21 A. (DeWan) The whole landscape, yes.

22 Q. And the cows grazing in the meadow, right?

23 A. (DeWan) Well, that's part of the promotional  
24 material. When they go to the promotional

[WITNESS PANEL: DeWan|Kimball]

1 material, online or wherever they get their  
2 information from, they know that there's a  
3 certain expectation. You know, the other  
4 factor, of course, is actually experiencing it  
5 then.

6 Q. And that's a whole experience. They're not --  
7 they're not parsing out "well, gee, you know, I  
8 like the cows, but I don't like the river",  
9 right? I mean, aren't they taking it as a  
10 whole? That's my point.

11 A. (DeWan) Of course. Yes.

12 Q. Okay.

13 A. (DeWan) When they drive -- when they drive any  
14 of these linear resources, like a transect  
15 through the landscape, you're going to pass  
16 some places where it's extremely beautiful,  
17 other places which are fairly common, which you  
18 might consider the "vernacular landscape".  
19 There's going to be some places that may be  
20 discordant elements. That's all part of the  
21 experience of driving the scenic byways or  
22 doing any of these other linear routes.

23 Q. Would you agree that the public's experience is  
24 not easily compartmentalized? That it is a

[WITNESS PANEL: DeWan|Kimball]

1 complete experience, that driving that scenic  
2 byway, for example? They're not saying "gee,  
3 that drive has a farm and a river and a view of  
4 the mountains." You've broken down, you've  
5 decided that something of national significance  
6 rises to a high level. Well, maybe, from the  
7 public's view, whether or not it's not on the  
8 National Register has absolutely nothing to do  
9 with their experience.

10 Can you envision that? Is that -- can you  
11 agree that that might be a public's experience?  
12 That they don't really care whether it's on a  
13 National Register or not?

14 A. (DeWan) I don't think I could characterize "the  
15 public", the millions of people who drive  
16 through New Hampshire in a year.

17 Q. Some public person? Some average Joe Public?

18 A. (DeWan) The Joe Q. Public is going to drive it  
19 and have an experience. And it's going to be  
20 influenced by what they read, how they prepare  
21 for the experience, and what they see once  
22 they're there.

23 Q. Okay. But you have assessed, for example,  
24 something that has -- that's on the National

[WITNESS PANEL: DeWan|Kimball]

1 Register as having a higher level of  
2 significance. And, therefore, that's going to  
3 translate into your interpretation of "high",  
4 "medium", "low" and what someone's  
5 experiencing. Isn't it all about ultimately  
6 what a person is seeing and what they're  
7 experiencing? Isn't that the whole point of  
8 aesthetics?

9 A. (DeWan) Well, there's a lot more to it than  
10 that.

11 Q. Well, why do we care about aesthetics, if it  
12 isn't about the human experience?

13 A. (DeWan) I don't know if this is the place to  
14 get into a long esoteric discussion about  
15 aesthetics, and I know that's ultimately the  
16 charge of this Committee. But, when we break  
17 the landscape down into high, medium, and low  
18 cultural values, we're doing that as a way to  
19 address the specific requirements of the SEC  
20 rules, to determine the significance of the  
21 landscape that we are evaluating.

22 Q. Okay. All right. Well, let's break some of  
23 those down. When you -- let's take cropland,  
24 for example. So, if you're looking at the

[WITNESS PANEL: DeWan|Kimball]

1 visual impact or you're doing visual impact  
2 assessment of certain landscapes, let's look at  
3 the cropland. So, do you consider the crop  
4 height as one of the things you're looking at?

5 A. (DeWan) Consider what?

6 Q. The crop height. So, for example, a field  
7 that's growing corn, are you looking at the  
8 height of the crop in the field as you're doing  
9 your visual assessment?

10 A. (DeWan) I hate to give you a "that depends"  
11 kind of answer, but it really would depend  
12 upon, you know, the time of year that we are  
13 visiting it, what we anticipate it to look  
14 like. That's probably a little bit fine grain  
15 for the type of analysis that we're doing here.

16 Q. So, sometimes you look at very specific  
17 elements, but sometimes you don't?

18 A. (DeWan) We look at what we see when we get to a  
19 particular location and look at the scenic  
20 resources that we're evaluating.

21 Q. So, if it's quantifiable, for example, an  
22 historic property that's listed on the National  
23 Register, you can put that in a box and say  
24 "this has a certain value", correct?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) Only if it's publicly accessible.

2 Q. Let's put aside the public accessibility.

3 A. (DeWan) You can't --

4 Q. Let's say that all of this -- let's say that  
5 all of this that we're talking about, because  
6 it's aesthetics that the SEC is considering,  
7 let's assuming -- let's assume that the public  
8 access is more in line with the kind of  
9 questions you were hearing from Ms. O'Connor  
10 earlier -- Ms. Connor earlier, about you're on  
11 a road, that's publicly accessible, correct? A  
12 public road is accessible to the public,  
13 correct?

14 A. (DeWan) Public roads are generally publicly  
15 accessible, yes.

16 Q. Okay.

17 A. (DeWan) That doesn't make them scenic  
18 resources, of course.

19 Q. I'll give you that. So, let's assume that what  
20 we're talking about is at least at that level  
21 of public accessibility. What I want -- what  
22 I'm trying to focus on here, and what I'm  
23 asking you is, you've talked about certain  
24 landscape elements, if we can use that kind of

[WITNESS PANEL: DeWan|Kimball]

1 general term, like something that's listed on  
2 the National Register. You've also said you  
3 look at other scenic elements, correct?

4 A. (DeWan) That's correct.

5 Q. And, so, I asked you "if you're looking at  
6 cropland, do you consider the crop height?"  
7 And you said "that's too granular" or "too fine  
8 grain", correct?

9 A. (DeWan) Again, it depends on the location of  
10 the cropland, whether or not the crops may  
11 obstruct a view, for example, to a mountain  
12 ridge in the background. A cornfield, if  
13 you're on a hiking trail, may obstruct a view  
14 at some point, may not affect it at other  
15 times. And we will describe that as part of  
16 the narrative that we prepare, that we use to  
17 prepare our VIA.

18 But, generally, we don't get down to that  
19 level of, you know, determining the height of  
20 the corn, in looking at the overall visual  
21 impact.

22 Q. So, if a historic property is listed on the  
23 National Register, it's got a high  
24 significance. What if it's just eligible for



[WITNESS PANEL: DeWan|Kimball]

1 listing on the National Register? Or, what if  
2 it's never gone through the National Register  
3 application process to determine whether it's  
4 eligible, but it is, in fact, eligible, because  
5 it meets all of the historic National Register  
6 criteria? Is that too fine grained an analysis  
7 that you go through?

8 A. (DeWan) Again, if it's a property, by  
9 "property", I don't know what you mean by  
10 "property". If you're talking about an  
11 individual structure, again, the public access  
12 decision comes in here.

13 Q. We're putting aside the public access piece.  
14 We're looking at a landscape. We're looking at  
15 something that's on the landscape. And you  
16 have used, as part of determining whether or  
17 not something has high cultural value, as if  
18 it -- if it's listed on the National Register,  
19 correct?

20 A. (DeWan) That's correct.

21 Q. Okay. So, my point is, you are making some  
22 distinctions in your assessment, right?

23 A. (DeWan) That's correct.

24 Q. And some of those distinctions are related to

[WITNESS PANEL: DeWan|Kimball]

1 certain types of property, but maybe not to  
2 others, correct?

3 A. (DeWan) Those distinctions are made on a  
4 variety of different -- in a variety of  
5 different ways. And that's very much in  
6 keeping with, you know, for example, the Forest  
7 Service methodology, in dividing the landscape  
8 up into different zones of sensitivity.

9 Q. And, ultimately, it comes down to your judgment  
10 of what has importance, correct?

11 A. (DeWan) It's not our judgment, *per se*, because  
12 we're relying upon what other entities, NGOs,  
13 state, federal, local organizations have  
14 determined to be of importance, either at a  
15 local, state, national level. So, it's not our  
16 judgment to say that the scenic byways is  
17 important. That's already a given fact.  
18 That's already designated by the state or the  
19 federal government.

20 Q. So, you will take those and you'll plug those  
21 into your rating system. You'll say, "well,  
22 because it's recognized, then we're going to  
23 call it "high"", for example, the National  
24 Register listing, right?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) Absolutely.

2 Q. Okay. So, what I was trying to propose to you  
3 is that there may be elements on the landscape,  
4 there may be features on the landscape that  
5 could be equally of equal value to the  
6 observer. But they're not going to fit into  
7 your compartmentalized process or system,  
8 because they haven't been designated as being  
9 listed on the National Register. Is that fair  
10 to say?

11 A. (DeWan) When you say "elements on the  
12 landscape", could you perhaps give us some  
13 examples?

14 Q. Well, would you say that an historic structure  
15 is an "element on a landscape"?

16 A. (DeWan) If it's an historic structure, then it  
17 would -- and it had been designated or eligible  
18 for, then, yes, it would be.

19 Q. Are those the only two requirements for an  
20 historic resource in New Hampshire?

21 A. (DeWan) You'll have to go to the definition of  
22 a "historic" -- an "historic", I forget the  
23 exact term, "historic sites", thank you, in the  
24 definition.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. We can do that. But I know you're not the  
2 historic expert.

3 A. (DeWan) And that's the other component of this,  
4 of course, yes.

5 Q. Did you consult with the Applicants' historic  
6 expert?

7 A. (DeWan) I believe we testified to that effect.  
8 Yes, we did.

9 Q. So, you relied on her judgment and her  
10 interpretation of how New Hampshire defines  
11 "historic resources" in New Hampshire?

12 A. (Kimball) We relied on the NHDHR's list of  
13 Designated and Eligible Properties, not the  
14 historic consultant's opinion.

15 Q. And not the State's definition of "historic  
16 resources", right?

17 A. (Kimball) We included the -- well, those that  
18 are listed and those that are eligible for  
19 listing.

20 Q. Right. And "historic" has a much broader  
21 definition in New Hampshire. So, you didn't  
22 use that definition, you just used those lists,  
23 correct?

24 A. (Kimball) The only way to determine if a scenic

[WITNESS PANEL: DeWan|Kimball]

1 resource is (a) publicly accessible, and (b)  
2 within the APVI, is to know where it's located  
3 and to have it mapped. And the only way to do  
4 that is to use a listing that exists.

5 Q. I see.

6 A. (Kimball) It's the only tool that we have to  
7 identify them.

8 Q. Okay. So, you've used some resources to  
9 identify, and what you've just testified is  
10 you've relied on lists that are created?

11 A. (Kimball) Generally, yes.

12 Q. Okay. So, is it possible that there are some  
13 resources, there are some -- I'm just going to  
14 use historic for the purposes of our  
15 discussion, that we were talking about  
16 cropland, there could be all sorts of other  
17 things, like a view of a mountainside. But  
18 let's just talk about historic resources. Is  
19 it possible that there may be an historic house  
20 that doesn't fall into one of those lists?

21 A. (Kimball) Of course, because an historic house  
22 would generally not be publicly accessible,  
23 therefore, not a scenic resource.

24 Q. If it is located on a roadway that someone has

[WITNESS PANEL: DeWan|Kimball]

1 public access to, does it --

2 A. (Kimball) A private property, that's used for  
3 residential purposes on a public roadway, is  
4 not publicly accessible.

5 Q. It's not part of a scenic resource?

6 A. (Kimball) It is not -- we do not consider it  
7 part of a scenic resource, --

8 Q. So, driving --

9 A. (Kimball) -- because it does not have legal  
10 right of public access.

11 Q. So, let me see if I understand this completely,  
12 and I know you spent some time talking with  
13 Counsel for the Public on this. But someone  
14 drives through an historic village center, they  
15 can't walk into my house that's right on the  
16 main drag. But it's an historic house, and  
17 it's part of an historic district. That's not  
18 a "scenic resource" in your definition?

19 A. (DeWan) Well, we looked at town and village  
20 centers. We had a long discussion about that  
21 yesterday. And we recognize that you don't go  
22 into private properties, you don't go into  
23 private gardens, but you look at the public  
24 space that may be partially defined by those

[WITNESS PANEL: DeWan|Kimball]

1 private properties.

2 Q. And they're part of the public's experience,  
3 isn't it? As you walk down that historic  
4 village center, aren't you experiencing --  
5 aren't you experiencing something that is part  
6 of value in the landscape of New Hampshire?

7 A. (DeWan) Again, we're talking about a village  
8 center. A village center is made up of a  
9 variety of different structures, as well as  
10 trees and landscape materials, as well as, you  
11 know, furnishings within that landscape,  
12 gazebos and so forth. It's one of many things  
13 that define the village center landscape.

14 MS. BOEPPLE: All right. This might  
15 be a good time to take a break?

16 CHAIRMAN HONIGBERG: Sure. We can  
17 take a ten minute break.

18 (Recess taken at 10:18 a.m.  
19 and the hearing resumed at  
20 10:35 a.m.)

21 CHAIRMAN HONIGBERG: Ms. Boepple, you  
22 may continue.

23 MS. BOEPPLE: Thank you, Chair.

24 BY MS. BOEPPLE:

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[WITNESS PANEL: DeWan|Kimball]

1 Q. So, Mr. DeWan, we were talking about your  
2 process of compartmentalizing elements as you  
3 did a visual impact assessment. So, I just  
4 have one more question along those lines.

5 Is it possible that, by using a  
6 categorization system, such as the one that  
7 you've used, that you might have missed some  
8 scenic resources and landscapes that are  
9 important to the people of New Hampshire?

10 A. (DeWan) We don't believe so, because, and  
11 again, we relied upon a lot of different data  
12 sources. Certainly, the towns' master plans  
13 for every town along the route has a  
14 description of the physical landscape. And in  
15 it they recognize some places that have scenic  
16 views, scenic roads, and we've incorporated  
17 that into our description of the setting, and  
18 also as part of the development of the list of  
19 potential scenic resources. We also, of  
20 course, looked at guidebooks, websites, and a  
21 variety of other sources. We also, of course,  
22 drove around, did extensive driving to look at  
23 the landscape. It wasn't just an academic  
24 exercise.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. But I believe Ms. Kimball said you really  
2 relied on those lists that were compiled,  
3 correct?

4 A. (DeWan) Well, that was for compiling the list,  
5 yes. But then we went out in the field and did  
6 extensive fieldwork.

7 Q. Except you did not go and talk to the  
8 organizations that really know the landscape in  
9 Vermont -- in New Hampshire, correct?

10 A. (DeWan) We relied upon the data that was  
11 published by organizations.

12 Q. So, you used AMC's data? We talked about AMC  
13 earlier, and you said you did not consult with  
14 them, correct?

15 A. (DeWan) We did not consult with them directly.

16 Q. Okay. And I think you also said, during  
17 questioning from Counsel for the Public, that  
18 you did not include sites that were identified  
19 by T.J. Boyle or by LandWorks, correct?

20 A. (DeWan) I don't believe we said that.

21 Q. What about just T.J. Boyle?

22 A. (DeWan) Well, when you say "T.J. Boyle", they  
23 went through a series of evaluations. As you  
24 know, the initial evaluation that they did came

[WITNESS PANEL: DeWan|Kimball]

1 up with a list of 18,933 scenic resources. We  
2 did not look at all of those.

3 Q. Right. And that's what I just asked you. Your  
4 VIA did not include some of those resources  
5 that they looked at, right?

6 A. (DeWan) Well, I don't think they looked at all  
7 those. They actually felt that that was the  
8 list that they felt we should have looked at.

9 Q. And you did not look at some of those, correct?  
10 You didn't look at them?

11 A. (DeWan) We did not look at most of the 18,933.

12 Q. Okay. So, my question -- yes. Okay. So,  
13 we've established you did not look at some of  
14 those. Wouldn't you say, though, that when  
15 you're looking at 192 miles across the New  
16 Hampshire landscape, that perhaps being more  
17 inclusive, rather than less inclusive, might be  
18 a better approach? At least you won't miss  
19 anything. At least you'd be assured that you  
20 haven't missed something?

21 A. (DeWan) We felt that the approach that we took,  
22 by first identifying places from established  
23 resource databases, and then going out and  
24 verifying those in the field, looking at also

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[WITNESS PANEL: DeWan|Kimball]

1 other sources of information, was a very  
2 adequate way, more than adequate way, a very  
3 complete way of developing a list of scenic  
4 resources, guided, of course, by the SEC rules,  
5 which defines what "scenic resources" are.

6 Q. Okay. So, that's identifying the scenic  
7 resources. Now, let's talk about how you are  
8 looking at those scenic resources in the  
9 context of the Northern Pass Project.

10 A. (DeWan) Okay.

11 Q. So, you take the Project as it's presented to  
12 you by the Applicant, correct?

13 A. (DeWan) That's correct.

14 Q. And you take the route maps, correct?

15 A. (DeWan) That's correct.

16 Q. And do you take -- do you consider additional  
17 clearing that might need to occur?

18 A. (DeWan) We do, yes. To the extent that it's  
19 been determined.

20 Q. So, if they haven't decided how much clearing  
21 is required, say, for, oh, a ten-mile stretch,  
22 you haven't looked at that, correct?

23 A. (Kimball) We assumed that the clearing  
24 maximized the legal right-of-way that the

[WITNESS PANEL: DeWan|Kimball]

1 Project has.

2 Q. So, you're assuming a clear-cut of the entire  
3 192 miles right-of-way, with the exception of  
4 the underground portion?

5 A. (Kimball) We assumed that the clearing would  
6 happen out to the extent that the right-of-way  
7 is, in both viewshed mapping, photosimulations,  
8 and looking at the recourses.

9 A. (DeWan) Out of an abundance of caution, we  
10 decided to do that.

11 Q. And did you also consider the structure heights  
12 within that corridor? Did you assume that --  
13 did you receive the information, when you were  
14 to -- when you were preparing to do your Visual  
15 Impact Assessment, did you get all of the  
16 details of structure heights for every one of  
17 the structures going into this Project?

18 A. (Kimball) Yes. The engineers provided us with  
19 a dataset that provided the structure height  
20 and location of every structure.

21 Q. And that hasn't changed since you did your  
22 Visual Impact Assessment?

23 A. (Kimball) As far as I know, it's everything.  
24 The structure height is the same. I believe

[WITNESS PANEL: DeWan|Kimball]

1           there were a couple of modifications that we  
2           addressed in our April of 2017 submission, of  
3           structures moving slightly in the right-of-way  
4           due to wetland constraints or habitat  
5           constraints. So, there have been some minor  
6           modifications, but we have addressed those in  
7           our recent submission.

8   Q.    And what about the route map changes that were  
9           just submitted in August? Did you look at  
10          those?

11   A.    (Kimball) In August of 2017?

12   Q.    Last month.

13   A.    (Kimball) To the best of my knowledge, the  
14          route has not changed in --

15   Q.    Well, do you see the binders sitting on the  
16          table behind Counsel for the Public? There's  
17          three of them.

18   A.    (Kimball) I see the binders.

19   Q.    Okay. One of those is a recent submittal by  
20          the Applicant that has supplemental route maps.  
21          Have you looked at those?

22   A.    (Kimball) If they were submitted in the last 30  
23          days, then we have not seen them.

24   Q.    Okay. So, your assessment is based on some

[WITNESS PANEL: DeWan|Kimball]

1 assumptions, and not necessarily on what  
2 Northern Pass might actually construct, if they  
3 are granted the certificate, correct?

4 A. (Kimball) Our work is based --

5 MR. NEEDLEMAN: Objection. That's  
6 mischaracterizing the testimony.

7 BY MS. BOEPPLE:

8 Q. Did you tell me that you made assumptions when  
9 you were analyzing the width of the  
10 right-of-way, the clearing that would be  
11 required?

12 A. (Kimball) It was reasonable to assume the  
13 extent of the right-of-way would be cleared.

14 Q. You made an assumption, correct?

15 A. (Kimball) Sure. It's a very conservative  
16 assumption. It's the worst case scenario.

17 Q. My question simply was "did you make certain  
18 assumptions?" And did you make those  
19 assumptions because some of that information  
20 wasn't yet available by the Applicant, so they  
21 didn't have the answer to some of the  
22 questions?

23 A. (Kimball) Well, for clearing, for example, I  
24 know there are decisions that are made in the

1 field at the time of construction of exactly  
2 which trees may be cleared, what might they be  
3 able to leave. So, to that level of detail, we  
4 don't have that. So, it's safe to assume that  
5 they would clear out to the extent of the  
6 right-of-way.

7 Q. Okay. And is it also possible that some of the  
8 structures could change as well, and therefore  
9 you might not have taken into consideration  
10 what some of those changes might be?

11 A. (DeWan) Well, that's a hard question to answer.  
12 You know, we're dealing with the best available  
13 information that's presented to us at the time  
14 when we did our Visual Impact Assessment.

15 Q. I understand that. You only have what you're  
16 given, right?

17 A. (DeWan) Typically, in any construction project,  
18 using MPRP as an example, minor changes happen  
19 during the course of the time during  
20 construction, *de minimus* changes usually.

21 Q. So, what's a "*de minimus* change"?

22 A. (DeWan) It's hard to evaluate.

23 Q. Right. So, to someone, 10 feet, you might say  
24 "10 feet is *de minimis*." And, to someone else

[WITNESS PANEL: DeWan|Kimball]

1 who's looking at it, they're going to say "Wow,  
2 suddenly I see this, and I wouldn't have seen  
3 it before." Correct? Isn't that possible?

4 A. (DeWan) There may be some situations, not  
5 usually. We've dealt with a lot of those in  
6 our work. And, you know, and I think in almost  
7 every situation we've dealt with, we've looked  
8 at those kind of *de minimus* changes. Usually,  
9 it's involving, you know, three to five feet of  
10 changes in structure heights. It results in a  
11 change in the visual appearance that you can  
12 classify as being "barely noticeable".

13 Q. Again, isn't that a judgment? You call it "*de*  
14 *minimus*". Isn't it possible that it could be  
15 much more than *de minimus* to someone? Isn't it  
16 possible?

17 A. (DeWan) Is it likely to happen? We're talking  
18 about the sort of changes that you may be  
19 referring to, doubling the height, let's say,  
20 of a structure, highly unlikely, because the  
21 engineers have spent years refining the  
22 alignment and the spacing and the heights of  
23 the structures.

24 Q. So, are you aware, if I can find my place --



[WITNESS PANEL: DeWan|Kimball]

1 so, what about the relocation of Transition  
2 Station Number 5? It's on north of 302, in  
3 Bethlehem. Are you aware of that? There was a  
4 relocation of the Transition Station Number 5,  
5 did you know that, from the time the original  
6 plan was submitted?

7 A. (Kimball) We haven't seen an updated plan with  
8 a different location of that transition  
9 station.

10 Q. So, you couldn't opine as to whether that's a  
11 "de minimus change" or a "substantial change",  
12 correct?

13 A. (Kimball) We don't know what that change looks  
14 like, if there is a change.

15 Q. So, ultimately, if there are changes that  
16 could, in fact, be of a substantial nature,  
17 will you go back and reassess? Is that part of  
18 what you've been retained to do?

19 A. (DeWan) Our job right now is to evaluate the  
20 Project that's before the SEC. I don't know,  
21 as part of the certificate the SEC would grant,  
22 how they would deal with the issue of *de*  
23 *minimus* changes.

24 Q. You're assuming they'll be *de minimus*, right?

[WITNESS PANEL: DeWan|Kimball]

1 What if they're substantial?

2 A. (DeWan) Well, you just talked about de minimus  
3 changes.

4 Q. No. I just talked about "changes".

5 A. (DeWan) I know, in the case, again, and my  
6 experience come from, you know, the similar  
7 project in Maine, when we dealt with these sort  
8 of issues in Maine, we had somebody at our  
9 Department of Environmental Protection to go  
10 to, who would then judge whether or not a  
11 change, in structure height or location and so  
12 forth, was *de minimus*, require no further  
13 action, or if it would require further  
14 evaluation on our part or anybody else's part.

15 Q. That's in Maine. We're in New Hampshire,  
16 right?

17 A. (DeWan) And I don't -- I honestly don't know  
18 how New Hampshire deals with those situations.

19 Q. As part of your job, part of what you've been  
20 retained to do is not to stay on the Project,  
21 or would you possibly stay on the Project?

22 A. (DeWan) That's not our decision. I'd like to  
23 think that we would continue to work and  
24 provide services on the Project, if there are

[WITNESS PANEL: DeWan|Kimball]

1 situations that arise, you know, from this  
2 point going forward.

3 Q. Okay. So, your assessment has been strictly  
4 for the route that has been submitted? You  
5 weren't asked to review any alternatives,  
6 correct?

7 A. (DeWan) I believe we've testified to that  
8 already, in the affirmative, this morning.

9 Q. Okay. Okay. So, let's talk a little bit about  
10 mitigation efforts. You have given your  
11 opinion on some of those, have you not?

12 A. (DeWan) We have written extensively about it in  
13 our Visual Impact Assessment and in our  
14 supplemental prefiled testimony, and we talked  
15 about it quite a bit yesterday.

16 Q. Right. And one of the things I believe you  
17 talked about was plants -- plantings, that  
18 those would be a mitigation that could be  
19 utilized, correct?

20 A. (DeWan) That is correct.

21 Q. So, can you tell me how you use a planting to  
22 mitigate a pole height of 110 feet?

23 A. (DeWan) Okay. Could I use an example from  
24 Maine?

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1 Q. Sure.

2 A. (DeWan) Okay. The Raven Substation, in  
3 Cumberland, Maine, is located at the end of a  
4 scenic roadway that had been designated by the  
5 Town of Cumberland. And the town was very  
6 concerned about the effect that this would have  
7 on people driving down this particular road.  
8 It was a new substation, a \$24 million  
9 substation, covering, I think, 10 acres of  
10 land, it's going to be highly visible.

11 And, so, working with the planning board,  
12 with the town planner, we walked the site. We  
13 recognized that there is a potential issue  
14 here. We're expanding the width of the  
15 existing right-of-way. It was going to make  
16 the view towards the substation wide open.  
17 They did not want to see that, people driving  
18 down this road.

19 So, we decided to work with the engineers  
20 to develop a plan involving installation of a  
21 fairly large earth berm between the substation  
22 and the scenic road. On top of that, we put a  
23 variety of different plant species, what we  
24 called, you know, the sort of species that are

[WITNESS PANEL: DeWan|Kimball]

1 called "non-capable species". In other words,  
2 they would grow to a certain height, but never  
3 within the danger zone, roughly 12 to 15 feet  
4 high over the berm.

5 So, the end result was somebody driving  
6 down the road would see an earth -- a vegetated  
7 earth berm, which replicated the type of  
8 landscape that was common to that part of  
9 Cumberland.

10 We had to make allowances for access from  
11 the road into the substation. But the end  
12 result was, you would still see some of the  
13 structures, but the effect was to minimize the  
14 view, if not eliminate it altogether, the view  
15 of the very large substation and all of its  
16 components.

17 That's a very site-specific example of how  
18 we use landscaping and other design elements as  
19 part of a mitigation process.

20 Q. So, that's a great example of a substation,  
21 hiding a substation, right, from a drive --  
22 from someone driving along. What if you have  
23 structures that are rising above the landscape?  
24 We've certainly seen in your photosimulations,

[WITNESS PANEL: DeWan|Kimball]

1 T.J. Boyle's photosimulations, Mr. Dodson's  
2 photosimulations, that there are structures  
3 that rise above existing buildings, that rise  
4 above that skyline along the landscape along  
5 the hilltop. How do you use vegetation to  
6 mitigate those kind of impacts?

7 A. (DeWan) I believe T.J. Boyle had some good  
8 examples of before-and-after plantings that  
9 they had done along a roadway. And I think one  
10 of the concerns that were addressed, and I  
11 don't know the specifics of that situation, but  
12 it may have been a new corridor that was cut  
13 through, the intent was to establish a line of  
14 vegetation, so, when you're driving down a  
15 roadway, the visual experience is not broken by  
16 the break in vegetation. In other words, the  
17 intent was to try and maintain the color, the  
18 form, the texture of existing vegetation. So,  
19 what your eye picks up is the continuity of  
20 landscape. Yes, you're going to see the  
21 structures rising above it, but it's not quite  
22 the contrast that you would see if there was no  
23 vegetation there at all.

24 Q. So, planting is only a partial mitigation, is

1 that fair to say?

2 A. (DeWan) Planting could be a very fully -- a  
3 full mitigation. Again, mitigation is a very  
4 site-specific activity. You have to consider,  
5 you know, the viewer, the length of time that  
6 you have, the amount of opening that you're  
7 viewing, the background landscape, a number  
8 of -- a number of factors. This is not a  
9 one-size-fit-all approach.

10 Q. Right. So, it's not one-size-fit-all. And  
11 it's -- also you've described screening. But,  
12 if we've got 110-foot -- new 110-foot tall  
13 pole, for example, that's rising above any of  
14 this vegetation you're going to plant, this  
15 earth berm you're going to create, any of that,  
16 aren't you -- isn't it fair to say that you are  
17 doing partial mitigation, because there is  
18 still going to be the visibility of that  
19 structure up above the treeline?

20 A. (DeWan) Well, it depends on your viewpoint.

21 Q. If I don't want to see anything, if that's my  
22 experience as Joe Q. Public, I've always driven  
23 down this road, and I've never seen an  
24 industrial structure on the landscape. And I

[WITNESS PANEL: DeWan|Kimball]

1 love the fact that I don't see any industrial  
2 structure on the landscape. And, now, I'm  
3 going to see 10 feet, 15 feet of a steel pole  
4 sticking up above the treeline. You can't  
5 mitigate that impact, correct?

6 A. (DeWan) Obviously, there's no way to screen the  
7 top of a structure, just like, you know, the  
8 cell towers that we find everywhere these days.

9 Q. So, it's a partial mitigation, correct?

10 A. (DeWan) It's a mitigation at a very specific  
11 location that will look at the issue that is  
12 trying to be mitigated.

13 Q. Okay. I want to talk about a couple of  
14 specific sites.

15 MS. BOEPPLE: If we could pull up --

16 BY MS. BOEPPLE:

17 Q. Now, I know you talked about a lot of specific  
18 sites. You can't see anything yet?

19 A. (DeWan) Weeks State Park.

20 Q. Yes.

21 A. (DeWan) Yes.

22 Q. So, you can see that?

23 A. (DeWan) Yes.

24 Q. Okay. So, Weeks State Park, I believe you

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[WITNESS PANEL: DeWan|Kimball]

1 chose the overlook as the observation point,  
2 correct?

3 A. (DeWan) The East Overlook.

4 MS. DORE: And, for the record, the  
5 exhibit and page number?

6 MS. BOEPPLE: This is Applicants'  
7 Exhibit 1, Pages 14469 to 14477.

8 MS. DORE: And is that Appendix 17?

9 MS. BOEPPLE: Appendix 17, correct.

10 BY MS. BOEPPLE:

11 Q. So, you chose the East Overlook as the  
12 observation point, correct?

13 A. (DeWan) That's correct.

14 Q. Okay. And you did not choose the view from the  
15 top, correct?

16 A. (DeWan) When you say "the top"?

17 Q. The uppermost point at Weeks State Park.

18 A. (DeWan) I assume you mean the fire tower, the  
19 stone fire tower?

20 Q. Well, or the fire tower. Either from the  
21 roadway at the top or from the fire tower?

22 A. (DeWan) We looked at those locations. But we  
23 chose the East Overlook to do the  
24 photosimulation from.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. So, there are several viewer experiences on  
2 this -- at this location, aren't there?

3 A. (DeWan) When you say "this location", are you  
4 talking about all of Weeks State Park or the  
5 East Overlook?

6 Q. I'm talking about -- I'm talking about the  
7 resource, which is Weeks State Park, which is  
8 all of it.

9 A. (DeWan) Correct.

10 Q. It's not just the East Overlook, correct?

11 A. (DeWan) That's right. There's a variety of  
12 different user experiences here.

13 Q. Right. And you chose one of those, correct?

14 A. (Kimball) You can see on the page that you have  
15 on display, there are a number of viewpoints  
16 that we've included in the report and described  
17 as part of our evaluation of this resource.

18 Q. But your -- the image that you focused on was  
19 from the East Overlook, correct?

20 A. (DeWan) That is correct.

21 Q. Okay. So, is it possible that there are other  
22 resources that you used one specific viewpoint,  
23 and that a viewer's experience or Joe Q.

24 Public's experience may not fit the point of

[WITNESS PANEL: DeWan|Kimball]

1 reference that you chose? Is it possible? I'm  
2 not saying --

3 A. (DeWan) Well, there's -- yes, we looked at the  
4 North Overlook. We climbed to the top of the  
5 fire tower. We went to the -- what used to be  
6 the home of Senator Weeks. It was not open  
7 when we had been there. We walked on many of  
8 the hiking trails. We walked up the access  
9 road. We looked at the parking lots. We felt  
10 that the East Overlook was most representative  
11 of the view that may be experienced by the  
12 largest number of people.

13 Q. But, again, aren't you using your judgment to  
14 decide and pick and choose, correct?

15 A. (DeWan) Well, we had to make some decision  
16 about what would be the most representative key  
17 observation point.

18 Q. But other people could differ, right? They  
19 could differ with your opinion, correct?

20 A. (DeWan) I suppose it's --

21 Q. So, the SEC could say, "You know, we think this  
22 is a pretty important resource. And we think  
23 that just looking at it from the East Overlook  
24 isn't good enough. It really should have been

[WITNESS PANEL: DeWan|Kimball]

1 assessed much more thoroughly."

2 A. (DeWan) I suppose that's a possibility. I know  
3 this is very much in line with Counsel for the  
4 Public's expert, who looked at the same  
5 situation and arrived at the same conclusion as  
6 we did.

7 Q. I'm just suggesting isn't it possible, that the  
8 SEC wants to look at this differently? Is that  
9 possible?

10 A. (Kimball) If you look at the page that you have  
11 up, we have evaluated the visual effect from  
12 the East Overlook, the North Overlook, and the  
13 stone fire tower. We've referenced all three  
14 of those primary locations and shown photos.  
15 So, to suggest that we used a single photograph  
16 is not an accurate depiction of the work.

17 Q. Okay. Let's look at, again, Appendix 17,  
18 Applicants' Exhibit 1, Pages 14718 to 14719.  
19 These are Visual Impact Assessment maps, A-18  
20 and A-19. So, this is just locating.

21 So, I believe these maps show -- well, why  
22 don't you tell us. What do these maps depict?

23 A. (Kimball) So, the first map that you showed on  
24 the screen was a computer-based visibility

[WITNESS PANEL: DeWan|Kimball]

1 analysis of the existing visibility, so of the  
2 current corridor. Which begins at the  
3 maroon-colored line there at the point of  
4 transition.

5 A. (DeWan) This is in the area of Millsfield,  
6 Dummer, and Stark. This is the place where the  
7 new line, which is shown in green here, meets  
8 the existing line shown in purple.

9 Q. And the next one?

10 A. (Kimball) So, this is the same location. And  
11 it shows the increased visibility. This time  
12 taking into account both the green section of  
13 line, which is the new corridor, and also that  
14 maroon-colored line, which is the new  
15 structures, and the existing structures within  
16 that existing corridor. The shades of purple  
17 represent the ranges of number of visible  
18 structures.

19 A. (DeWan) We should say, to clarify, the  
20 potentially visible structures.

21 Q. Okay. And they're "potentially visible"  
22 because?

23 A. (Kimball) They're potentially visible, because  
24 this map is depicting the Area of Potential

[WITNESS PANEL: DeWan|Kimball]

1           Visibility, the APVI. So, it's inherent in  
2           what the work is. It's also based on what a  
3           computer sees based on the data that is put  
4           into the computer, not based on fieldwork or  
5           any field verification.

6   Q.    But did you use these to then also bore down  
7           and look at specific sites to see what the  
8           impact might be?

9   A.    (Kimball) We used these to guide our general  
10           fieldwork in looking at the landscape.

11   Q.    Okay. So, let's take a look at --

12                   MS. BOEPPLE: So, could we have the  
13           ELMO please, Dawn?

14   BY MS. BOEPPLE:

15   Q.    These are part of Applicants' Exhibit 1. I do  
16           not know the exact page number. We can get  
17           that. Do you recognize this image?

18   A.    (DeWan) Yes, we do.

19   Q.    Okay. And what is this?

20   A.    (DeWan) This is a photograph showing a portion  
21           of the view from the combined Moose Path Scenic  
22           byway and the Connecticut River Scenic Byways,  
23           north of the Young Cemetery on Route 145, in  
24           Clarksville.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. And let's look at the next image. And what is  
2 this image? Is this part of your report?

3 A. (DeWan) That's correct. We saw this yesterday.

4 Q. Okay.

5 A. (DeWan) This is the same image, of a single  
6 photograph looking in the same direction with  
7 the Project in place.

8 Q. And you decided to use this point of view for  
9 conducting your Visual Impact Assessment based  
10 on what?

11 A. (DeWan) Well, first of all, it was a  
12 combination of factors. You know, we wanted to  
13 show what the effect may be on the Moose Path  
14 Scenic Byway and at this particular point in  
15 the Connecticut River Scenic Byway. It was a  
16 place that we knew had a moderate amount of  
17 traffic. We also, you know, we did a fairly  
18 extensive amount of evaluation of this area.

19 Q. Is it possible that there may be a different  
20 point of view from which you are observing this  
21 location that would have -- that would show a  
22 greater impact of the proposed Project?

23 A. (Kimball) We actually have two photosimulations  
24 from Route 145. So, this is one of two.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. Right. I'm just talking about this specific  
2 one?

3 A. (DeWan) Maybe I'm not --

4 Q. If I were to, for example, you've picked a  
5 point, right, from which to look at this  
6 landscape, correct?

7 A. (DeWan) That's correct.

8 Q. Okay. And, if you were to move 20 feet in  
9 either direction, is it possible that could  
10 change the visual impact?

11 A. (DeWan) Highly unlikely.

12 Q. Why?

13 A. (DeWan) Excuse me, just knowing the nature of  
14 this particular place where we took the  
15 photograph, I believe we were on the edge of  
16 the road. Looking in that direction, 20 feet  
17 one way or the other, would not change  
18 appreciably the relationship between the  
19 foreground open fields and the hills in the  
20 midground or the background.

21 Q. What if it's 30 feet?

22 A. (DeWan) No.

23 Q. Forty feet is?

24 A. (DeWan) I'd have to be there to make that

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[WITNESS PANEL: DeWan|Kimball]

1 determination. At some point, you'd probably  
2 drop down enough, so you may not even see those  
3 two structures in the background.

4 Q. Is it possible they would become even more  
5 visible depending on what direction you move  
6 in?

7 A. (DeWan) Well, if you went closer to them,  
8 there's a possibility that they may be closer  
9 to you and therefore more visible. But this is  
10 a location along the scenic byway. So, it's  
11 the view from the scenic byway, which is what  
12 the rules require.

13 Q. Let's take a look at, hopefully we have it  
14 digital, --

15 MS. DORE: And just for the record,  
16 the document we just were looking at was  
17 Applicants' 1, Appendix 17, Pages 14346 and  
18 14347.

19 MS. BOEPPLE: Thank you. If we could  
20 switch back please, Dawn.

21 Can we zoom in on that a little bit  
22 please? Yes. There we go. Perfect.

23 BY MS. BOEPPLE:

24 Q. Do you recognize this?

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[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) I believe it was just enlarged, and it  
2 really should not be looked at in an enlarged  
3 format.

4 MS. BOEPPLE: Okay. Let's pull it  
5 back a little bit.

6 WITNESS DeWAN: Thank you.

7 BY MS. BOEPPLE:

8 Q. So, you recognize this from your report,  
9 correct?

10 A. (DeWan) Big Dummer Pond. We also looked at  
11 this yesterday.

12 Q. Yes.

13 MS. BOEPPLE: Now can we now zoom in  
14 just a little bit, so we can look at it a  
15 little bit closer?

16 MS. DORE: And would you please  
17 identify the document.

18 MS. BOEPPLE: So, this is document  
19 Applicants' Exhibit 1, Page 14400.

20 MS. DORE: Appendix 17.

21 MS. MANTEAU: Appendix 17.

22 BY MS. BOEPPLE:

23 Q. Okay. So, you chose a particular vantage point  
24 for this location, correct?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) On Big Dummer Pond, yes.

2 MS. BOEPPLE: Okay. Can we pull up  
3 SPNF 69?

4 BY MS. BOEPPLE:

5 Q. This is also Big Dummer Pond, isn't it?

6 A. (Kimball) It's the same photograph, I believe.

7 Q. Is it?

8 MS. BOEPPLE: Let's switch back.

9 MS. DORE: SPNF 69, page?

10 WITNESS DeWAN: Can you zoom out  
11 again please and see the entire page?

12 MS. BOEPPLE: 04271.

13 WITNESS DeWAN: Okay. This is a  
14 panoramic view. This is a compilation of  
15 several photographs that have been digitally  
16 stitched together to create the panorama.

17 MS. BOEPPLE: Uh-huh. And let's go  
18 back to SPNF 69.

19 BY MS. BOEPPLE:

20 Q. So, what I'm suggesting is, is there a  
21 difference in the way that the -- you're using  
22 the visual imagery to illustrate the resource,  
23 correct?

24 A. (Kimball) These are the exact same photographs.

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[WITNESS PANEL: DeWan|Kimball]

1 It's just cropped slightly different here so  
2 the panoramic is not as extensive.

3 Q. Would the viewer's experience -- is the  
4 viewer's experience somewhat different between  
5 these two photographs?

6 A. (DeWan) Oh, absolutely.

7 Q. Okay.

8 A. (Kimball) It's the same photograph.

9 A. (DeWan) No, but the viewer --

10 A. (Kimball) It's the same photograph.

11 Q. Okay. The exact same photograph, but the  
12 viewer has a totally different experience. Is  
13 that a fair way to --

14 A. (DeWan) No.

15 Q. No. Okay. Go ahead.

16 A. (DeWan) Let me characterize it. The viewer  
17 experience -- well, there's different types of  
18 viewers.

19 Q. Right.

20 A. (DeWan) Okay. Let's say the boater, somebody  
21 who's going to go out there fishing, for  
22 example. They're going to go out in the middle  
23 of the pond, and their view is going to be a  
24 360-degree view.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay.

2 A. (DeWan) Because, depending on the wind  
3 patterns, depending upon, you know, how they're  
4 fishing that day, they may see 360 degrees. A  
5 person who is at this particular point, which  
6 is where you may put a boat in, has this view,  
7 and I don't know if that's a 90-degree view,  
8 let's say. It depends on where you are  
9 relative to the edge of the water, relative to  
10 your mode of transportation.

11 Q. Exactly. Thank you.

12 MS. DORE: For the record, SPNF 69 is  
13 not Bates stamped, but it is identified as  
14 "Page 24" that just was reviewed.

15 MS. BOEPPLE: Thank you. I'm pretty  
16 sure it is Bates stamped, when we filed it, as  
17 part of the --

18 MS. MANTEAU: It was filed first  
19 without Bates stamps, then filed with Bates  
20 stamps. It should be.

21 MS. BOEPPLE: Okay. So, I just have  
22 a couple more questions.

23 BY MS. BOEPPLE:

24 Q. So, the viewer experience that you've tried to

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1 capture to depict the scenic resources and the  
2 potential impact of the Northern Pass Project  
3 is a perspective that you've taken certain  
4 criteria, you've taken certain elements, and  
5 you've tried to determine, in your professional  
6 opinion, that this is an accurate depiction of  
7 what that viewer experience might be, correct?

8 A. (DeWan) Are you talking "this", meaning this  
9 photograph, or are you talking about our Visual  
10 Impact Assessment?

11 Q. Your Visual Impact Assessment for the whole  
12 route.

13 A. (DeWan) Right. And that's both a narrative,  
14 and it's also the photographic illustrations  
15 that we've provided.

16 Q. Right. And you've just said that a viewer  
17 experience could differ. For example, on  
18 Dummer Pond, someone going out on a boat is  
19 going to have a different experience, correct?

20 A. (DeWan) Right. And I believe we discussed that  
21 in our testimony -- in our prefiled testimony  
22 and in the report.

23 Q. So, you agree that a viewer experience could  
24 differ from what the SEC is looking at, in

[WITNESS PANEL: DeWan|Kimball]

1 terms -- let me back up for a second. You're  
2 using static photographs to try and illustrate  
3 a viewer experience. Is that a fair statement?

4 A. (DeWan) What we've done is provided the SEC  
5 with the photosimulations, in keeping with  
6 their requirements for doing photosimulations.  
7 That's one component. We've also provided a  
8 Visual Impact Assessment, which describe the  
9 viewer expectation, the viewer experience, what  
10 they do there, the sort of activities that they  
11 are engaged with, what they see along the way  
12 to get to this point, which is all part of the  
13 viewer experience.

14 Q. Right. And that might actually differ from  
15 some of the visual imagery that is part of your  
16 report, correct?

17 A. (DeWan) Well, what we have shown, which you  
18 haven't shown on the screen here, is some of  
19 the scenes that somebody sees along the access  
20 road, --

21 Q. Right.

22 A. (DeWan) -- for the five miles coming in here.

23 Q. There's only so much you can do, right?

24 A. (DeWan) Well, we've provided representative

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1 photographs to convey to the people who are  
2 making the decision what the mindset is of a  
3 person who arrives at this location. And it's  
4 influenced by a number of factors.

5 Q. And, therefore, my question is, this is one,  
6 when looking at the visual materials that have  
7 been provided, they're one perspective.

8 They're not necessarily -- I understand you  
9 have a narrative, I understand all of that.

10 But the actual visual experience is not  
11 depicted in these photographs necessarily, --

12 A. (DeWan) That's why --

13 Q. -- for some of the sites, correct?

14 A. (DeWan) I would say that's probably true for  
15 all the sites.

16 Q. Okay.

17 A. (DeWan) That's why you provide a detailed  
18 narrative accompanying them.

19 Q. Okay. Thank you. Okay. I'm going to ask you  
20 to bear with me, we're going to do a  
21 hypothetical. And I want you to just make an  
22 assumption here for a minute. Let's say that  
23 Northern Pass would create an unreasonable  
24 adverse effect on at least some of the scenic



[WITNESS PANEL: DeWan|Kimball]

1 resources in New Hampshire. Let's just assume  
2 that. I know you've said it won't, but let's  
3 assume that it will. And it doesn't have to be  
4 any specific one, we're not going to talk about  
5 any specific ones. And let's assume -- can you  
6 go along with me with this?

7 A. (DeWan) No, I can't, because we do not judge  
8 whether or not the impacts are unreasonable or  
9 not. We're judging whether or not their  
10 impacts are low, medium, or high, which is the  
11 requirement of the SEC.

12 Q. So, you have no opinion as to whether or not  
13 Northern Pass will have an unreasonable adverse  
14 effect on aesthetics?

15 A. (DeWan) That's not what you asked. Our job is  
16 to determine whether or not the Project will  
17 have an unreasonable adverse effect on  
18 aesthetics. We don't make that determination  
19 on a resource-by-resource basis.

20 Q. I didn't ask you to make that determination on  
21 a "resource-by-resource basis". I asked you to  
22 assume for a minute that instead of -- your  
23 opinion was there won't be an unreasonable  
24 adverse effect, is it not?

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1 A. (DeWan) That is correct.

2 Q. I'm asking you to assume the opposite. I'm  
3 asking you to assume that there will be an  
4 unreasonable adverse effect. I just want you  
5 to assume that for a minute. And I'm not  
6 asking you to say that there is.

7 CHAIRMAN HONIGBERG: Let's hear what  
8 the question is, --

9 WITNESS DeWAN: Yes.

10 CHAIRMAN HONIGBERG: -- and see where  
11 you can go from there.

12 BY MS. BOEPPLE:

13 Q. Well, if there is, if there were, and there's  
14 no way to avoid that unreasonable effect, by  
15 changing the aboveground route, for example,  
16 and there's no way to adequately mitigate  
17 through plantings and screening, or some other  
18 mitigation effort that we haven't talked about,  
19 is it possible that a proper mitigation might  
20 be to just bury the whole line? That's my  
21 question.

22 A. (DeWan) Again, we would have to look at what  
23 the implications of burial would be. There's  
24 the possibility that burial may have

[WITNESS PANEL: DeWan|Kimball]

1 unreasonable adverse effects on aesthetics  
2 also.

3 Q. But you've found that there were no  
4 unreasonable adverse effects in any of the  
5 buried portions of the route, correct?

6 A. (DeWan) That's not what we -- again, we didn't  
7 look at specific sites. We looked at the  
8 overall Project. We did not find there are any  
9 high visual impacts from the burial of the  
10 underground route.

11 Q. Your assessment was that there are stretches of  
12 this route that are buried and stretches that  
13 are aboveground. Based on that route, you've  
14 said there's not an unreasonable adverse  
15 effect, correct?

16 A. (DeWan) That's correct.

17 Q. I've asked you to assume that that route, with  
18 those buried portions and those aboveground  
19 portions would have an unreasonable adverse  
20 effect. I've asked you to use that as just a  
21 baseline assumption. And, with that  
22 assumption, I'm asking you if a mitigation  
23 could be to bury the entire line, even -- I  
24 know there's a lot of variables and factors

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1           you'd have to look at. I'm just asking you,  
2           could that be?

3    A.    (DeWan) It certainly is one option that one  
4           would normally look at, if it was judged to be  
5           unreasonable.

6                    MS. BOEPPLE: Thank you. No further  
7           questions.

8                    CHAIRMAN HONIGBERG: All right. On  
9           my list, the Municipal groups are next, and I  
10          have Mr. Whitley's name first. But it's not  
11          going to be Mr. Whitley, it's going to be Ms.  
12          Fillmore.

13                   MS. FILLMORE: We just thought we'd  
14          keep it interesting.

15                   CHAIRMAN HONIGBERG: And everybody  
16          appreciates that.

17                   MS. FILLMORE: There's going to be  
18          math.

19                   CHAIRMAN HONIGBERG: Ms. Fillmore,  
20          will you be warning us when the math is coming?

21                   MS. FILLMORE: I will.

22                   CHAIRMAN HONIGBERG: So, those who  
23          need to cover at that point can find shelter.

24                                    *[Laughter.]*

[WITNESS PANEL: DeWan|Kimball]

1 MS. FILLMORE: Hi, Mr. DeWan and Ms.  
2 Kimball.

3 WITNESS DeWAN: Hello.

4 MS. FILLMORE: My name is Christine  
5 Fillmore, and I represent several towns who are  
6 intervenors in this matter. I have a few  
7 questions --

8 WITNESS DeWAN: Excuse me. Could you  
9 identify which towns you're representing?

10 MS. FILLMORE: Certainly. Bristol,  
11 Easton, Franconia, Sugar Hill, Northumberland,  
12 Whitefield, and Plymouth.

13 WITNESS DeWAN: Thank you.

14 MS. FILLMORE: I'm going to ask some  
15 questions that I hope do not overlap too much  
16 with what already occurred. I've had to cross  
17 things out as we go. So, I apologize if some  
18 of it jumps around a little bit.

19 BY MS. FILLMORE:

20 Q. In your analysis of the visual impact of the  
21 Project as it's proposed, did you rely on the  
22 vegetation that was present at the time that  
23 you made your assessments?

24 A. (Kimball) The computer-based visibility

[WITNESS PANEL: DeWan|Kimball]

1 assessment is based on a dataset. So, it was  
2 based on the vegetation as it was collected at  
3 that time. Our fieldwork and photosimulations  
4 and site work was based on existing conditions.

5 A. (DeWan) And, when you say "vegetation that  
6 existed at the time", are you talking about the  
7 vegetation within the corridor or the  
8 vegetation in general?

9 Q. The vegetation that you found important, as far  
10 as the way that it affected views of the  
11 Project, the impact that the Project might  
12 have.

13 A. (DeWan) So, you're talking about vegetation of  
14 the overall landscape then?

15 Q. Yes.

16 A. (DeWan) Yes.

17 Q. Okay. And, do you know, do the Applicants own  
18 or have easement rights over all of the  
19 vegetation that you considered important, as  
20 far as screening views of the Project go?

21 A. (DeWan) I don't believe they have.

22 Q. Do you know if the Applicants can prevent some  
23 or all of that vegetation from being cleared by  
24 the property owners?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) I doubt if they have any control over  
2 vegetation cutting on land outside of the  
3 corridor.

4 Q. And do you know if the Applicant can add  
5 vegetation beyond what's there now for  
6 additional screening?

7 A. (DeWan) It's my understanding that the  
8 Applicant could add vegetation with the  
9 approval of the underlying landowners.

10 Q. And, if some of that vegetation were destroyed  
11 by a fire or a storm, would the Applicants have  
12 any ability or obligation to restore it?

13 A. (DeWan) When you say "that vegetation", are you  
14 talking about the ones that I just mentioned  
15 that may be used for planting purposes,  
16 screening purposes?

17 Q. The vegetation that was there that you relied  
18 upon in making your assessments.

19 A. (DeWan) If the land is -- if a forest fire  
20 occurs, let's say, I would assume it would be  
21 the responsibility of the individual landowner  
22 to restore or allow the vegetation to restore  
23 naturally.

24 Q. And would the Applicant have any control over

[WITNESS PANEL: DeWan|Kimball]

1 that?

2 A. (DeWan) Not to my knowledge.

3 Q. Or obligation to do anything about it?

4 A. (DeWan) Not to my knowledge.

5 Q. And you just mentioned "forests". So, there is  
6 some forest that is -- that would be providing  
7 some screening, is that correct?

8 A. (DeWan) That's typical throughout most of New  
9 Hampshire.

10 Q. If that forest were cut or burned or destroyed  
11 by a storm, how long would it take a mature  
12 forest to regrow?

13 A. (DeWan) It would start immediately. It would  
14 take place over X number of generations.

15 Q. Tree generations or people generations?

16 A. (DeWan) People generations. It depends what  
17 you mean by "restore"?

18 Q. I mean back to the condition it is now.

19 A. (DeWan) Depends on the type of forest that was  
20 there right now.

21 Q. Can you say with certainty that there would be  
22 no significant adverse visual impact from the  
23 Project if some or all of that vegetation that  
24 you relied on went away?

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[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) If all the vegetation that we relied  
2 on, which is most of the vegetation along the  
3 150-mile aboveground corridor went away, it  
4 would be a major disaster to the entire State  
5 of New Hampshire.

6 Q. That wasn't my question.

7 A. (DeWan) And could you repeat the question then?

8 Q. Yes. Can you say with certainty that, in that  
9 situation, that there would be no significant  
10 adverse visual impact from the Project?

11 A. (DeWan) We haven't evaluated that.

12 Q. So, you can't?

13 A. (DeWan) I can't say with certainty.

14 Q. I believe I heard you both say yesterday that,  
15 other than the Northern Pass Project,  
16 Mr. DeWan, most of your experience is outside  
17 of New Hampshire, and, Ms. Kimball, all of your  
18 experience is outside of New Hampshire, is that  
19 correct?

20 A. (DeWan) That's correct.

21 A. (Kimball) In VIA work, it's correct.

22 Q. What research did you perform to determine  
23 which kinds of information in New Hampshire is  
24 kept by the state and which kinds of

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[WITNESS PANEL: DeWan|Kimball]

1 information is kept by towns?

2 A. (Kimball) Well, it's clear that certain  
3 resources are town-based, for example, master  
4 plans, recreation inventory. And some  
5 resources are maintained by the State, like  
6 state byways, state parks. So, it depends on  
7 the particular resource type that you're  
8 referring to.

9 Q. And would you say that you performed a thorough  
10 research regarding the various programs that  
11 are established in New Hampshire under New  
12 Hampshire law to identify, regulate or protect  
13 scenic resources?

14 A. (DeWan) I believe we did.

15 Q. Do you know how much of that information is  
16 required to be posted on public websites by  
17 individual towns?

18 A. (DeWan) I do not.

19 Q. Would it surprise you to know that none of it  
20 is required to be posted on town websites?

21 A. (DeWan) I don't know what the policy is. I  
22 know that we relied upon the websites for a lot  
23 of the information that we got for individual  
24 communities.

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[WITNESS PANEL: DeWan|Kimball]

1 A. (Kimball) We also relied on our fellow land-use  
2 consultants at Normandeau, who had acquired all  
3 of the master plans.

4 Q. Are master plans the only documents you relied  
5 upon from towns?

6 A. (Kimball) No. It depended on the town.

7 A. (DeWan) For example, in Deerfield, there is a  
8 map of their public lands and their trail  
9 systems. A lot of towns went beyond the master  
10 plans to look at specific elements that were  
11 important to them.

12 Q. Am I understanding you correctly that, if a  
13 town did not go so far as to put something on  
14 its website, that you did not -- that your  
15 conclusion would be it's not that important to  
16 them?

17 A. (Kimball) No. As I said, we acquired  
18 information from Normandeau, who had gotten all  
19 of the master plans from the communities.

20 Q. You said master plans were not the only thing  
21 you relied on, though?

22 A. (DeWan) Well, we also looked at guidebooks. We  
23 looked at other websites. We looked at tourism  
24 information. We looked at other reports. We

[WITNESS PANEL: DeWan|Kimball]

1 looked at regional planning commission reports.  
2 We looked at the scenic byways corridor  
3 management plans. A wealth of information  
4 that's out there.

5 Q. Did you call, email, or visit any of the towns  
6 along the proposed route to ask them about  
7 scenic resources they felt were important?

8 A. (DeWan) We did not.

9 Q. Why not?

10 A. (DeWan) We relied upon the information that was  
11 published. We felt that that was an accurate  
12 characterization of what they felt was  
13 important to their community, that made it into  
14 the master plan, or other types of information  
15 that we evaluated.

16 Q. How familiar are you with small towns in New  
17 Hampshire? And by that I mean "small",  
18 populations of less than a thousand. In terms  
19 of their sophistication and use of the internet  
20 and websites?

21 A. (DeWan) If they're similar to the towns that we  
22 deal with in Maine, I think we're quite  
23 familiar with that type of community.

24 Q. Would you say that it's possible for a town,

[WITNESS PANEL: DeWan|Kimball]

1 with limited financial resources and a small  
2 population, that it's possible that that town  
3 might not post everything that they deem to be  
4 culturally important or scenically important on  
5 their website, perhaps because there were other  
6 ways for people to find out about it?

7 A. (DeWan) There is that possibility, which is one  
8 of the reasons we do extensive fieldwork, and  
9 driving around the communities, the back roads,  
10 the byways, and so forth, to see what is out  
11 there. And, if we saw something that may not  
12 be listed or documented, you know, we would  
13 explore that to find out more information about  
14 it.

15 Q. While you were driving around, you didn't think  
16 it was important enough to stop into any of  
17 those town halls?

18 A. (DeWan) We relied upon the data, as I mentioned  
19 before, for our source of information.

20 Q. I see.

21 MS. FILLMORE: Dawn, can I use Apple  
22 TV please?

23 BY MS. FILLMORE:

24 Q. I'm going to bring up now what will be marked

[WITNESS PANEL: DeWan|Kimball]

1 as "Joint Muni Exhibit 268". These will all be  
2 posted today. This is an excerpt from  
3 Applicants' Exhibit 92, Page -- well, this says  
4 "Page 14", it's actually Page 15 of Applicants'  
5 Exhibit 92.

6 CHAIRMAN HONIGBERG: Ms. Fillmore?

7 MS. FILLMORE: Yes.

8 CHAIRMAN HONIGBERG: Why does this  
9 need to be marked as an exhibit?

10 MS. FILLMORE: It doesn't have to be,  
11 if it doesn't -- if you would prefer that it  
12 not be.

13 CHAIRMAN HONIGBERG: It just seems  
14 like -- it's been happening a lot, but it seems  
15 like an unnecessary waste of space. It's their  
16 testimony from an existing exhibit, and you're  
17 showing it to them.

18 MS. FILLMORE: It was simply for ease  
19 of reference. We cannot mark it as an exhibit.

20 CHAIRMAN HONIGBERG: It's entirely up  
21 to you. Digital space seems unlimited.

22 *[Laughter.]*

23 MS. FILLMORE: Yes.

24 BY MS. FILLMORE:

[WITNESS PANEL: DeWan|Kimball]

1 Q. I scrolled down to the bottom of the page to  
2 Line 29 through 31. And let me just go back up  
3 to the question here. And this has to do with  
4 your answer to the question of your  
5 understanding of the public's legal right of  
6 access to scenic resources. Do you see that?

7 A. (DeWan) That's correct. Yes.

8 Q. Okay. And, going down to Line 29, regarding  
9 "Parks and Recreation Areas", it says "All  
10 parks and recreation areas were considered to  
11 have public access." Do you see that?

12 A. (DeWan) That's right.

13 Q. Okay. Did you do -- did you do any research  
14 into the New Hampshire statutory scheme that  
15 makes certain privately owned land eligible for  
16 reduced property tax assessments if it is  
17 categorized as "recreation land"?

18 A. (DeWan) Yes, we have.

19 Q. Okay. And are you familiar with that statute?

20 A. (DeWan) Quite familiar with it.

21 Q. I'm going to bring it up now.

22 A. (DeWan) You're talking about the current use  
23 statute?

24 Q. I am. And here it comes. This will be marked

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1 as "JT MUNI 269". And you can see this is RSA  
2 79-A:4. And I'll represent, for the purposes  
3 of my question, that the "board" referred to  
4 here is the Current Use Board. So, Paragraph  
5 II that's highlighted, are you familiar with  
6 this section?

7 A. (DeWan) Yes. I believe we discussed this the  
8 last -- the first two hours that we appeared  
9 before the SEC.

10 Q. Yes. There's a specific reason that I'm going  
11 back to this. So, you are also familiar with  
12 Site Evaluation Committee Rule 102.45, which we  
13 discussed -- which you discussed earlier with  
14 Attorney Connor, correct?

15 A. (DeWan) That's correct.

16 Q. And that says that, and I can bring it up, if  
17 you would prefer, but it says that a "scenic  
18 resource" is "resources to which the public has  
19 a legal right of access", and, in part,  
20 "Recreation trails, parks, or areas  
21 established, protected or maintained in whole  
22 or in part with public funds." Does that sound  
23 familiar?

24 A. (DeWan) That is correct.



[WITNESS PANEL: DeWan|Kimball]

1 Q. Thank you. What definition of "public funds"  
2 did you use in your mind when you were  
3 considering this?

4 A. (Kimball) Locations, such as state parks, that  
5 received money from the State for their  
6 maintenance, protection or establishment.

7 Q. Okay. Here comes the math. What I'm bringing  
8 up now is a document with the rules on it, but  
9 also, down here, a hypothetical. It will be  
10 marked as "JT MUNI 270". So, I'm going to ask  
11 you to assume some hypothetical facts. And  
12 please understand that this is a crude  
13 approximation. I'm a lawyer, and math is not  
14 my thing.

15 So, assume for a moment that there is a  
16 town -- sorry, here we go. We are assuming  
17 these facts at the bottom. Assume for a moment  
18 there is a state --

19 A. (DeWan) Excuse me.

20 Q. Yes.

21 A. (DeWan) Could you raise it up so we can see it?

22 Q. I can, when we get to that part. So, say  
23 there's a state with no individual income tax  
24 or a sales tax. So, property tax is a large

[WITNESS PANEL: DeWan|Kimball]

1 part of the way that public funds are raised in  
2 this particular state. Say that, in this  
3 state, there's a town with 1,000 pieces of real  
4 estate. And assume that each piece of real  
5 estate has a fair market value of \$1,000.

6 Still with me?

7 A. (Kimball) Yes.

8 A. (Witness DeWan nodding in the affirmative).

9 Q. Okay. Say that that town needs to raise  
10 \$100,000. So, what they do is they look at  
11 what they have to work with, a thousand  
12 parcels, each valued at \$1,000. They have  
13 \$1,000,000 in real estate value. They need to  
14 raise \$100,000. So, they would divide what  
15 they need by what they have. Divide \$100,000  
16 you need to raise by \$1,000,000 in valuation.

17 And would you agree with me, subject to  
18 check, that you would get a tax for one -- a  
19 tax of \$100 for every thousand dollars in  
20 value?

21 A. (Kimball) Sure.

22 A. (DeWan) To raise that amount of money.

23 Q. Yes. Okay. So, now, let's change the facts  
24 for a moment, and I'm getting to my question.

[WITNESS PANEL: DeWan|Kimball]

1 Assume everything is the same, except that 200  
2 of the 1,000 parcels qualify for a 20 percent  
3 reduction in assessment under the current use  
4 statute for recreation land. So, their  
5 assessment would be \$800 each. And everything  
6 else is the same.

7 The result would be, your total taxable  
8 value of real estate is 960,000, instead of the  
9 million dollars. Do you see that?

10 A. (DeWan) I do.

11 Q. And, if you divide what you need, \$100,000, by  
12 the value of what you have, \$960,000, you get a  
13 tax of \$104 for every thousand dollars in value  
14 for all the taxpayers in that town.

15 Would you agree, subject to check, that  
16 that math makes sense?

17 A. (DeWan) Subject to check.

18 Q. So, if you look at the conclusion here at the  
19 bottom, 800 of those parcels would be taxed at  
20 \$104 each, and the ones with the assessment  
21 reduction would be taxed \$83.20 each.

22 So, my question is, when some property  
23 gets assessed at a lower rate, everybody's  
24 taxes go up a little bit to make up the

[WITNESS PANEL: DeWan|Kimball]

1 difference, is that right?

2 A. (DeWan) It's generally how it works, yes.

3 Q. So, wouldn't you agree with me that, in  
4 essence, the current use recreation area tax  
5 system pays the people who allow the public to  
6 use their property for recreation by reducing  
7 their taxes, and to pay for this system,  
8 everyone else in town pays a little extra?  
9 Wouldn't you agree that, in that sort of a  
10 system, public funds are being used to  
11 establish or maintain a recreational area?

12 A. (DeWan) I think we're getting into an area of  
13 policy that we're certainly not adept to  
14 address as visual consultants.

15 Q. Your impact assessment is based on your  
16 interpretation of the rule, is it not?

17 A. (DeWan) That's correct.

18 Q. And, as part of that interpretation, you  
19 created a methodology by which you decided  
20 which parcels to include in your assessment, is  
21 that correct?

22 A. (DeWan) That's correct.

23 Q. And my question is, why you didn't include  
24 these parcels in your assessment?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) Well, first of all, we don't  
2 necessarily agree with the way it's worded. We  
3 felt that establishment --

4 Q. I'm sorry, with the way what is worded?

5 A. (DeWan) I'm sorry. We don't necessarily agree  
6 with the fact that common use -- or, current  
7 use is one of the grounds for considering a  
8 land to be publicly accessible. The fact that  
9 it's "established, protected or maintained" is  
10 in the rules, implies that there should be a  
11 receipt. If money is spent, there should be a  
12 receipt that shows how the money is spent to  
13 establish or maintain that. We don't think  
14 that's happening here.

15 We also take -- we also don't think that  
16 the terms that are established under current  
17 use necessarily define public access. It lists  
18 six specific types of recreation activities  
19 that this would allow. And it also has  
20 specific rules about what happens if you want  
21 to build a structure, a septic system, a  
22 driveway, *etcetera*, within that area. And it  
23 talks specifically about how you define the  
24 ultimate outline of those parcels.

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[WITNESS PANEL: DeWan|Kimball]

1           But what -- we use as an example, let's  
2           say you have a group of six graders that you  
3           want to go out mushroom-collecting or  
4           berry-picking or perhaps bring a boat down to a  
5           water over current use land. The landowner has  
6           the right to question whether or not you're --  
7           why you're there, because that's not part of  
8           the six defined recreation activities. And I  
9           suppose that that landowner has the ability to  
10          ask them to leave. I don't consider that to be  
11          "public use". "Public use", to us, means that  
12          you should have the ability, within certain  
13          limitations, to access the land without being  
14          questioned by the landowner.

15   Q.    Mr. DeWan, does the statute say "public access  
16          for recreational use without question by the  
17          landowner"?

18                   CHAIRMAN HONIGBERG:  Ms. Fillmore,  
19          are you going to get into a legal argument with  
20          this witness about the current use law and its  
21          interpretation?

22                   MS. FILLMORE:  I am only attempting  
23          to discern how they applied these statutes and  
24          the rules, which they have admitted in

[WITNESS PANEL: DeWan|Kimball]

1 testimony more than once in the last several  
2 days, is the basis for the way they designed,  
3 conducted, and concluded their study.

4 CHAIRMAN HONIGBERG: And you could  
5 make a legal argument that they have done it  
6 wrong. That is a -- that is a legal argument  
7 about how to interpret the statute and the  
8 rules.

9 And, if you want to ask him another  
10 question on this topic about what he did and  
11 why he did it, you may disagree with him. But  
12 arguing with him that he's "doing it wrong",  
13 unless he's going to break down on the stand  
14 and go "Oh, my God, you're right", it's not  
15 really going to be productive.

16 MS. FILLMORE: I only have a few more  
17 questions.

18 CHAIRMAN HONIGBERG: Wonderful.

19 BY MS. FILLMORE:

20 Q. Did you ask any of the towns and cities along  
21 the proposed route about information --  
22 information about whether any parcels of land  
23 along the route received a reduced tax  
24 assessment because it's publicly accessible

[WITNESS PANEL: DeWan|Kimball]

1 recreation land?

2 A. (Kimball) No. Because we fundamentally  
3 disagree that receiving a tax break is then  
4 receiving funds to establish, protect or  
5 maintain the land.

6 MS. FILLMORE: Thank you. That's all  
7 I have.

8 CHAIRMAN HONIGBERG: Mr. Whitley, are  
9 you up next?

10 MR. WHITLEY: Yes. Give me a second,  
11 Mr. Chair.

12 CHAIRMAN HONIGBERG: Off the record.

13 *[Brief off-the-record discussion*  
14 *ensued.]*

15 MR. WHITLEY: Good morning.

16 WITNESS DeWAN: Good morning.

17 WITNESS KIMBALL: Good morning.

18 MR. WHITLEY: My name is Steven  
19 Whitley. I represent a number of  
20 municipalities along the route. I'll name them  
21 for you: New Hampton, Pembroke, Deerfield,  
22 Littleton, and the Water & Sewer Department of  
23 the Town of Ashland.

24 BY MR. WHITLEY:

{SEC 2015-06} [Day 32/Morning Session ONLY] {09-12-17}



[WITNESS PANEL: DeWan|Kimball]

1 Q. I want to start with just some kind of  
2 housekeeping background questions that have  
3 come up through some of the prior testimony  
4 you've given here. Neither one of you is  
5 licensed in New Hampshire as a landscape  
6 architect, is that correct?

7 A. (DeWan) That is correct. We have someone in  
8 our office who is.

9 Q. Okay. But that person is not here before the  
10 panel and that person did not submit testimony  
11 to this panel, correct?

12 A. (DeWan) That is correct.

13 Q. Okay. And you're not -- the two of you are not  
14 holding yourself out as holding a New Hampshire  
15 license, correct?

16 A. (DeWan) That is correct.

17 Q. And I note, Mr. DeWan, in your CV that was  
18 attached to your direct testimony, that there  
19 was no mention of the Redington or Black Nubble  
20 wind farm cases. That's correct, isn't it?

21 A. (DeWan) I have many versions of my CV. I don't  
22 recall which one was submitted. But, if it  
23 wasn't there, it was because that was a fairly  
24 -- that was a project that was done early in my

[WITNESS PANEL: DeWan|Kimball]

1 career, and there's been a lot of additional  
2 ones done since then.

3 Q. But, as you sit here, you know, you acknowledge  
4 that that was a project that could have some  
5 relevance to your credibility as a witness  
6 before this panel, correct?

7 A. (DeWan) Well, all the work that we've done in  
8 the area of visual impact assessment has been  
9 used to establish our experience.

10 Q. And did you not include it in your CV because  
11 you didn't want the SEC to be aware of the  
12 ultimate denial of that project, based, in  
13 part, on your visual assessment.

14 A. (DeWan) As I said, you know, we've represented  
15 a number of projects that we have done that are  
16 fairly current. That was a project that was  
17 done before the enactment of the Maine Wind  
18 Energy Act, which actually led to the creation  
19 of the Maine Wind Energy Act.

20 Q. I don't think you answered my question.

21 A. (DeWan) The answer is no.

22 Q. Okay. I want to turn now to your report. And  
23 just for ease of reference, what I'm going to  
24 be referring to is Applicants' Exhibit 1,

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[WITNESS PANEL: DeWan|Kimball]

1 Appendix 17, which is your October 2015 report,  
2 correct?

3 A. (DeWan) Yes.

4 Q. Okay. And I'm going to be making reference to  
5 the pages as you labeled them, because the  
6 version I'm working off of doesn't have Bates n  
7 umbers. But I will identify what pages,  
8 though, for the record.

9 A. (DeWan) Okay.

10 Q. So, your methodology states that the photosims  
11 were performed from key observation points at a  
12 given resource. That's correct, right?

13 A. (DeWan) Many of them we would consider to be  
14 key observation points.

15 Q. Okay. And I have up here on the screen, this  
16 is from your methodology, this is M-10 [M-11?],  
17 and we're looking at 7.1 there. And that's  
18 where it states "photosims...provided to  
19 illustrate how the Project will look from  
20 KOPs". And "KOPs" are -- it's a term that  
21 you've defined on the following page -- the  
22 previous page, apologies. Do you see that on  
23 your screen there?

24 A. (DeWan) 6.1.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. That's right. And this is on Page M-10 of your  
2 report. And the KOPs are chosen for a couple  
3 of reasons. They're publicly accessible or  
4 adjacent to a resource. That's where the  
5 largest number of structures or the maximum  
6 extent of visibility is. And, also, the  
7 greatest amount of public use. And I'm  
8 paraphrasing. But that's basically how you  
9 define the "KOPs", correct?

10 A. (DeWan) In our 6.1, yes.

11 Q. That's right. So, when you're trying to find  
12 and locate a KOP, you need all three of those  
13 in order to be designated as a "KOP", right?

14 A. (DeWan) When you say "all three of those", what  
15 are the three factors?

16 Q. Well, I'm reading in 6.1, and you see, about  
17 halfway through there, the sentence that starts  
18 with "A KOP is", and then following that. And  
19 it looks like you've laid out three kind of  
20 elements of what qualifies as a KOP.

21 A. (DeWan) An "accessible location", "a scenic  
22 resource", "number of transmission structures",  
23 "maximum extent of the project". So, there may  
24 be more than three.

[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay. Well, we can -- that's not the point of  
2 my question. But that's --

3 A. (DeWan) Yes.

4 Q. -- roughly, though, what you need to identify  
5 something and designate it as a KOP?

6 A. (DeWan) That's correct.

7 Q. Okay. And I did it as three, but maybe it's  
8 more than that, --

9 A. (DeWan) Okay.

10 Q. -- but that's okay.

11 A. (DeWan) Yes.

12 Q. And, then, you go out and you verify those  
13 locations, in part, by field visits, correct?

14 A. (DeWan) That's right. We first identify them  
15 based upon our viewshed mapping. And, you  
16 know, in consultation with, you know, as we've  
17 discussed before, town plans and other data  
18 sources, to find out where they possibly might  
19 be located.

20 Q. Okay. And let's assume that the KOP that you  
21 selected for some reason didn't adhere to the  
22 criteria that we just discussed. That would  
23 cast some doubt of how representative it is of  
24 the impact on the resource, wouldn't it?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) I'm not sure I understood the first  
2 part of your question. When we're out there,  
3 you know, one of the things that we do is not  
4 to go to a single viewpoint. You know, we will  
5 go to a number of different viewpoints to look  
6 at where the public has access. We look at use  
7 patterns. We look at changes in visibility.  
8 We try and assess where the Project might be  
9 most visible from. We take photographs at all  
10 of those locations. Once we get back into the  
11 office, then we do computer modeling, and then  
12 insert the computer model on top of the  
13 photograph, to make sure that what we're then  
14 selecting as our KOP meets the criteria as  
15 established right here.

16 Q. Right. But your analysis has a visual  
17 component to it, does it not?

18 A. (DeWan) Absolutely.

19 Q. Okay. And this Committee is evaluating, in  
20 part, the visual component, that picture  
21 representation of the impact on a given  
22 resource, correct?

23 A. (DeWan) That's right.

24 Q. Okay. And I think you just testified that the

1 photosims are done from KOPs?

2 A. (DeWan) That's correct.

3 Q. Okay. And, so, back to my question now,  
4 assuming that you selected a KOP location that  
5 didn't adhere to the criteria in 6.1 that we  
6 just talked about, and I understand it's an  
7 assumption and you may disagree with it, but,  
8 if a KOP was selected that didn't adhere to  
9 this criteria, wouldn't you agree that it's not  
10 representative of the visual impact on a given  
11 resource?

12 A. (DeWan) We wouldn't select it unless it met  
13 those criteria.

14 Q. I understand. And I understand you disagree  
15 with the assumption. But, if your KOP was not  
16 chosen correctly, wouldn't you agree that it  
17 doesn't accurately represent how the Project  
18 impacts a resource?

19 A. (DeWan) Well, when we talk about the resource,  
20 you know, we're talking about points, lines,  
21 and areas. I think that's a consistency  
22 throughout our project. KOPs from points,  
23 let's say, hypothetically, there is a  
24 mountaintop, that was a point. A linear

[WITNESS PANEL: DeWan|Kimball]

1 feature, like a scenic byway or a road or a  
2 hiking trail is a good example of a linear  
3 feature. An area, it could be a state park, it  
4 could be a designated historic district, it  
5 could be any number of area-wide locations.  
6 And we then select a point within that area to  
7 represent the entire scenic resource.

8 Q. No, I understand all that. And we're going to  
9 talk about how KOPs are further refined in just  
10 one second. I didn't really hear an answer to  
11 my question. So, I can repeat it, if you'd  
12 like me to?

13 A. (DeWan) Perhaps you should, yes.

14 Q. Okay. Again, it's if you got a KOP wrong, and  
15 I know that's an assumption that you need to  
16 make to answer this question, but, if you got a  
17 KOP wrong, wouldn't that impact how  
18 representative the impact of the Project is on  
19 a resource?

20 A. (DeWan) I guess I don't know what you mean by  
21 "getting it wrong". You know, the  
22 photosimulations that we do, the KOPs that are  
23 established, are one source of information.  
24 And the impact evaluation that we do is not



[WITNESS PANEL: DeWan|Kimball]

1 based just upon that one snapshot. It's based  
2 upon an appreciation of the entire resource.

3 Q. I understand that. Let me ask it a different  
4 way. Let me ask it a different way. In order  
5 to show how the Project will impact a resource,  
6 that is why you came up with the criteria that  
7 is in 6.1. Is that a fair statement?

8 A. (DeWan) That's correct.

9 Q. Okay. Thank you. And you just mentioned this,  
10 but I just want to touch on it. So, a KOP can  
11 be further broken down into kind of three  
12 subareas. There's a point, a linear feature,  
13 and then a scenic area, right?

14 A. (DeWan) No.

15 Q. Okay.

16 A. (DeWan) What I said is that there are three  
17 different types of scenic resources: Points,  
18 lines, and areas. And, so, our job is to find  
19 representative key observation points in each  
20 of those. For a point, it's pretty obvious.

21 Q. You're right. Thank you for the clarification.  
22 I have it in the -- just further down that  
23 page, in Section 6.2. And you're right, that  
24 it is scenic resources that are broken down in

1 that manner.

2 But this difference in how they're  
3 classified is not just academic. Because,  
4 depending on how it's classified, you might  
5 need more than one KOP from a certain resource,  
6 right?

7 A. (DeWan) That's correct. And, in many of our  
8 examples, we have multiple photosimulations  
9 that have been done.

10 Q. Okay. But all those photosims from within a  
11 resource, so, if you have -- let me back up and  
12 start that over. If you do have more than one  
13 KOP in a given resource, they all need to meet  
14 that criteria of 6.1 that we just discussed?

15 A. (DeWan) Yes, they should.

16 Q. Okay. And, at the highlighted part here, for a  
17 point, a scenic resource that is a point, you  
18 say there that "a single viewpoint will  
19 [typically] suffice to illustrate the effect".  
20 Whereas, if it's a scenic area, I think it's  
21 around the middle, yes, excuse me, third line,  
22 "multiple vantage points to experience the  
23 landscape...are identified", right? Isn't that  
24 right?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) Yes, it is. And we used that, for  
2 example, in Bear Brook State Park.

3 Q. Okay.

4 A. (DeWan) And, in addition to the  
5 photosimulations, of course, we also provide  
6 other photographs, maps, etcetera, to help the  
7 reviewers, in this case, the SEC, understand  
8 the full extent of the scenic area.

9 Q. And, for Deerfield Center, which I know we've  
10 talked about a good bit, that was a scenic  
11 resource and not a point, correct?

12 A. (DeWan) Do you mean a "scenic area and not a  
13 point"?

14 Q. I do. Thank you. Thank you. Yes.

15 A. (DeWan) It is a scenic resource, it's a  
16 registered historic area, and it is not a  
17 point.

18 Q. So, what is it then?

19 A. (DeWan) It's a scenic area.

20 Q. Thank you.

21 A. (DeWan) Yes.

22 Q. I'm going to go now to -- this is Page M-13,  
23 and this is where you talk about the  
24 methodology of the Visual Impact Assessment.

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[WITNESS PANEL: DeWan|Kimball]

1 Do you see that on your screen there?

2 A. (DeWan) Yes.

3 Q. Okay. And you've broken this down into various  
4 components of the assessment. And the 8.3 one  
5 talks about "Determination of Visual Effect".  
6 Do you see that?

7 A. (DeWan) That is correct.

8 Q. And, then, over on the right-hand side there,  
9 there's a subheading in bold for "Transmission  
10 Structures". Do you see that?

11 A. (DeWan) Under "Spatial Dominance", 8.3.3.

12 Q. That's right. And I'm sorry, I tried to  
13 highlight this, but for some reason I could  
14 highlight the other pages and I couldn't  
15 highlight this one.

16 But, under that "Transmission Structure"  
17 one, the second bullet from the bottom, and  
18 I'll just read it into the record, it states  
19 that "Changes in structure visibility and  
20 visual effect from different viewpoints (in  
21 linear features and scenic areas)", right?

22 A. (DeWan) That's correct.

23 Q. So, I'd be correct to say that, because  
24 Deerfield Center is a scenic area, that you

[WITNESS PANEL: DeWan|Kimball]

1 needed to comply with that language that I just  
2 read under the "Spatial Dominance"  
3 consideration, correct?

4 A. (DeWan) In describing the effect, yes.

5 Q. That's right. So, you had to look at how  
6 changes in structure visibility and visual  
7 effect from different viewpoints in the  
8 Deerfield Center District, right?

9 A. (DeWan) And we did that, yes.

10 Q. Okay. All right. We've already talked about  
11 this a little bit. So, I'm fairly certain that  
12 these questions were not covered earlier, but  
13 there may be a little bit of overlap just to  
14 kind of set up a question or two.

15 In your visual assessment for the  
16 Deerfield Center, you acknowledged that the  
17 master plan for Deerfield recommends  
18 classifying the town's historical villages to  
19 preserve and build upon traditional village  
20 character, right?

21 A. (DeWan) I believe that's correct.

22 Q. And I'll help you out. I meant to pull this  
23 up, sorry. So, this is the Deerfield Center  
24 VIA. And this is Page 6-26 of your

[WITNESS PANEL: DeWan|Kimball]

1           October 2015 report. And the highlight there  
2           on the left-hand side of the page is what I  
3           just asked you, and you agreed with that.

4                        Wouldn't you agree that, if a structure is  
5           visible from more than one location within a  
6           resource, that that does not preserve and build  
7           upon traditional village character, as the  
8           master plan recommends?

9   A.    (DeWan) Well, remember, the evaluation that we  
10   do look at the entire village, not a specific  
11   point within it.

12   Q.   And I want to talk to you now about some of the  
13   pictures that you've included. Because my read  
14   of them is that they're a bit misleading as to  
15   the extent of the impact at this resource. So,  
16   you see here on Page 6-26, I want to point you  
17   to two captions of pictures. And I can blow  
18   this up, just so it's a little bit more  
19   legible. So, this is the top one. You see  
20   there, it states that "The existing trees will  
21   block views of Northern Pass structures",  
22   right?

23   A.    (DeWan) That's correct.

24   Q.    And, then, the lower picture says "The top of

[WITNESS PANEL: DeWan|Kimball]

1 one structure will be visible above the  
2 roofline of the church in leaf-off conditions",  
3 right?

4 A. (DeWan) That's correct.

5 Q. But neither of those statements is completely  
6 accurate, is it? And I'll turn your attention  
7 now to the photosim that was created by T.J.  
8 Boyle. And this picture is from Counsel for  
9 the Public 138. And it's DE-2e. And you see  
10 there that right next to the Community Church  
11 building steeple is a Northern Pass tower  
12 structure, correct?

13 A. (DeWan) That is correct.

14 Q. And I now want to show you the visual, the  
15 photosim prepared by Mr. Dodson on behalf of  
16 the Forest Society. And this is SPNF 62, and  
17 this is Page 67 of that exhibit. And you see  
18 there, to the left of that Community Church  
19 building steeple, that's the tower structure,  
20 is it not?

21 A. (DeWan) That appears to be.

22 Q. Okay. So, going back to your captions then,  
23 the Boyle and Dodson sims show that the trees  
24 don't block all the views, and are visible,

[WITNESS PANEL: DeWan|Kimball]

1 even in leaf-off/leaf-on conditions, isn't that  
2 correct?

3 A. (DeWan) Those are different viewpoints that  
4 were used in those two reports.

5 Q. I understand that. But your captions on these  
6 pictures don't make that nuance.

7 A. (DeWan) It is a nuance. The top one doesn't  
8 say "it will block all views", it only says "it  
9 will block views". And I think we say, in our  
10 narrative, that there will be some places where  
11 it will be visible.

12 Q. But, if these pictures are to represent the  
13 visual component of your analysis, and the  
14 Committee is supposed to look at these, these  
15 visual components, to evaluate your work, and  
16 they're reading these captions, I think the  
17 import of those captions is that this structure  
18 is visible almost none at all. And, from these  
19 photosims, that's just not the case, is it?

20 A. (DeWan) It will be visible in limited  
21 locations -- limited areas within the overall  
22 historic district.

23 Q. And your VIA for this resource also fails to  
24 appropriately mention or account for the views



[WITNESS PANEL: DeWan|Kimball]

1 shown in those photosims, doesn't it? And  
2 we'll go there in just a second.

3 So, this is the VIA for the Deerfield  
4 Center. You see that on your screen there,  
5 Mr. DeWan?

6 A. (DeWan) Yes.

7 Q. Okay. And I want to turn your attention now to  
8 the middle of the page, it's the right-hand  
9 column, the "Overall Visual Impact" paragraph  
10 there. The second bullet describes "the areas  
11 of greatest visibility". Do you see that?

12 A. (DeWan) Yes.

13 Q. Neither of those -- neither of the photosims we  
14 just looked at is mentioned in that paragraph,  
15 is it?

16 A. (DeWan) I don't believe so.

17 Q. And, looking at the third bullet there, the  
18 Project is described as having a "minimal  
19 presence". But, looking at the Boyle and  
20 Dodson sims, the Project has more than a  
21 minimal presence, does it not?

22 A. (DeWan) From that location, it is visible.  
23 Again, we're talking about the overall historic  
24 district, which is the area in outline as shown

[WITNESS PANEL: DeWan|Kimball]

1 on our report.

2 Q. Mr. DeWan, I'd like you to assume that a  
3 pedestrian is walking through this district,  
4 and they're walking from east to west on Church  
5 Street. From the photosims, I believe you've  
6 acknowledged that they have at least two  
7 distinct views of the Northern Pass structure,  
8 right? They have one as they're going west,  
9 when it's not blocked by those trees. And,  
10 then, as they keep going west, they have a  
11 different view of the same structure, but this  
12 time on the other side of the church steeple?

13 A. (DeWan) As you approach on the other -- on the  
14 west side of the church.

15 Q. Right. Is that a fair statement?

16 A. (DeWan) There's a gap in the vegetation between  
17 the church and the existing trees, where you'll  
18 have a view of that structure.

19 Q. Uh-huh. And Attorney Fillmore touched on this  
20 a little bit, but, if something were to happen  
21 to that stand of trees, you know, disease,  
22 lightning, a freak car accident, or, you know,  
23 just the owner deciding that they didn't want  
24 the trees there anymore, that would impact your

[WITNESS PANEL: DeWan|Kimball]

1 visual impact assessment for this resource,  
2 wouldn't it?

3 A. (DeWan) We don't take into consideration what  
4 may happen in the future. You know, we're  
5 asked to look at what's out there right now.

6 Q. Understood. And what you did right now is that  
7 a lot of your impact assessment was premised on  
8 that stand of trees being there to screen some  
9 views of the Project, correct?

10 A. (DeWan) That's correct.

11 Q. So, if that stand of trees is not there, then  
12 the Project becomes more visible, for a longer  
13 duration, and would arguably have a greater  
14 impact, would it not?

15 A. (DeWan) I think that's a fair statement.

16 Q. Based on your testimony, you would agree that  
17 the photosims of the Project that you produced,  
18 as part of your report and for this panel, do  
19 not accurately represent the most visible  
20 viewpoints within Deerfield Center of the  
21 Project, do they?

22 A. (DeWan) It represents a location within the  
23 overall Center, which I think shows the average  
24 view that one would see within the historic

1 district.

2 Q. But didn't we have a conversation about KOPs  
3 and what they're supposed to represent? And  
4 one of the criteria was that they're supposed  
5 to be the visibility that's "the maximum  
6 extent"? Wasn't that language in there?

7 A. (DeWan) That is.

8 Q. Okay. And, because Deerfield Center is a  
9 scenic resource, didn't the spatial dominance  
10 criteria require you to consider changes in  
11 visibility of a structure as you move within  
12 the resource?

13 A. (DeWan) Again, the resource is the entire many  
14 acre area. And, throughout most of the area,  
15 where it's not going to be visible, it will  
16 have no effect.

17 Q. I don't think you answered my question.  
18 Doesn't your methodology, Section 8.3.3, for  
19 spatial dominance, require you to consider the  
20 visibility of a structure as you move within  
21 the resource?

22 A. (DeWan) Yes, it does. And "moving within the  
23 resource" means looking at the entire resource,  
24 in this case, the entire historic district.

[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay. But your photosim that you provided and  
2 created shows a very particular location where  
3 the tower is screened by one stand of trees,  
4 correct?

5 A. (DeWan) That's correct.

6 Q. Okay. And you maintain that that is consistent  
7 with your methodology?

8 A. (DeWan) Well, we maintain that it represents a  
9 view which is representative of what you may  
10 see throughout the entire district. In some  
11 places, you're not going to see any at all. In  
12 a few places, it's going to have a much more  
13 open view that what we're seeing in the other  
14 two photosimulations.

15 Q. Don't you believe that's a little misleading to  
16 the Committee here to provide a very particular  
17 photosim that doesn't show where the Project is  
18 most visible?

19 A. (DeWan) Well, again, we're looking at the  
20 entirety of the area. And I think the question  
21 before the SEC is "what effect will it have on  
22 the area itself?" Not on a specific location  
23 within it.

24 Q. You're correct. And, if they're going to make

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[WITNESS PANEL: DeWan|Kimball]

1 that conclusion, don't you think they'd want to  
2 know where in the resource the Project is most  
3 visible?

4 A. (DeWan) That may be a consideration of theirs.  
5 And this is one of the places that they visited  
6 on their field trip.

7 Q. I want to turn now to an area that is very  
8 close here, the Sherburne Woods Community  
9 Center. Are you familiar with that?

10 A. (DeWan) Yes. On Upham Drive?

11 Q. That's right. That's right. So, I'm going to  
12 go now to Joint Muni 189. And this has already  
13 been provided to the Committee. This is a data  
14 request. Are you familiar with this data  
15 request and the answer?

16 A. (DeWan) Yes.

17 Q. Okay. Did you assist in providing the  
18 response?

19 A. (DeWan) I believe so.

20 Q. Okay. So, as part of this response, there were  
21 a couple of photos of the Sherburne Woods  
22 Community Center. And they were -- apologize,  
23 let me just read the Bates number in here.  
24 Joint Muni 007395, and then the next picture

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[WITNESS PANEL: DeWan|Kimball]

1 we're going to look at is Joint Muni 007396.

2 So, going back up to this earlier one,  
3 this is a view of the current conditions at the  
4 Sherburne Woods Community, correct?

5 A. (DeWan) That's correct.

6 Q. Okay. And just to orient us, we're standing on  
7 Upham Drive, or maybe on the sidewalk just to  
8 the side.

9 A. (DeWan) I believe we're just -- this is a  
10 driver's eye view of the view.

11 Q. Okay. So, in other words, you're on the street  
12 then, is your recollection?

13 A. (DeWan) That is correct.

14 Q. Okay. And do you take this picture or did  
15 someone else?

16 A. (DeWan) I believe I did.

17 Q. Okay.

18 A. (DeWan) There's actually two photographs here,  
19 and then spliced together.

20 Q. Because this is a panoramic?

21 A. (DeWan) It looks like it, yes.

22 Q. Okay. Okay. The next photo here is a photosim  
23 of the Project, correct?

24 A. (DeWan) That is correct.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. And, in the photosim, there are a stand of  
2 trees blocking the structure. But those trees  
3 don't currently exist, do they?

4 A. (DeWan) That is correct.

5 Q. Okay. And I think that your boundary of the  
6 Deerfield Center does not include Sherburne  
7 Woods, correct?

8 A. (DeWan) That's correct.

9 Q. But the Project is visible while standing  
10 within the Deerfield Center, is it not?

11 A. (DeWan) As we've shown before, yes, it is.

12 Q. Okay. But this tower, in this portion of the  
13 corridor, is also visible while you're standing  
14 on Upham Drive, within the Deerfield Center  
15 District?

16 A. (DeWan) I believe where we took the photograph  
17 we were right on the boundary line or just over  
18 the boundary line, looking towards the housing  
19 development.

20 Q. Okay. And, in thinking back to the "KOP"  
21 definition, I believe there was some language  
22 in there about "a viewpoint being from the  
23 resource or adjacent to the resource", is that  
24 correct?



[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) I'd have to go back and look at the  
2 definition.

3 Q. Yes. 6.1, "KOP", and this is back on Page,  
4 sorry, M-10, the second sentence, "A KOP is a  
5 publicly accessible location in or adjacent to  
6 a scenic resource", correct?

7 A. (DeWan) That's right.

8 Q. Okay. But you didn't include any KOP -- or,  
9 you didn't include this viewpoint as a KOP, did  
10 you?

11 A. (DeWan) No, we did not.

12 Q. Okay. Why did you create a photosim for it  
13 then?

14 A. (Kimball) This particular image was developed  
15 in a conversation we had with the Applicant  
16 about potential mitigation. When we were  
17 exploring the Deerfield Center area, we noted  
18 that outside of the scenic resource, on Upham  
19 Drive, this senior home, would have a visual  
20 impact. We brought it up to the Applicant. We  
21 provided a photosimulation showing potential  
22 screening as an option. We worked with the  
23 engineers to look at ways to reduce structure  
24 height, alter location. And I believe that the

[WITNESS PANEL: DeWan|Kimball]

1 potential mitigation measure of offering  
2 resources and funds to help mitigate this area  
3 has been approved by the Applicant.

4 Q. And has it been approved by Sherburne Woods?

5 A. (Kimball) Not to my knowledge. I just know it  
6 was considered by the Applicant.

7 Q. Okay. I want to turn now to another area in  
8 and around Deerfield, and that's the  
9 Pawtuckaway State Park.

10 *[Brief off-the-record discussion*  
11 *ensued.]*

12 BY MR. WHITLEY:

13 Q. Okay. So, we're going to go back to your  
14 October 2015 report. Okay. And this is the  
15 resource description and VIA for Pawtuckaway  
16 State Park, which is on -- this is Page 6-40.  
17 And I want to point your attention to -- oh,  
18 this one is highlighted, great. The first  
19 bullet that's highlighted there. And this is  
20 where you're talking about the overall visual  
21 impact. And you state "Only seen from two  
22 locations. No visual impact on the majority of  
23 the park." Right?

24 A. (DeWan) That's correct.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay. And one of the areas that you identified  
2 and evaluated from was an overlook right near  
3 the north peak summit, right?

4 A. (Kimball) The North Mountain Overlook.

5 Q. The North Mountain Overlook. Yes. Thank you.  
6 Are you aware that's one of the more popular  
7 destinations within the park?

8 A. (Kimball) I wouldn't be surprised to hear that.  
9 It's very accessible.

10 Q. Nice view?

11 A. (Kimball) Beautiful.

12 Q. In the visual impact assessment for this, and  
13 that is on Page 6-4 -- 6-42, bear with me here.  
14 In the visual effect, in the middle of the page  
15 there, there are several bullets. And, in  
16 those bullets, you acknowledge that in direct  
17 sun, the Project is going to have, and I  
18 believe you use the words "considerable  
19 contrast". And you also acknowledge that the  
20 substation expansion is going to create a  
21 larger apparent opening in the viewshed, isn't  
22 that correct?

23 A. (DeWan) That's correct.

24 Q. And this is all occurring at an overlook, where

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[WITNESS PANEL: DeWan|Kimball]

1 the public is invited and expected to stop and  
2 take in the scenery, right?

3 A. (Kimball) Well, when you get to the top of  
4 North Mountain, there's two places that you can  
5 view the scenery. One is to the north and one  
6 is to the east. The eastern view is definitely  
7 the predominant view. That's the very top.  
8 The view that we have included in our  
9 photosimulation is to the north. It's the  
10 lesser of the two viewpoints, but it was the  
11 one that showed the Project more visibly.

12 Q. Thank you. But both those viewpoints are  
13 easily identified -- I mean, let me back up.  
14 Both those viewpoints are apparent to visitors  
15 and easy to locate, correct?

16 A. (Kimball) The viewpoint to the north is an  
17 opening along the trail. The viewpoint,  
18 looking to the east, is the top of the hill.

19 Q. But there are, for the trail, there's an  
20 established trail there to get to the  
21 viewpoint?

22 A. (Kimball) There's an established trail.

23 Q. Okay. And aren't the user's expectations  
24 particularly high at an overlook like this?

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[WITNESS PANEL: DeWan|Kimball]

1 A. (Kimball) Yes. We have that identified as --

2 A. (DeWan) As high.

3 A. (Kimball) -- high.

4 Q. And, in the public use criteria, which is the  
5 column to the right there, you mention, in the  
6 second bullet, that the "viewpoint is not well  
7 managed for visibility" and "vegetation limits  
8 the [full] field of view". Right?

9 A. (Kimball) Yes. That's certainly the case.

10 Q. Okay. And there's been testimony earlier that  
11 you did your analysis based on the present  
12 vegetation, right?

13 A. (DeWan) That is correct.

14 Q. But I think you would agree, as you did  
15 previously, that, if that vegetation is not  
16 present anymore, and it's trimmed back, that's  
17 going to impact the visual effect ranking for  
18 this viewpoint, wouldn't it?

19 A. (DeWan) It depends which vegetation is removed.

20 Q. Well, the vegetation blocking the view.

21 A. (Kimball) If you look at the photosimulation,  
22 you can see the vegetation that we're  
23 referencing. I don't know that you would see  
24 more of the Project, *per se*.

[WITNESS PANEL: DeWan|Kimball]

1 Q. And we'll get to the pictures in just a second.  
2 And the view from this location, you're seeing  
3 a couple things. You're seeing the corridor --  
4 you're seeing more than one corridor, actually.  
5 But you're also seeing the substation and the  
6 substation expansion, right?

7 A. (DeWan) That's correct.

8 Q. Okay. Now, I want to go to the following page,  
9 just to get a sense of what we're looking at.  
10 Okay. So, this is just to orient everyone.  
11 But this is on Page 6-43. And the North  
12 Mountain Overlook, that's where the VIA was  
13 conducted from?

14 A. (Kimball) The VIA was conducted for the state  
15 park as a whole.

16 Q. Excuse me. I meant the photosims that you  
17 created?

18 A. (Kimball) Yes.

19 Q. Okay. And, then, what I just described, which  
20 you confirmed, is you see at the lower part of  
21 the page there, the Deerfield Substation and  
22 the two corridors, correct?

23 A. (Kimball) Yes, in an enlarged, zoomed-in view.

24 Q. And the expanded substation is going to be

[WITNESS PANEL: DeWan|Kimball]

1 located above where the current substation is  
2 and closer to the North Mountain Overlook,  
3 correct?

4 A. (Kimball) Correct.

5 Q. Roughly?

6 A. (Kimball) It's going to be located on the south  
7 side of that substation.

8 Q. Okay. But this is not oriented north-south,  
9 which is why I wanted to just describe it in  
10 that way.

11 Okay. Now, we can take a look at the  
12 pictures. So, this is your currently existing  
13 view. And I'll zoom out here just so it  
14 doesn't -- okay. There we go. And this is  
15 6-46 of your report. And this is from that  
16 North Mountain Overlook?

17 A. (Kimball) Yes.

18 Q. Okay. And the vegetation I was speaking of is  
19 apparent in this picture?

20 A. (Kimball) The foreground vegetation, the  
21 immediate foreground?

22 Q. Yes. And I want to show you now what's been  
23 marked as "Joint Muni 267", and will be  
24 provided to the Committee later on today. And

[WITNESS PANEL: DeWan|Kimball]

1 this is also a picture of the current existing  
2 conditions. And you can see the existing  
3 substation a little more clearly in this  
4 picture, correct?

5 A. (Kimball) It looks to be enlarged.

6 A. (DeWan) This looks like it's a telephoto view.  
7 It looks a lot more distinct than what we are  
8 showing in our -- excuse me -- what we call  
9 "normal" views.

10 Q. Because this is an overlook, and the user  
11 expectation has a high ranking here, wouldn't  
12 you agree that the public taking in this view  
13 is going to go elsewhere or linger less once  
14 the Project is constructed? You've  
15 acknowledged there's a contrast when the sun  
16 shines on it. That there's a larger apparent  
17 opening due to all the clearing associated with  
18 the new substation. Wouldn't you agree that's  
19 going to cause some people to not visit this  
20 area?

21 A. (DeWan) We have no indication that it would  
22 have any effect whatsoever. People who are up  
23 there now see an existing substation. They see  
24 the existing transmission lines in two



[WITNESS PANEL: DeWan|Kimball]

1 different corridors. They see other forms of  
2 human development of the area. They are  
3 certainly comfortable with that. To add an  
4 incremental piece to the existing  
5 infrastructure does not seem like it would have  
6 any effect whatsoever on someone who is very  
7 used to seeing that level of development.

8 Q. I want to turn now to the Town of Pembroke.  
9 And you only did a VIA for the Suncook River  
10 resource, correct?

11 A. (Kimball) Yes. We did an individual visual  
12 impact assessment.

13 Q. Yes. And I can -- I'm sorry. I'm not meaning  
14 to have you recall all that. But this is the  
15 table of scenic resources in Pembroke. And  
16 this is Page 6-6.

17 MR. IACOPINO: And we are in Appendix  
18 17 of Applicants' 1?

19 MR. WHITLEY: That's correct. And I  
20 misspoke, this is Page 6-5.

21 BY MR. WHITLEY

22 Q. But this is the table. And you see the only  
23 highlighted one is the "Suncook River". And I  
24 go now to that, and this is Page 6.6 -- 6-6.

[WITNESS PANEL: DeWan|Kimball]

1 And, on the visual impact assessment, on  
2 Page 6-7, you talk about some mitigation  
3 measures that you would -- you would suggest to  
4 the Applicant to lessen the impact. And your  
5 second and third bullets, under the  
6 "Mitigation" column, require landowner  
7 permission, right?

8 A. (DeWan) That's correct.

9 Q. That's because the screening is going to be on  
10 property that Northern Pass doesn't have  
11 control over?

12 A. (DeWan) That's correct.

13 Q. Right. And you have pictures here to the right  
14 which show those two areas. So, the first one,  
15 on the left at the top, is the east side of the  
16 river, and as you see the existing corridor  
17 behind it. And the next one over is the white  
18 pine buffer that would be removed as part of  
19 the right-of-way clearing, right?

20 A. (DeWan) That's correct.

21 Q. Okay.

22 A. (DeWan) As we understand it.

23 Q. Okay. Yes. And, if the Project is not able to  
24 reach agreement with these landowners, the

[WITNESS PANEL: DeWan|Kimball]

1 mitigation that you are suggesting is not going  
2 to be possible, is it?

3 A. (DeWan) I don't know what the next step would  
4 be. That would be up to the Applicant to  
5 pursue that.

6 Q. Okay. But you didn't do any sort of an  
7 analysis to kind of play that out? So, for  
8 instance, you didn't do any sort of an analysis  
9 for how else you might mitigate the impact  
10 here, if the Project is unable to get landowner  
11 permission for these plantings, correct?

12 A. (DeWan) No, we did not. And, again, as I said  
13 earlier, that mitigation, especially in  
14 situations like this, it's a very site-specific  
15 activity. There may be other things that could  
16 be done relative to mitigation.

17 Q. And your table of scenic resources for Pembroke  
18 doesn't include the Montminy Farm that's  
19 nearby, correct?

20 A. (Kimball) That's correct. It's a private home.

21 Q. That's right. And we talked about that a  
22 little earlier. It is this property that I've  
23 just put on the screen here, correct?

24 A. (DeWan) That's correct.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay. And this is Page 6- -- no, I'm sorry,  
2 Page 8-76. And this is from Applicants' 2,  
3 Attachment Number 8. So, these were the  
4 private property photosims that the Applicants  
5 provided in February of 2016, right?

6 A. (Kimball) That's correct. It's a part of the  
7 private property collection.

8 Q. Okay. And, just to orient everyone, that inset  
9 at the bottom there, which shows the  
10 orientation of the photo, the corridor, right  
11 after it passes out of this picture, then  
12 crosses the Suncook River, correct?

13 A. (Kimball) To the east.

14 Q. To the east, that's right. Yes. And this is  
15 the photosim of the Project as constructed to  
16 the rear of this property, correct?

17 A. (DeWan) That's correct.

18 Q. And this is Page 8-7 -- 8-78, of Applicants' 2,  
19 Attachment 8. And you didn't consider this --  
20 I believe the testimony earlier was you didn't  
21 consider this because it was on a private  
22 property, despite the fact that it is plainly  
23 visible or would be plainly visible from a  
24 public road?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) This is not a scenic resource.

2 Q. Okay.

3 A. (DeWan) It does not meet the criteria under the  
4 SEC rules.

5 Q. Because it has no scenic quality?

6 A. (Kimball) No. Because there is no public  
7 access.

8 Q. I want to back out for a second and touch on  
9 how you reached your ultimate conclusions. And  
10 I'm going to go back to the methodology here.  
11 And this is back to Applicants' 1, Appendix 17.  
12 And this is on Page M-16. And this is the  
13 portion of your report where you describe how  
14 you got to your ultimate conclusions, right?

15 A. (DeWan) That's correct.

16 Q. Okay. And it says there that you determined  
17 overall effects at two levels. You did it at  
18 each subarea, and then the Project as a whole,  
19 right?

20 A. (DeWan) That's correct.

21 Q. Okay. But you weren't required to use that  
22 approach. That's something that you created  
23 for this Project?

24 A. (DeWan) That is correct.

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[WITNESS PANEL: DeWan|Kimball]

1 Q. Okay. And did you choose that approach?

2 A. (DeWan) We did.

3 Q. Was it in consultation with other experts or  
4 with counsel?

5 A. (DeWan) We did it as part of the development of  
6 our work product. It was reviewed by the whole  
7 team. And we all felt that, because that's the  
8 way we evaluated the overall Project, it would  
9 make sense to think about the conclusions based  
10 on a subarea basis leading up to an overall  
11 conclusion.

12 Q. Isn't this approach, though, going to dilute  
13 any negative impact you may find, to the extent  
14 that an ultimate decision of "no unreasonable  
15 adverse impact" is almost a given?

16 A. (DeWan) No.

17 Q. So, I know that you describe in here how you  
18 arrived at your opinion for the Project as a  
19 whole. But I didn't see in there any sort of  
20 discussion of what factors you weighed -- what  
21 factors you considered and how you weighed  
22 those factors against one another?

23 A. (DeWan) There's no requirement in the SEC rules  
24 that we're aware of to weigh factors. We've

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[WITNESS PANEL: DeWan|Kimball]

1 provided you with our conclusions based upon  
2 those six areas -- six conclusions under  
3 "Subarea", 10.1.

4 Q. Well, let me ask it this way, Mr. DeWan. So,  
5 looking at 10.2, the "Project Level" process  
6 you followed to reach a conclusion, you say  
7 that there are -- there's four bullets there.  
8 Were all those bullets weighed the same when  
9 you were reaching your ultimate conclusions?

10 A. (Kimball) The conclusions are based on what was  
11 at the time the draft rules of 301.14, the  
12 criteria that the SEC is required to use when  
13 looking at unreasonable adverse effects.

14 Q. Right. And you've parroted some of that in  
15 writing this, correct?

16 A. (DeWan) Yes.

17 Q. Okay. And I'm asking you, there's a number of  
18 different things you're considering which you  
19 describe here. And I'm asking you, how did you  
20 weigh those things in relation to one another?  
21 Did you put more emphasis on, I don't know,  
22 project visibility versus the number of scenic  
23 resources that were impacted? How did you do  
24 that?

[WITNESS PANEL: DeWan|Kimball]

1 A. (DeWan) I think it's a holistic discussion.  
2 You know, we looked at all the factors, and we  
3 came to a conclusion based upon the evidence  
4 that we found during the course of doing our  
5 work.

6 Q. So that, if -- I guess another way to ask it  
7 is, if two resources both had an impact, you  
8 determine that both of them had a ranking that  
9 was a negative impact, were those properties --  
10 would they be -- would that impact be wiped  
11 away by an equal number of properties that  
12 didn't have any impact?

13 A. (DeWan) Again, we provided an overall  
14 assessment, we've provided the SEC with an  
15 evaluation of the number of resources that  
16 we've looked at. We've ranked -- we've rated,  
17 rather, all of those impacts on a  
18 resource-by-resource basis, and we've also  
19 looked at a subarea-by-subarea basis.

20 A. (Kimball) And to answer your question, the  
21 number of resources that are not impacted was  
22 not considered in our conclusion. It was  
23 looking at the impacts, not the lack thereof.

24 Q. I want to finish talking about the Pemi River



[WITNESS PANEL: DeWan|Kimball]

1 resource, and we spoke about this the other  
2 day. And I believe the testimony was that the  
3 four Pemi River crossings were all evaluated as  
4 a single resource. Did I hear that right?

5 A. (DeWan) Well, the Pemi resource -- the  
6 Pemigewasset River was evaluated as a resource.

7 Q. And my question is, the four crossings, though,  
8 were not evaluated individually? The four Pemi  
9 River crossings, the impact on the river as a  
10 whole was how you evaluated the impact, is that  
11 correct?

12 A. (Kimball) Yes. There are other resources along  
13 the Pemi River, viewpoints, access points, that  
14 were evaluated as separate resources also.

15 Q. Okay. Okay. And thank you for clarifying  
16 that. But --

17 A. (DeWan) If you --

18 Q. Go ahead, Mr. DeWan.

19 A. (DeWan) I'm sorry. Just to supplement what  
20 Jess just said, on Page 4-4, it provides a  
21 summary of the Pemigewasset River. And it does  
22 show an evaluation of each of those four  
23 crossings.

24 Q. Okay. But I thought the testimony yesterday

[WITNESS PANEL: DeWan|Kimball]

1 was that the four river crossings were all  
2 considered a single resource when you did your  
3 evaluation?

4 A. (DeWan) Well, the river is a single resource,  
5 right.

6 Q. Okay. And, so, I think you're agreeing with my  
7 question, that, yes, you did consider the four  
8 crossings altogether as part of a single  
9 resource? And, if not, please say. I'm asking  
10 you.

11 A. (DeWan) Yes. Yes.

12 Q. Okay.

13 A. (DeWan) I think you're right, from my  
14 understanding what you're asking here.

15 Q. I may not be putting it very well. We're close  
16 to lunch. I'm almost done. So, just hand on  
17 for a couple more minutes.

18 So, you did all those four crossings as a  
19 single resource. But wouldn't you agree that  
20 each of those crossings is unique? I mean,  
21 they're at a different location. The  
22 structures at each of those crossings is a  
23 little bit different. The public use  
24 experience may be slightly different. The

[WITNESS PANEL: DeWan|Kimball]

1 visual quality may be different. The impact on  
2 those things may be different.

3 A. (DeWan) Yes. And we describe that in our  
4 report.

5 Q. But, when doing your evaluation, though, you  
6 combined them in some manner for the resource  
7 as a whole?

8 A. (DeWan) Similar to the way we did any linear  
9 resource. You know, we looked at the component  
10 parts where we identified, and then made an  
11 evaluation about what those specific impacts  
12 would have on the resource as a whole.

13 Q. Okay. Are either of you aware that a "scenic  
14 river" designation extends beyond the water  
15 body, and is a quarter mile on either side of  
16 the bank?

17 A. (DeWan) I'm not sure what you mean by "scenic  
18 river designation".

19 Q. Well, there's a national and a state, I  
20 believe, "scenic river" designation, are you  
21 aware of that?

22 A. (Kimball) Is it the New Hampshire River  
23 Management Program?

24 Q. I believe that's correct, yes.

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[WITNESS PANEL: DeWan|Kimball]

1 A. (Kimball) Okay. It's not a "scenic river".  
2 It's just a designated river in New Hampshire.

3 A. (DeWan) And I don't believe it's similar --  
4 Maine has a Scenic Rivers Program. I don't  
5 believe New Hampshire has that.

6 Q. And, as part of that, are you aware that it  
7 extends beyond the water body to a quarter mile  
8 of the shore?

9 A. (DeWan) I guess I'm not sure just exactly what  
10 document you're referring to.

11 Q. Okay. I don't have that in front of me, I  
12 apologize.

13 So, I'm going to finish by just asking you  
14 about how you thought about private property  
15 throughout the corridor. And I know you stated  
16 that, you know, you were only interested in  
17 property where there was a legal right of  
18 access. And, so, for that reason, private  
19 property was excluded from qualifying as a  
20 scenic resource, right?

21 A. (DeWan) Those are the rules that we're  
22 following, yes.

23 Q. Okay. Are you aware of New Hampshire law  
24 regarding posting of land, and that, if land is

[WITNESS PANEL: DeWan|Kimball]

1 not posted, the public has some limited right  
2 to use private property?

3 MR. NEEDLEMAN: Objection. That  
4 calls for a legal conclusion, and I think it's  
5 a mischaracterization of the law.

6 CHAIRMAN HONIGBERG: Mr. Whitley.

7 MR. WHITLEY: I'm just asking if he's  
8 aware of -- I'll rephrase the question.

9 BY MR. WHITLEY

10 Q. Are you aware of New Hampshire state law  
11 regarding posting on private property?

12 A. (DeWan) I am not well versed in New Hampshire  
13 law regarding posting.

14 Q. Okay. So, the law -- the New Hampshire law  
15 that talks about posting on private property  
16 was not part of your consideration in whether  
17 private property qualified as a scenic  
18 resource?

19 A. (DeWan) I believe that's a fair way of looking  
20 at what we did, yes.

21 MR. WHITLEY: Okay. Okay. That's  
22 all I have. Thank you both.

23 CHAIRMAN HONIGBERG: All right.

24 We'll take our lunch break, and we'll return

1 at 1:45.

2 (Lunch recess taken at 12:43  
3 p.m. and concludes the **Day 32**  
4 **Morning Session.** The hearing  
5 continues under separate cover  
6 in the transcript noted as  
7 **Day 32 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.

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Steven E. Patnaude, LCR  
Licensed Court Reporter  
N.H. LCR No. 52  
(RSA 310-A:173)

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