

1 STATE OF NEW HAMPSHIRE  
2 SITE EVALUATION COMMITTEE

3  
4 September 15, 2017 - 1:50 p.m. DAY 34  
5 49 Donovan Street Afternoon Session ONLY  
6 Concord, NH

7 {Electronically filed with SEC on 09-26-17}

8 IN RE: SEC DOCKET NO. 2015-06  
9 Joint Application of Northern  
10 Pass Transmission, LLC, and  
11 Public Service Company of  
12 New Hampshire d/b/a Eversource  
13 Energy for a Certificate  
14 of Site and Facility.  
15 (Hearing on the merits)

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

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

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq., Counsel to the SEC  
Iryna Dore, Esquire, Co-counsel to the SEC  
(Brennan, Caron, Lenehan & Iacopino)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

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

{SEC 2015-06}[Day 34 Afternoon Session ONLY]{09-15-17}

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I N D E X

WITNESS PANEL: Terrence J. DeWan  
Jessica Wagner Kimball

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

2 (Hearing resumed at 1:33 p.m.)

3 CHAIRMAN HONIGBERG: All right.

4 Before we resume questioning of the panel, I  
5 understand, Ms. Boepple, you have something you  
6 need to bring to us?

7 MS. BOEPPLE: Yes, Chair. Thank  
8 you.

9 A couple things with respect  
10 to the procedural order that issued this  
11 week. One, let me start with the recall of  
12 the historic expert, Cheryl Widell. The  
13 order states specifically that she will be  
14 subject to cross strictly on the Programmatic  
15 Agreement. The cultural landscape reports  
16 were also not available during her testimony,  
17 and we're requesting that the recall of her  
18 cross be extended to include those.

19 CHAIRMAN HONIGBERG: Have you  
20 spoken with the Applicant's counsel about this?

21 MS. BOEPPLE: I have not. I've  
22 been talking with him about some other things.

23 CHAIRMAN HONIGBERG: Okay. Mr.  
24 Needleman.

1 MR. NEEDLEMAN: It's not  
2 something I can respond to in the moment,  
3 mainly because I wasn't the person handling  
4 that.

5 CHAIRMAN HONIGBERG: So I  
6 understand the request. I think it would be  
7 possible that if you can get in touch with  
8 Mr. Walker and get us a response sometime this  
9 afternoon, that would be good. Beyond that, I  
10 don't think it makes sense to say anything more  
11 yet. I think they understand the request. I  
12 doubt anyone else has anything substantive they  
13 want to say on this topic. Am I correct?

14 [No verbal response]

15 CHAIRMAN HONIGBERG: All right.  
16 Ms. Boepple, what else have you got?

17 MS. BOEPPLE: The other issue  
18 with respect to the order has to do with the  
19 submission of information related to  
20 cross-examination by the September 22nd  
21 deadline. Two things with respect to that:  
22 One, we're asking for a clarification on the  
23 types of witnesses that that information must  
24 be submitted for. Does that include all, for

1 example, Counsel for the Public's expert  
2 witnesses, No. 1?

3 And No. 2, the other question  
4 that we have is whether or not we could  
5 consider, and I have in fact consulted with  
6 Attorney Needleman on this, to see if we  
7 could reach some sort of an agreement on a  
8 counterproposal to that deadline of the 22nd  
9 for all the remaining witnesses, and that is  
10 to build in a series of deadlines that would  
11 allow all of the parties to submit their  
12 proposed line of questioning for the cross,  
13 for this supposed "friendly cross." It would  
14 make it more manageable. Presumably it would  
15 give all the parties a little more time to  
16 really be thoughtful and produce information  
17 that's sufficient for the Committee to make a  
18 determination about the line of the  
19 questioning for the cross. My fear is that  
20 the September 22nd deadline, for everybody  
21 involved, means that a lot of us will end up  
22 scrambling to put something in by that  
23 deadline, and it's likely to look a lot more  
24 like a very generic sort of, well, I'm going

1 to ask these witnesses questions on orderly  
2 development, for example.

3 So our proposal is that we be  
4 allowed to spend a little more time trying to  
5 come up with a proposal, a proposed  
6 alternative to that single deadline.

7 CHAIRMAN HONIGBERG: Mr.  
8 Needleman.

9 MR. NEEDLEMAN: Beth and I did  
10 talk about this yesterday and again today. We  
11 are willing to show some flexibility on this if  
12 the Committee is inclined to do that. I think  
13 it's important, though, that I state the  
14 concern we've got about the impact that this  
15 could potentially have on scheduling. What I  
16 mean by that is we have a concern that if  
17 everybody is not careful in terms of witness  
18 management going forward, it could get quite  
19 complicated. We could have days where  
20 witnesses aren't ready to go, or we have gaps,  
21 and we'd be very worried about that. And my  
22 fear is that if we create a multiple set of  
23 deadlines for these types of disclosures, it's  
24 only going to enhance that potential problem.

1                   So I think if the Committee  
2                   were inclined to go there, I think what we  
3                   could agree to would be two deadlines: One  
4                   on September 22nd for, say, the first half of  
5                   witnesses, and then another one 10 days later  
6                   for the second half.

7                   CHAIRMAN HONIGBERG: I  
8                   understand the issue. It's something that I  
9                   did think about subsequent to issuing the  
10                  order. I think it makes sense for you to have  
11                  a conversation about this and see if you can  
12                  reach an agreement that will work for everyone.  
13                  I think that it is possible that your concern  
14                  is a valid one, Ms. Boepple, and it's also very  
15                  possible that Mr. Needleman's concern is a  
16                  valid one. So I suggest that you try to take  
17                  both into account.

18                  Keep in mind, I think that the  
19                  timing of all of this shouldn't be quite as  
20                  bad as I think people are making it for  
21                  themselves, because there was a prehearing  
22                  conference in this matter in relatively early  
23                  August, as I recall, certainly within the  
24                  first two weeks of August, I think, at which

1 everyone was supposed to be prepared to  
2 discuss how much time they needed with each  
3 witness, which meant that each person who had  
4 that testimony for many, many months would  
5 have gone through that testimony and figured  
6 out what it was they wanted to ask, so that  
7 they would know how long it would take. So  
8 we're really, I think, talking about people  
9 going back through their notes and  
10 identifying what it is they feel they need to  
11 ask.

12 I'll also say, one of the  
13 provisions of that order is, if you're  
14 adverse and can explain how you're adverse to  
15 the witness, you don't need to give any  
16 information about what you intend to ask.  
17 You're adverse and you'll be doing a  
18 traditional adverse cross-examination. It's  
19 this "friendly" examination where there needs  
20 to be limits placed, because it doesn't make  
21 any sense for a bunch of questions to be  
22 asked of witnesses that reiterate their  
23 testimony, expand on it beyond the scope of  
24 what their direct was and just, I used the



1 phrase "guild the lily" in another context  
2 yesterday, but same could be used here. So I  
3 think there's certainly some agreement the  
4 two of you can reach, and actually, all of  
5 you can reach on scheduling.

6 With respect to the question  
7 about whether it applies to Counsel for the  
8 Public's witnesses, we're going to think  
9 about that and respond later today. Later  
10 today we'll give you an answer on that.

11 MS. BOEPPLE: Thank you.

12 CHAIRMAN HONIGBERG: I think  
13 we're ready to resume questioning. No.

14 Off the record.

15 (Discussion off the record)

16 CHAIRMAN HONIGBERG: All right.  
17 Ms. Crane, you may continue.

18 MS. CRANE: Thank you.

19 CROSS-EXAMINATION (cont'd)

20 BY MS. CRANE:

21 Q. I believe we were talking about access to  
22 Sawhegenet Falls and the possibility of  
23 accessing Sawhegenet Falls from the  
24 campgrounds that are relatively close down

1 river. Is that where you remember us being?

2 A. (DeWan) In that general vicinity, yes.

3 Q. Let's just go. Let's look at the next slide,  
4 remember what we were talking about.

5 The red indicator is -- the green text  
6 above the red indicator says what, Mr. DeWan?

7 A. "Sawhegenet Falls Recreational Area."

8 Q. And it is -- if we trust Google Maps to  
9 measure, and we are now on Page 47, which is  
10 a Google Maps screen capture part of the  
11 Ashland to Deerfield Non-Abutters Exhibit 52,  
12 how far is it from Interstate 93?

13 A. (DeWan) Approximately 2100 feet.

14 Q. About 2100 feet. And do you see very much  
15 else in the general landscape that would tend  
16 to lower the visitor to Sawhegenet Falls  
17 expectation of their experience there?

18 A. (DeWan) Only River Road on the west side.

19 Q. Only River Road on the west side. Okay.

20 Next slide. And this is a blow-up of  
21 that same location. Can you tell us what the  
22 designation on the furthest left arrow is?

23 A. (DeWan) I see an indication of a parking lot.

24 Q. And do you have any recollection, now that

1           you see the picture, what that parking lot  
2           was like?

3    A.    (DeWan) I do remember a relatively level area  
4           at the base of the access road that we  
5           described before, but not a formal parking,  
6           designated parking area.

7    Q.    Okay. I don't need to worry about the  
8           meaning of the term "designation" yet again.

9                   And the other label says what?

10   A.    (DeWan) "Location of put-in."

11   Q.    Okay. And so these are relatively crude ways  
12           of getting to Sawhegenet either by car and  
13           trying to leave your car in what I have  
14           labeled "parking lot," or carrying a kayak or  
15           a canoe across down there to the put-in place  
16           if one wanted to launch from Sawhegenet;  
17           correct?

18   A.    (DeWan) It appears that way.

19   Q.    Okay. So now we've got that in our heads.  
20           And there is in this picture, in the middle  
21           in the bottom, okay, and it isn't made out  
22           very clearly, but I just want us to notice  
23           that there is something there in the middle  
24           of the river. And you've made some

1 suggestion that you understood what it was  
2 when you looked at an earlier slide. Do you  
3 recall what you might have thought that --

4 A. (DeWan) I thought there was an old abutment  
5 of some sort in the river.

6 Q. Okay. And old abutment of some sort. Okay.  
7 Let's keep going.

8 So now we're back trying to get on the  
9 river by kayak. And we looked at this slide  
10 before. This is Page 51, a photograph taken  
11 from the bridge on Route 104 looking up the  
12 Pemi. And what is the designation given to  
13 the area pointed at by the left arrow on this  
14 screen.

15 A. (DeWan) The label says "public boat launch."

16 Q. Okay. And the right arrow says?

17 A. (DeWan) "Davidson Campground."

18 Q. And do you recall that's the campground we  
19 were talking about a few questions before the  
20 break?

21 A. (DeWan) I would just have to assume that it  
22 is.

23 Q. Okay. Subject to check, I think I can assert  
24 that it is.

1           And next slide. This is another picture  
2 taken from Route 104. I know it's quite hard  
3 to read, but can you make out what that sign  
4 says?

5   A.   (DeWan) Looks like "Mooney Clark Landing."

6   Q.   Mooney Park Landing. And what does the road  
7 appear to be -- where does the road appear to  
8 be leading us?

9   A.   (DeWan) Well, I see a turnaround in the  
10 immediate foreground, and the road either  
11 dead ends or may go down the slope straight  
12 ahead.

13   Q.   Okay. And that down the slope would be  
14 toward the river.

15   A.   (DeWan) Appears that way.

16   Q.   Okay. And will you accept my assertion that  
17 that is, in fact, the entryway to the point  
18 that was designated as a public boat launch?

19   A.   (DeWan) I have no idea if that is or not.

20   Q.   Would you like me to get you an aerial view  
21 of that so you can accept my assertion?

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

23   Q.   Okay. So there is -- are you willing to  
24 accept my assertion that there is a boat

1 launch at this location?

2 A. (DeWan) I see there is a sign that says  
3 "landing." I don't see any sign that says  
4 "boat launch" here.

5 Q. What do you think I mean when I say "boat  
6 launch"?

7 A. (DeWan) A place where the public could  
8 generally go down and launch a boat of some  
9 sort into the river.

10 Q. Okay. A boat of some sort. Fine. So I  
11 think we can agree about that. Okay. Next.

12 Okay. So this is another orienting  
13 picture. And the only thing that's different  
14 about this one is the bottom blue arrow. And  
15 the label on that is not a word you  
16 necessarily have seen before, so I'll  
17 pronounce it for you if you would like and  
18 then you can repeat it. Cogliano. And after  
19 "Cogliano"?

20 A. (DeWan) "Access."

21 Q. What does the arrow seem to be pointing  
22 toward?

23 A. (DeWan) To the buffer between the river and  
24 an opening in the forest.

1 Q. What do you mean by a "buffer"?

2 A. (DeWan) A stand of vegetation.

3 Q. Okay. And immediately to the left of the  
4 stand of vegetation?

5 A. (DeWan) I see a field with three white dots  
6 in it.

7 Q. Okay. A field with three white dots in it.

8 Okay. Next slide. And I apologize if  
9 this seems inappropriate. This is an  
10 obituary that was published in what I think  
11 of as The Plymouth Record, and whatever else  
12 it is now in 2008, of a man named -- I'm  
13 sorry. Can you just read the name for me?

14 A. (DeWan) Anthony F. Cogliano.

15 Q. And we are looking at Page 54. Let's not  
16 look at that anymore. Let's go to the next  
17 slide.

18 This is the excerpts that I would have  
19 you read from this. Can you help me reading  
20 that?

21 A. (DeWan) "In 1972, he and his wife founded the  
22 Cogwood Campground on River Road in  
23 Bridgewater and operated it for many years."

24 Q. And the next line says?

1 A. "A celebration of his life will take place  
2 this summer at the Cogwood Campground in  
3 Bridgewater."

4 Q. And if you recall, the obituary was in 2008?

5 MR. NEEDLEMAN: Objection.  
6 Relevance.

7 MS. CRANE: This post-dates his  
8 data; right?

9 CHAIRMAN HONIGBERG: The  
10 question, the pending question is, "Do you  
11 recall that the date was 2008?" You can  
12 answer.

13 A. (DeWan) I did not pay --

14 MS. CRANE: Then let's look at  
15 the prior slide again. Not the next one, the  
16 prior.

17 MR. NEEDLEMAN: Mr. Chair, I'm  
18 objecting to the relevance of this whole line.  
19 I don't understand it.

20 CHAIRMAN HONIGBERG: Yeah, she  
21 hasn't gotten there yet.

22 MS. CRANE: I am content to  
23 leave this question unanswered. I think I got  
24 the date into the record myself.



1                                   Let's continue not one, but  
2                                   two slides.

3 BY MS. CRANE:

4 Q.    And what is on this Slide 56 of Exhibit 52?  
5           What does it appear to be?

6 A.    (DeWan) Well, there appears to be a picnic  
7           table on the right. There seems to be a  
8           pathway of some sort that goes down to a  
9           river.

10 Q.   And let's finish this slide. What does the  
11           sign in the blown-up portion of this picture  
12           say?

13 A.    (DeWan) It says, "No lifeguard on duty. Swim  
14           at own risk."

15 Q.   And would you accept my assertion that we are  
16           looking at the Pemi, at the old Cogliano  
17           Campground?

18 A.    (DeWan) I will accept that.

19 Q.    Okay.

20                                   CHAIRMAN HONIGBERG: Ms. Crane,  
21           what is the relevance of all this?

22                                   MS. CRANE: This is still an  
23           active campground, it's just not publicly  
24           advertised -- I'm sorry -- why we're still

1 talking about kayak and canoe and tube access  
2 to the Pemi, and this is an additional place  
3 where people regularly gain access to the  
4 river.

5 CHAIRMAN HONIGBERG: Mr.  
6 Needleman, you want to say something?

7 MR. NEEDLEMAN: I still don't  
8 understand why it's relevant.

9 BY MS. CRANE:

10 Q. Could you remind me how you described the  
11 users of this particular scenic resource?

12 A. (DeWan) When you say the "users" of the  
13 resource, you're talking about the Pemi River  
14 as a whole?

15 Q. Ah, well, that's an interesting question.  
16 Why do we have any assessment of Sawhegenet  
17 if it's only part of the Pemi as a whole?

18 A. (Kimball) It's also a conservation area.

19 Q. So if you're a conservation area and part of  
20 the river, you still get analyzed, but if  
21 you're a different part of the river you  
22 don't?

23 A. (Kimball) I just looked to Site 102.45, the  
24 definition of "scenic resources," and

1 conservation areas with right of public  
2 access are scenic resources unto themselves.

3 Q. And what do we mean by "conservation area"  
4 here? Because I do not believe that your  
5 description of this particular location made  
6 reference to that. Could you show me where  
7 it does?

8 A. (Kimball) For Sawhegenet Falls?

9 Q. Yes.

10 A. (Kimball) We have it listed as a town  
11 recreation area with trails and access to  
12 Pemigewasset River in the table. I believe  
13 we refer to it as a recreation area. But the  
14 outline on the map that we have provided on  
15 Page 4-8 is an outline of the Sawhegenet  
16 Falls recreation area. That polygon follows  
17 the outline of the conservation easement that  
18 protects it.

19 Q. But you did not include any information about  
20 that in your overall assessment of this  
21 location, did you?

22 A. (DeWan) We described the Sawhegenet Falls  
23 recreation area on Page 4-8.

24 Q. And that description, which the average

1 reader of your report would assume was  
2 comprehensive in your discussion of  
3 Sawhegenet, be the things you took into  
4 account when evaluating Sawhegenet, wouldn't  
5 it?

6 A. (Kimball) It's just what classifies it as a  
7 scenic resource is that it is a conservation  
8 area.

9 Q. Okay. So this is -- next slide. And what is  
10 depicted in this slide?

11 A. (DeWan) A boat of some sort on what we assume  
12 to be the Pemi River.

13 Q. And will you accept my assertion that this  
14 was made only a few feet in front of the last  
15 slide, that it's closer to the river than the  
16 shot in the previous slide?

17 A. (DeWan) I will accept that.

18 Q. And does that boat appear to be a motorboat?

19 A. (DeWan) It appears to be.

20 Q. Okay. Unfortunately, I can only ask you --  
21 no, I can't. Never mind.

22 So let's go on to the next slide, which  
23 is Slide 58. It has been previously admitted  
24 as Ashland to Deerfield Non-Abutters Exhibit

1           29. Could you read the sentence at the end  
2           of the first paragraph?

3           A. (DeWan) Starting with the word "customers"?

4           Q. Thank you. Yes.

5           A. (DeWan) "Customers prefer a route from  
6           Plymouth downriver to New Hampton rather than  
7           the northern route coming to Plymouth because  
8           of the volume of water that this river  
9           carries due to the merger with the Baker  
10          River, and also the lack of development and  
11          the highly scenic experience on the southern  
12          route."

13          Q. And who has written this letter?

14          A. (DeWan) This has been authored by Daniel  
15          Masera from Plymouth Ski & Sports.

16          Q. And are you familiar with the business that  
17          Plymouth Ski & Sports is involved in?

18          A. (DeWan) I am not.

19          Q. Will you accept my assertion that he rents  
20          kayaks and canoes?

21          A. (DeWan) I wouldn't doubt that.

22          Q. Okay. And we can get that into the record in  
23          a more appropriate way by having you read the  
24          sentence that says "A significant...?"

1 A. (DeWan) Which paragraph?

2 Q. In the first paragraph.

3 A. (DeWan) "A significant portion of my  
4 summertime business is based upon kayak,  
5 canoe and tubing trips down the Pemigewasset  
6 River."

7 Q. And then if I could just have the phrase that  
8 begins "also" at the end of that paragraph  
9 again.

10 A. (DeWan) "...also, the lack of development and  
11 the highly scenic experience on the southern  
12 route."

13 Q. And what does this letter suggest is the  
14 expectation of kayak and canoers on the  
15 southern portion of the Pemigewasset,  
16 beginning moving southward from Plymouth?

17 A. (DeWan) The expectation, according to Mr.  
18 Masera, is that they expect to see an  
19 adequate volume of water and a scenic  
20 experience on the river.

21 Q. And what makes that scenic experience  
22 important to them, according to Mr. Masera?

23 A. (DeWan) Perhaps, among other things, the lack  
24 of development.

1 Q. The lack of development. Thank you.

2 Is this the kind of expectation that you  
3 would normally take into account in coming up  
4 with your estimates of expectations for  
5 potential users at scenic resources?

6 A. (DeWan) When you say "this," what are you  
7 referring to?

8 Q. Observations like Mr. Masera's about what's  
9 important to his customers.

10 A. (DeWan) Well, we look at, you know, the  
11 subject property -- in this case, a portion  
12 of the scenic resource -- and evaluate what's  
13 out there right now and determine whether or  
14 not there's any development, a lot of  
15 development, minimal development, and what  
16 type of development that you see. Are there  
17 gravel pits, single-family homes,  
18 transmission lines, railroad tracks and so  
19 forth?

20 Q. And do you recall what your description at  
21 Sawhegenet itself was in your -- in the  
22 formal discussion in your report?

23 A. (DeWan) I think we covered that already. I  
24 think we said --

1 Q. I'm just hoping that we can all have it in  
2 our minds.

3 (Witness reviews document.)

4 A. (Kimball) We state that users expect some  
5 cultural modifications in the landscape when  
6 situated this close to Interstate 93.

7 Q. Okay. Next slide.

8 This is Slide 59, a photograph. And I'm  
9 not sure that it's fair to expect you to  
10 identify it just -- could you tell me what  
11 you could see if you were evaluating this  
12 view, in terms of its -- whatever you take  
13 into account when you take into account human  
14 development?

15 A. (DeWan) Well, as we've said many times, we  
16 don't judge scenes like this on the basis of  
17 an isolated photograph --

18 Q. I didn't ask you to --

19 A. (DeWan) Well, you asked me what I take into  
20 account, so I --

21 Q. I asked you --

22 (Court Reporter interrupts.)

23 A. (DeWan) What we would do is go to this  
24 location, do a 360-degree scan to find out



1           what we see upstream, downstream, across the  
2           river, behind us, and then do an evaluation  
3           based upon what we see, what we experience.

4    Q.    And the question that I intended to ask was:  
5           Looking at this picture, can you identify  
6           anything that you would take into account in  
7           that assessment of the development at this  
8           location?

9    A.    (DeWan) Certainly.  You know, we look at land  
10          form, we look at vegetation, we look at water  
11          bodies and we look at human development.

12   Q.    And I wanted you to address in particular the  
13          human development characteristics.

14   A.    (DeWan) Okay.  I see a bright dot on the  
15          left-hand shoreline.  I have no idea what  
16          that is, but it may indicate something  
17          happening there.  Immediately above that I  
18          see a horizontal line which may indicate  
19          there perhaps is some field of some sort  
20          there.  Photographic quality is a little bit  
21          dark, so I can't see into the woods very much  
22          on either side, so I really can't see  
23          anything that we would normally look for when  
24          we go to a situation like this.

1 Q. Okay. Do you see anything cutting across the  
2 clouds that are lowest to the vegetation line  
3 above that yellow dot?

4 A. (DeWan) I don't see anything.

5 Q. Well, let's go to the next slide and see if  
6 you can figure out what you see. What are  
7 the two blue arrows pointing at?

8 A. (DeWan) I don't know. I don't see anything  
9 other than sky and clouds.

10 Q. Well, I guess I'll have to blow it up.

11 (Pause)

12 Q. What is the lower blue arrow -- can you make  
13 out anything that the lower blue arrow is  
14 looking at?

15 A. (DeWan) It may be the coarseness of the dot  
16 pattern on my screen, but I'm still only  
17 seeing the tops of the clouds.

18 Q. Well, would you accept my assertion that that  
19 is the power -- the transmission lines at the  
20 location that's this New Hampshire scenic  
21 easement?

22 MR. NEEDLEMAN: Objection.

23 CHAIRMAN HONIGBERG: Ms. Crane,  
24 all I'm seeing is clouds.

1 MS. CRANE: Okay. I apologize  
2 that our devices -- I appreciate the quality of  
3 your photographs instead.

4 BY MS. CRANE:

5 Q. Let's go back to the slide and talk about the  
6 other things we could be talking about at  
7 this slide.

8 Okay. Given that you can't see those  
9 power lines and you can't make out what the  
10 yellow dot is, there's not much human  
11 development to be witnessed; is that  
12 accurate?

13 A. (DeWan) No, it's not accurate because, as I  
14 said, I can't see into the woods here.

15 Q. In this view there is not much human  
16 development.

17 A. (DeWan) In this photograph --

18 Q. Yes, that's my question.

19 A. (DeWan) -- I see little human development.  
20 But this view, in reality, may have more that  
21 we're just not seeing here.

22 Q. This sight line. I don't know what you're  
23 using as your definition of "view" but --

24 A. (DeWan) "View" refers to the experience of

1 actually being there as opposed to looking at  
2 a photograph which represents one person's  
3 visit there.

4 Q. I appreciate that. Okay. Let's go.

5 Okay. And this is in fact what the  
6 put-in point at Sawhegenet looks like. We  
7 don't need to spend any more time with this,  
8 except to look at this picture.

9 Now, I apologize. I couldn't get a  
10 version of this picture without a label. But  
11 what does the label say? We are now on  
12 slide 63.

13 A. (DeWan) Says "Pemi River at S falls.JPG."

14 Q. And from what advantage point does this  
15 photograph seem to have been taken?

16 A. (DeWan) It appears to be from a snowmobile  
17 trail perhaps adjacent to the river.

18 Q. Snowmobile trail adjacent to the river. And  
19 I have it on good information that the person  
20 who provided me with the picture intended  
21 that the "S" means Sawhegenet, but I'm not  
22 going to ask you to accept that assertion.  
23 Let's just keep going because it's a  
24 snowmobile trail along the river. Thank you.

1           Next slide. So could you remind me who  
2           you identified as the user groups of  
3           Sawhegenet?

4           A.    (DeWan) Local residents and paddlers.

5           Q.    And are you still comfortable with that being  
6           an accurate summary of the ways that  
7           Sawhegenet gets used?

8           A.    (DeWan) Certainly, based upon that sign that  
9           we saw at the top of the hill.

10          Q.    And what was that sign? What did that sign  
11          say?

12          A.    (DeWan) Something to the effect that use is  
13          limited to local residents only.

14          Q.    The sign at the top of the road is the sign  
15          we're talking about; correct?

16          A.    (DeWan) That's correct.

17          Q.    Are there other ways to get to Sawhegenet?

18          A.    (DeWan) I suppose somebody could arrive by  
19          water. But I don't know if some local  
20          constable would have the ability to ask them  
21          to leave based upon what we saw from that  
22          sign.

23          Q.    And do you remember the pile of rocks in the  
24          middle of the river?

1 A. (DeWan) Yes.

2 Q. And do you imagine that the local constable  
3 could exclude them from that location?

4 A. (DeWan) I would doubt it.

5 Q. Okay. And did you see any signs disinventing  
6 people who did approach from the river?

7 A. (DeWan) No, I did not.

8 Q. And did you see any warning in the Davidson  
9 Campground recommendation of it as a  
10 destination that the local constable might  
11 interact with them at this location?

12 A. (DeWan) You're referring to the publication  
13 that you asked us to read the uses on?

14 Q. Yes.

15 A. (DeWan) I don't recall seeing anything to  
16 that effect.

17 Q. Okay.

18 MS. CRANE: Let's go back to the  
19 slide from the Davidson Campground, the  
20 Sawhegenet directions. Forward two.

21 BY MS. CRANE:

22 Q. So, on this slide, the guests at Davidson  
23 Campground can rent a boat. And on the next  
24 slide they're being invited to go to

1 Sawhegenet Falls. They may be -- they have  
2 two ways to get there. Would you agree? Or  
3 at least two ways to get there, I should say.

4 (Witness reviews document.)

5 A. (DeWan) I think what you're meaning is can  
6 they get there by water or get there by land.

7 Q. That wasn't the intent of my question. So  
8 could you answer it?

9 A. (DeWan) Are there at least two ways to get  
10 there? I know of one way to get there.

11 Q. And that would be?

12 A. (DeWan) Down the road, looking at that access  
13 point that we talked about earlier.

14 Q. And what might be another?

15 A. (DeWan) I suppose one could arrive by water.

16 Q. One could arrive by water. And when you were  
17 exploring Sawhegenet, did you notice any  
18 other way to leave what I have described as  
19 the parking area, the opening there at the  
20 bottom of the road, other than going into the  
21 water or up the road from which you came?

22 A. (DeWan) Any other ways to leave that area?

23 No.

24 Q. Where was that snowmobile going?

1 A. (DeWan) I have no idea. I don't know where  
2 that snowmobile was relative to the parking  
3 lot.

4 Q. Okay. We'll return to this possible way of  
5 getting to and leaving Sawhegenet.

6 Next slide after this. Okay. We looked  
7 at this earlier; correct?

8 A. (DeWan) We did.

9 Q. And we concluded that if there was positive  
10 human development, five points would be added  
11 to the analysis?

12 A. (DeWan) That's correct.

13 Q. And your assessment of Sawhegenet, if I  
14 recall correctly, included only mention of  
15 the natural landscape; is that correct?

16 A. (DeWan) We may have mentioned the possibility  
17 that there may have been an old bridge  
18 abutment in the river --

19 Q. Could you find where in your report you noted  
20 that?

21 A. (DeWan) It may take a moment to find that.

22 (Witness reviews document.)

23 A. (DeWan) I don't see it right now. I know  
24 that we recognized that it was there.



1 Q. Could you please offer to correct the record  
2 if you find it?

3 (Witness reviews document.)

4 Q. We can move on if you'd like to wait until  
5 some other moment --

6 A. (DeWan) Yes.

7 Q. But I think I can ask you. Do you know  
8 whether there were any points for positive  
9 human development added to the Sawhegenet  
10 scoring?

11 A. (DeWan) It will take us a moment to find it.

12 (Witness reviews document.)

13 Q. We could go to the next slide while we're  
14 waiting. And indeed, we've seen this one  
15 several times, so we can go to the next one.

16 A. (DeWan) To answer your earlier question, we  
17 did not reference any positive human  
18 development when we did our evaluation of  
19 existing scenic conditions.

20 Q. Thank you. And we are now looking at Slide  
21 69. Did you assign any points for positive  
22 human development at this location?

23 A. (DeWan) Could you identify where this  
24 location is?

1 MS. CRANE: This location. He's  
2 concerned about this location, so let's...

3 BY MS. CRANE:

4 Q. I'm sorry. Are you asking what the location  
5 of the scene depicted in the slide was, or  
6 are you asking --

7 A. (DeWan) My question is -- I don't know where  
8 that location is.

9 Q. Okay. Let's look at the slide again.

10 MS. CRANE: I think he answered  
11 that.

12 MR. IACOPINO: I think the  
13 problem is that you've put another slide up on  
14 the screen that he was looking at that was  
15 not --

16 MS. CRANE: Oh, okay.

17 MR. IACOPINO: So he's confused  
18 and I'm confused as to which location you're  
19 now speaking about.

20 MS. CRANE: We have not moved an  
21 inch.

22 A. (DeWan) Oh, I thought you moved to a  
23 different location. So are we to assume that  
24 was --

1 BY MS. CRANE:

2 Q. Let's go back and look at that old depiction.

3 Okay. Did your assessment assign any  
4 points for human development at Sawhegenet?

5 A. (DeWan) I believe I just answered that. No,  
6 we did not.

7 Q. Okay. Thank you. So let's go look at the  
8 slide now.

9 MS. CRANE: Let's go back up  
10 one.

11 BY MS. CRANE:

12 Q. And it's a little hard necessarily to see,  
13 but that's the pile of rocks that you earlier  
14 thought might have been a bridge abutment.

15 Yes?

16 A. (DeWan) I'm not sure. Could you show the  
17 historic photograph?

18 Q. Okay. This is a photograph that we've now  
19 looked at three or four times.

20 A. (DeWan) Yes.

21 Q. It's appearing here at Slide 68, but it's  
22 already marked Exhibit 29. And I don't know  
23 exactly where you took it from, but it's your  
24 picture, not mine.

1 A. (DeWan) That's correct.

2 Q. And it's at Sawhegenet. Yes?

3 A. (DeWan) This is, yes.

4 Q. Yes. Okay. So let's try to identify this  
5 pile of rocks.

6 MS. CRANE: Go on to the next  
7 slide, please.

8 BY MS. CRANE:

9 Q. And this appears to be a relatively full  
10 river with an old bridge abutment in it; does  
11 it not?

12 A. (DeWan) It appears to be a wide section of a  
13 river with two large bridge abutments.

14 Q. And there's a slight falls there that also  
15 occurs -- I'm sorry.

16 Do you recall whether there was any  
17 falls at the location named Sawhegenet Falls?

18 A. (DeWan) I don't believe we saw any.

19 Q. Okay. Next picture. What is depicted in  
20 this?

21 A. (DeWan) This appears to be an old covered  
22 bridge.

23 Q. And do you recognize the town in the  
24 background?

1 A. (DeWan) Not from this photograph.

2 Q. Okay. Let's try one more slide. We may nail  
3 this down.

4 Okay. This is Slide 71. It is a  
5 picture of -- so what seems to be depicted  
6 here?

7 A. (DeWan) This is what appears to be a ledge  
8 outcrop with a pile of cut stones on the  
9 right-hand side of it and partially on top of  
10 it.

11 Q. And what would you associate with that?

12 A. (DeWan) It could have been any number of  
13 things. It could have been an old bridge  
14 abutment.

15 Q. And let's look at some of those trees. Do  
16 you see a pine tree on the left and a pine  
17 tree on the right?

18 A. (DeWan) I do.

19 MS. CRANE: Okay. So let's go  
20 down a slide or two. We're moving ahead in the  
21 action, but I need the pictures. So let's go.  
22 Okay. That one doesn't -- let's see if I got  
23 the other one in there. Oh, darn it.

24 BY MS. CRANE:

1 Q. Okay. I gather you're going to resist  
2 accepting my assertion that --

3 MS. CRANE: Let's go to the  
4 pictures that I was present when they were  
5 taken, where the pine tree... okay.

6 BY MS. CRANE:

7 Q. Would you accept my assertion that that is in  
8 fact at Sawhegenet Falls?

9 A. (DeWan) I know this is at Sawhegenet Falls,  
10 yes.

11 Q. This is at Sawhegenet Falls?

12 A. (DeWan) Yeah, I believe this is an  
13 enlargement of our photograph, or it looks  
14 similar to one that's in our photographs.

15 Q. And there is stone, that appears to be cut  
16 stone consistent with this being an old  
17 bridge abutment in this photograph at  
18 Sawhegenet.

19 A. (DeWan) As I said, this appears to be taken  
20 at Sawhegenet Falls. It's similar to the  
21 photograph we have on Page 4-8 in our VIA.

22 Q. Okay. And thank you for identifying the  
23 picture that I thought I had and don't.

24 And so if there is an old bridge

1 abutment there, would that count as human  
2 development, for the possibility of getting  
3 positive points for positive human  
4 development?

5 A. (DeWan) That depends on how visible it was.

6 Q. Is that actually all it would depend upon,  
7 how visible it was? Wouldn't it also depend  
8 upon the expectations of the people using the  
9 place and the understanding of the  
10 significance of the people who are using it?

11 A. (DeWan) That depends on sort of the  
12 interpretation that was presented once they  
13 got down there, people's sense of what to  
14 expect when they arrive at the place. I  
15 would...

16 Q. And did you ever discuss this location with  
17 anyone?

18 A. (DeWan) No, we did not.

19 Q. No, you did not. If you did try to ask  
20 someone, who would you ask?

21 A. (DeWan) Well, I think the first thing we  
22 would do is consult with the local historical  
23 society. Before that, we would probably look  
24 online to see what references there were

1 available.

2 Q. Did you talk to the local historical society?

3 A. (DeWan) We did not.

4 Q. You did not. Did you look online to try to  
5 identify what this pile of rocks was?

6 A. (Kimball) No.

7 Q. No. Okay.

8 MS. CRANE: Let's go back to the  
9 post card.

10 BY MS. CRANE:

11 Q. And would you accept my assertion that that  
12 is in fact a bridge over Sawhegenet Falls?

13 A. (DeWan) I have no way of telling where it  
14 was.

15 Q. I'm asking you to accept my assertion.

16 A. (DeWan) For purposes of this discussion and  
17 to move the discussion along, yes.

18 Q. And if it were the bridge over Sawhegenet  
19 Falls that left those rocks that are now  
20 still visible both in the middle and on the  
21 far shore, would that affect your assessment  
22 of positive human development at this  
23 location?

24 A. (DeWan) Probably not. Just looking at the



1 photograph, the average person going down  
2 there would see those rocks, and I don't  
3 think they would have any appreciation of the  
4 history of the area based upon the evidence  
5 that is before them.

6 Q. So there would be no positive human  
7 development points for this?

8 A. (DeWan) As I said, we do not assign any  
9 points at this location.

10 Q. And if you were aware that this were the  
11 structure, would there be any positive human  
12 development points available?

13 A. (DeWan) If the structure -- if there's more  
14 of a structure there, perhaps. But we didn't  
15 feel that that would qualify as a  
16 modification that added favorably to the  
17 visual quality of the area. Those appear to  
18 be a pile of rocks, just like there are a lot  
19 of other rocks and other natural elements in  
20 the landscape.

21 Q. So why were you guessing it was a bridge  
22 abutment when we first started looking at the  
23 pictures?

24 A. (DeWan) You develop a certain instinct for

1           these things when you see large rocks in the  
2           middle of rivers and you see what appears to  
3           be, you know, remnants on either side or  
4           perhaps on the middle.

5   Q.   And you do not expect people who kayak and  
6           canoe and tube on rivers to understand that  
7           as well?

8   A.   (DeWan) They may.

9   Q.   Okay. I think we've done enough here.

10                   MS. CRANE: Next picture. No,  
11           next.

12 BY MS. CRANE:

13 Q.   Okay. And now we are going to the bottom  
14           line. The arrow, could you read the bullet  
15           point at that arrow?

16 A.   (DeWan) The first one? "Limited or no  
17           visibility during leaf-off [sic]  
18           conditions," is that the one?

19 Q.   Please read it correctly. Thank you.

20 A.   (DeWan) "Little [sic] or no visibility during  
21           leaf-on conditions" --

22 Q.   Okay. Thank you.

23 A.   (DeWan) -- "due to mixed vegetated buffer  
24           along the Pemigewasset River."

1 Q. And the next bullet point.

2 A. (DeWan) "There may be filtered views of one  
3 or two of the transmission structures through  
4 the trees on the eastern bank of the river  
5 during leaf-off conditions."

6 Q. Thank you.

7 Next slide. Do you recognize the  
8 material presented on this slide?

9 A. (DeWan) That is correct.

10 Q. And it is part of your report's assessment of  
11 Sawhegenet.

12 A. (DeWan) That is correct.

13 Q. Okay. And could you tell me a little bit  
14 more about what the red arrow designates?

15 A. (DeWan) We wanted to determine the  
16 effectiveness of the existing vegetation on  
17 blocking or screening the views to the  
18 proposed project, and we wanted to find out  
19 if it would be possible to see the proposal  
20 above the tree line. So this is a typical  
21 cross-sectional diagram that we use, assuming  
22 a person is on the opposite shore of the  
23 river looking up into the sky and their  
24 eyesight would be skimming the tops of the

1 trees, where would that line lead you  
2 relative to the top of the proposed  
3 structure.

4 Q. And where does the sight line begin?

5 A. (DeWan) Sight line begins at a point about  
6 5 feet above the river bank.

7 Q. Five feet above the river bank?

8 A. (DeWan) Eye height.

9 Q. Huh?

10 A. (DeWan) Eye height.

11 Q. Eye height. And did you take any other sight  
12 lines from this location?

13 A. (DeWan) We did not.

14 Q. If the only sight line you took from the  
15 location was at the water, why wasn't this  
16 just part of the river evaluation?

17 A. (DeWan) Well, we looked at it in three  
18 dimensions on the computer, and we were able  
19 to walk around and do an evaluation that way.  
20 We also recognize that the point, if it was  
21 to be visible, the point where it would be  
22 most visible would be along the shoreline  
23 where there wasn't any vegetation obstructing  
24 your view over to the eastern shoreline.

1 Q. And so you never considered what the sight  
2 line would be further up.

3 A. (DeWan) We considered it, but we felt it was  
4 very difficult to look through those trees to  
5 gain visual access to the other side of the  
6 river.

7 Q. Okay. Through those trees. So you're  
8 counting on the vegetation.

9 A. (DeWan) The vegetation around the falls park  
10 area.

11 Q. Around, okay. And so you're also, if I'm  
12 reading this depiction correctly, counting  
13 on, at least from the water level and perhaps  
14 from a little bit above the water level, the  
15 trees on the east bank?

16 A. (DeWan) That is correct.

17 Q. That is correct. Okay.

18 And just because I don't understand it  
19 and I don't want you to have to correct me,  
20 can you read the language in the blue oval?

21 A. (DeWan) "Vertical exaggeration is used in  
22 section."

23 Q. And could you tell me what that means?

24 A. (DeWan) That means we made the trees and the

1 transmission structure more prominent by  
2 exaggerating the vertical scale.

3 Q. Tell me exactly what that involves. I'm  
4 confused, because what would be the point of  
5 not showing this in an accurate way?

6 A. (DeWan) Well, we could have done it that way.  
7 It's just a little bit easier way of looking  
8 at the relative differences between  
9 existing -- between a viewpoint and the other  
10 objects in the landscape.

11 Q. So what would it look like? How would it  
12 change if it hadn't been exaggerated?

13 A. (DeWan) Think of the drawing as being this  
14 big (indicating). It would have been  
15 compressed about like that (indicating).

16 Q. Okay. So everything looks taller than it  
17 actually is.

18 A. (DeWan) That's right. It wouldn't have  
19 changed the outcome.

20 Q. Okay. Thank you.

21 Next slide. And do you recognize this  
22 picture? It's already been part of the  
23 Ashland to Deerfield Non-abutters Exhibit 29.  
24 It's got a Bates Stamp of NPT DIS045441?

1 A. (DeWan) I do recognize it.

2 Q. What does it depict?

3 A. (DeWan) If I recall, this is looking directly  
4 across the river from where we've taken a lot  
5 of the photographs.

6 Q. And these are in fact the trees that you were  
7 counting on obstructing the view of the  
8 towers from the water; is that correct?

9 A. (DeWan) Those are the ones we described, yes.

10 Q. Okay. Next slide. And this is Slide 75,  
11 Bates stamped NPT DIS045465. If you could  
12 tell me what this is?

13 A. (Kimball) Sure. This is a representation of  
14 the Intermap data that I described a little  
15 earlier. And the colors represent the  
16 vegetation height, or the difference between  
17 the digital terrain model and the digital  
18 surface model. So this is a representation  
19 of the data that I described that we used to  
20 do our viewshed mapping.

21 Q. And this is the same data that the smallest  
22 unit of resolution is 5 meters by 5 meters?

23 A. (Kimball) That's correct.

24 Q. And how many meters from the river would you

1           guess from this picture the vegetation buffer  
2           ends?

3    A.   (Kimball) I don't have a scale on this map.  
4           I can measure it through --

5    A.   (DeWan) Which vegetation are you talking  
6           about at this point?

7    Q.   I'm talking about the same vegetation we were  
8           looking at across the water in the prior  
9           slide, the vegetation that I believe, and  
10           correct me if I'm wrong, you are counting on  
11           to be blocking the view of the user at the  
12           water level at Sawhegenet of the transmission  
13           towers in the field immediately across the  
14           river from Sawhegenet.

15   A.   (Kimball) The narrowest point, maybe  
16           150 feet. I don't know what that is in  
17           meters.

18   Q.   A hundred and fifty feet? Okay.

19                   MS. CRANE: Could you find a  
20           Google Maps picture of this? I think there's  
21           one close by.

22                   (Pause)

23   A.   (DeWan) We just did another couple of  
24           measurements. The range is between 120 and



1           150 feet. Roughly half the distance of a  
2           football field.

3 BY MS. CRANE:

4 Q.    A third of the distance of a football field  
5           with the end zones on it; right? Okay.

6           So let's go back. Sorry. And does the  
7           Applicant have control on whether those trees  
8           continue to exist?

9 A.    (DeWan) No, they do not.

10 Q.   And what might happen to those trees?

11 A.    (DeWan) They would continue to mature. The  
12           smaller trees that are within the shadow of  
13           those trees would continue to flourish. They  
14           would grow up. After trees die, they would  
15           probably be replaced by other trees that are  
16           in the riparian zone.

17 Q.    But that landowner, if he chose to develop a  
18           campground, for instance, could cut those  
19           trees, could he not?

20                           MR. NEEDLEMAN: Objection. That  
21           actually calls for a legal conclusion.

22                           CHAIRMAN HONIGBERG: Ms. Crane.

23 BY MS. CRANE:

24 Q.    Are you assuming that those trees will not be

1 cut?

2 A. (DeWan) We are assuming that, knowing what we  
3 know about New Hampshire law about dealing  
4 with vegetation and buffer zones.

5 Q. And what is that law?

6 A. (DeWan) I could not quote it for you. I know  
7 we've had situations where we --

8 Q. Well, let's go to the next slide.

9 MS. CRANE: Oh, wait, not the  
10 next slide. Keep going, keep going. There we  
11 go. That one.

12 BY MS. CRANE:

13 Q. Okay. Can you spend a second with this and  
14 refresh your memory about what those  
15 limitations are?

16 A. (DeWan) I'm sorry. I didn't hear the first  
17 part of that question.

18 Q. Take a minute until you can refresh your  
19 memory about what those limitations are.

20 (Witness reviews document.)

21 A. (DeWan) Talks about 150-foot-wide protective  
22 vegetative buffer, which is the case right  
23 here.

24 Q. And what can the landowner do within that

1           buffer?

2                         (Witness reviews document.)

3    A.    (DeWan) "Property owners must operate in  
4           accordance with the guidelines below.  The  
5           first 50 feet..."

6    Q.    Would you like to see the "guidelines below,"  
7           or is your memory refreshed yet?

8                         (Witness reviews document.)

9    A.    (DeWan) From what I see here, looks very  
10           similar to our shoreland zoning ordinance  
11           that we operate under in the state of Maine.

12   Q.    And what are you assuming -- assuming we  
13           could see what is for some reason not quite  
14           visible, what are your assumptions about what  
15           that limitation would be?

16   A.    (DeWan) If it's comparable to the state of  
17           Maine, there's a real emphasis on maintaining  
18           quality buffers between development and  
19           waterfronts.  And they do allow a certain  
20           amount of cutting in certain parts of the  
21           riparian zone, but the intent is to maintain  
22           a visual buffer.

23   Q.    Well, let's read New Hampshire's rule then.  
24           Let's back up and identify my source here.

1 MR. NEEDLEMAN: Mr. Chair, we  
2 object. The Shoreline Protection Act is state  
3 law that speaks for itself. We'll stipulate to  
4 what it requires.

5 MS. CRANE: And may I then state  
6 what it requires?

7 CHAIRMAN HONIGBERG: For what  
8 purpose is all this, Ms. Crane? Honestly.  
9 What is the endpoint of this that you're going  
10 to argue at the end based on all this?

11 MS. CRANE: Well, this is just  
12 one of several places where I'm going to point  
13 out that the assumption that the vegetation is  
14 static and will remain static or become -- or  
15 increase is inappropriate for these locations.

16 CHAIRMAN HONIGBERG: Wow. Okay.

17 MS. CRANE: Okay.

18 CHAIRMAN HONIGBERG: So what's  
19 the Shoreland Protection Act provision that you  
20 need to read into the record?

21 MS. CRANE: The Shoreland  
22 Protection Act provision that I need to read  
23 into the record is that the landowner is  
24 entitled, for every 50 feet of shoreline, back

1           50 feet from the shoreline, to cut as many  
2           trees as he or she can and still have enough  
3           points on the point system. And let's go look  
4           at what's -- hang on. Let's --

5                         CHAIRMAN HONIGBERG: Whoa, whoa,  
6           whoa.

7                         MS. CRANE: We'll look at the  
8           point system in just a second.

9                         CHAIRMAN HONIGBERG: So you're  
10          just going to meander through testimony about  
11          the Shoreland Protection Act, or are your going  
12          to read a provision of the Shoreland Protection  
13          Act like you said you were going to?

14                        MS. CRANE: I'm going to read  
15          this summary of the Shoreland Protection Act.

16                        CHAIRMAN HONIGBERG: No, you're  
17          not. No, you're not. You're not reading any  
18          summaries. You're not. You said you wanted to  
19          get the Shoreland Protection Act into the  
20          record. You wanted to read something into the  
21          record. You can do that.

22                                 I'm sorry for going too fast.

23                                 You can do that. But you're  
24          not reading summaries into the record. I

1 don't know what the source of that summary  
2 is. I don't know what --

3 MS. CRANE: Let's go -- can I --

4 CHAIRMAN HONIGBERG: I don't  
5 know what you're doing, and I'm not sure you do  
6 either.

7 MS. CRANE: I most certainly do.  
8 I'm sorry. Can we go back one  
9 slide?

10 BY MS. CRANE:

11 Q. Mr. DeWan, could you read the title of this  
12 document?

13 A. (DeWan) "Vegetative Maintenance Within the  
14 Protected Shoreland."

15 Q. And who is offering this advice about  
16 vegetative maintenance?

17 A. (DeWan) Appears to be coming from the New  
18 Hampshire Department of Environmental  
19 Services.

20 Q. And the date?

21 A. (DeWan) 2013.

22 Q. Okay. And let's go back, and let's go all  
23 the way to the point system.

24 MS. CRANE: Three more slides.

1 MR. NEEDLEMAN: Mr. Chair, I  
2 object. Mr. DeWan testified several hours ago  
3 with respect to this questioning that he  
4 recognized in his report that there may be  
5 places where people on private land can cut  
6 trees. He's acknowledged that.

7 MS. CRANE: But he did not  
8 acknowledge it in his assessment of this view.

9 CHAIRMAN HONIGBERG: He's  
10 acknowledged it on the record. Do you want him  
11 to do it again? He'll do it again.

12 BY MS. CRANE:

13 Q. Mr. DeWan, did you acknowledge the fact that  
14 this landowner could cut without regard to  
15 its effect on visual impact, either of his  
16 own or of the views from across the river  
17 without -- that he could cut without regard  
18 for the visual impact?

19 A. (DeWan) My understanding of the situation is  
20 that if a person wanted to cut trees in this  
21 area, they would have to do it under the  
22 provision of the currently applicable law in  
23 the state of New Hampshire, which, as I  
24 understand it, includes consideration of the

1 effect that cutting in these situations may  
2 have on the quality of the visual buffer that  
3 is presently on the property.

4 Q. Okay. Let's look at the points.

5 MR. NEEDLEMAN: Objection.

6 CHAIRMAN HONIGBERG: Sustained.

7 BY MS. CRANE:

8 Q. Mr. DeWan, are you aware that if the  
9 landowner can leave four trees with a  
10 diameter of more than 12 inches --

11 MR. NEEDLEMAN: Same objection.

12 CHAIRMAN HONIGBERG: Sustained.

13 BY MS. CRANE:

14 Q. -- he will be allowed to cut?

15 CHAIRMAN HONIGBERG: Calls for a  
16 legal conclusion.

17 BY MS. CRANE:

18 Q. What were you using as your assumption about  
19 the number of trees that this landowner could  
20 cut?

21 MR. NEEDLEMAN: Objection.

22 Asked and answered. He didn't have a specific  
23 assumption. He acknowledged the provisions of  
24 the law that may allow cutting.



1 MS. CRANE: And what was his  
2 understanding of those provisions?

3 A. (DeWan) My understanding is that the  
4 landowner would have to follow current policy  
5 and regulations by the Department of  
6 Environmental Services.

7 BY MS. CRANE:

8 Q. Let's go back. I may be able to capture my  
9 point on...

10 (Pause)

11 Q. So, in order to come to the conclusions that  
12 you came to, you had to assume that the  
13 landowner would not be able to cut more than  
14 the Shoreland Protection provisions require  
15 or allow; is that correct?

16 A. (DeWan) That's an assumption made throughout  
17 the entire document, that laws are there to  
18 be followed.

19 Q. Okay.

20 MS. CRANE: Let's go ahead two  
21 more slides just for fun. No, one more. One  
22 more.

23 BY MS. CRANE:

24 Q. Can you tell me what that document is?

1 A. (DeWan) Appears to be a "Guide to New  
2 Hampshire Timber Harvesting Laws."

3 Q. And can you tell me what the source is for  
4 this? We are now on Slide 83.

5 A. (DeWan) It appears to be -- when you say "the  
6 source," University of New Hampshire  
7 Cooperative Extension.

8 Q. And what does the first sentence say?

9 A. (DeWan) "Surface Water Quality Protection Act  
10 (SWQPA) formerly known as the Comprehensive  
11 Shoreland Protection Act, was enacted to help  
12 protect the water quality of New Hampshire's  
13 surface waters."

14 Q. And does that mention anything about visual  
15 buffer?

16 A. (DeWan) That sentence does not.

17 Q. Okay. And could you read the sentence that  
18 begins with "according"?

19 A. (DeWan) "According to RSA 483-B:5-a II,  
20 timber harvesting is exempt from SWQPA  
21 regulations."

22 Q. So it is -- have you taken this rule into  
23 account in your assessments of vegetative  
24 buffers?

1 A. (DeWan) We did not take this particular rule  
2 into account. I think we did our work with  
3 the assumption that any clearing, any  
4 harvesting would be done in accordance with  
5 New Hampshire law.

6 Q. And what does New Hampshire law appear to be  
7 from your reading of this document?

8 A. (DeWan) I have not read this document.

9 Q. You just read this document.

10 A. (DeWan) I read one sentence out of this  
11 document.

12 Q. Okay. Then take your time and read the rest.

13 A. (DeWan) When you say this, this is a very  
14 extensive guide to New Hampshire laws --

15 Q. I'm sorry. Just the next paragraph.

16 MR. IACOPINO: Professor Crane,  
17 are you trying to indicate that the Shoreland  
18 Protection Act does not reference visual or  
19 aesthetics? Is that where you're going with  
20 this?

21 MS. CRANE: That was one of the  
22 places that I had hoped if we could have  
23 scored --

24 MR. IACOPINO: Have you read RSA

1 483-B:2, which sets forth the reasons for the  
2 Shoreland Protection Act, which includes to  
3 promote wildlife habitat, scenic beauty and  
4 scientific study?

5 MS. CRANE: I think I have. But  
6 I don't --

7 MR. IACOPINO: Okay. I just  
8 wanted to make sure.

9 MS. CRANE: Okay. I am not  
10 pretending that the law doesn't include -- and  
11 now I'm addressing the objection. I'm not  
12 trying to build a question for him.

13 MR. IACOPINO: I only ask the  
14 question so that the Committee understands  
15 what's going on. Because that's what I thought  
16 you were trying to do, and I just don't see  
17 that in the purpose of the law. But --

18 MS. CRANE: But there's an  
19 enormous exception for commercial logging. So  
20 the compromise has been made in favor of  
21 commercial logging. Commercial logging does  
22 not include pulling out stumps. Commercial  
23 logging does not include --

24 MR. NEEDLEMAN: Objection.

1 Ms. Crane is now testifying.

2 MS. CRANE: Well, unfortunately,  
3 you are correct. I am conflicted here because  
4 I have a dual role as someone with personal  
5 knowledge, but also you were the one who was  
6 objecting to allowing more to be developed in  
7 the record about --

8 CHAIRMAN HONIGBERG: We're going  
9 to take a ten-minute break and let Ms. Crane  
10 settle out here and give her a chance to review  
11 her notes and do a nice, crisp, efficient  
12 examination of this witness so we can be done.  
13 We'll be back in ten minutes.

14 (Brief recess taken at 2:47 p.m., and  
15 the hearing resumed at 3:05 p.m.)

16 CHAIRMAN HONIGBERG: Ms. Crane,  
17 you may continue.

18 BY MS. CRANE:

19 Q. Okay. We were talking about the analysis of  
20 the impact of the proposed project on the  
21 identified scenic resource, Sawhegenet Falls,  
22 in Bridgewater; correct?

23 A. (DeWan) That is correct.

24 Q. And we are again looking at your analysis of

1 the sight lines from the water; is that  
2 correct?

3 A. (DeWan) From the viewpoint about 5 feet above  
4 the water.

5 Q. About 5 feet above the water. I'm sorry.

6 And in this depiction, the red line goes  
7 entirely above the vegetation; does it not?

8 A. (DeWan) That's correct.

9 Q. But your conclusions suggest that there will  
10 be a filtered view. Why would this line go  
11 above the vegetation when your conclusion is  
12 that there will be a filtered view?

13 A. (DeWan) Well, this is a cross-sectional  
14 diagram created to evaluate the effectiveness  
15 of the massive vegetation on the other side.  
16 We didn't know how close the transmission  
17 corridor was to the river relative to the  
18 viewpoint across the way. This is just an  
19 easy way to let us know, and therefore let  
20 reviewers know, how that relationship worked;  
21 in other words, how close would the  
22 transmission line have to be to the river if  
23 it were to be seen. As we can see from this,  
24 it would have to be roughly 800 feet closer

1 to the river before you'd be able to see the  
2 top of it.

3 Q. If these trees did not provide only a  
4 filtered buffer; correct?

5 A. (DeWan) What I just explained was, yes, if  
6 the trees were there, you know, and if the  
7 line was 800 feet closer, then at that point  
8 you'd be able to see the tops of it. If the  
9 trees remain in place during the leaf-off  
10 conditions, you may be able to see filtered  
11 views of one or two structures at a distance  
12 of roughly 1800 feet.

13 Q. Did you provide any pictures of leaf-off  
14 views at this location?

15 A. (DeWan) We did not. We did not visit it  
16 during leaf-off conditions.

17 Q. So we really don't know how much of a filter  
18 those trees would provide in a leaf-off  
19 condition; is that correct?

20 A. (DeWan) Well, we can assume that 150 feet of  
21 vegetation is going to provide a pretty dense  
22 stand of vegetation.

23 Q. I'm sorry. I'm confused. I thought you  
24 already had concluded that there would be

1 filtered views.

2 A. (DeWan) We did, yes. But filtered views  
3 means you're not going to see the entire  
4 structure; you may see portions or parts of  
5 it.

6 Q. And if one were just looking at this  
7 cross-section, what part of this  
8 cross-section helps you interpret that?

9 A. (DeWan) It's not designed to evaluate  
10 filtered views.

11 Q. Okay. Thank you. So this actually doesn't  
12 represent the view in any meaningful way. It  
13 represents your first step in analyzing it,  
14 but --

15 A. (DeWan) Well, it is meaningful, in that it  
16 shows you that during the majority of the  
17 time when the site is being used during  
18 leaf-on conditions, you're not going to see  
19 the structures.

20 Q. I'm sorry. Why are you assuming that the  
21 majority of the time that this total area is  
22 being used is in leaf-on conditions?

23 A. (DeWan) Just the assumption from looking at  
24 the types of facilities that are there. You



1 know, a small beach, a picnic area, our  
2 assumption was that people would go down  
3 there to recreate along the river, provide  
4 access to it, perhaps swim along the river.  
5 I didn't say that was the only time.

6 Q. Would the presence of a snowmobile trail  
7 alter that conclusion about the lack of use  
8 in leaf-off conditions?

9 A. (DeWan) I didn't say anything about lack of  
10 use in leaf-off conditions. I said that the  
11 majority of the use probably occurs during  
12 leaf-on conditions.

13 Q. Do you know that?

14 A. (DeWan) Don't know it for a fact. But, you  
15 know, knowing my experience in other similar  
16 situations, especially with snowmobile use,  
17 the snowmobile going through here on the  
18 trail that you showed earlier says to me that  
19 a snowmobile is going to be passing through  
20 here. I don't know if there's any rest stop  
21 or campground or anything else associated  
22 with the trail.

23 Q. Okay. So it's a matter of duration of stay  
24 as opposed to number of visitors or anything

1           like that is what your assumption is based  
2           on.

3       A.     (DeWan) That's right. That's one of the  
4           things that's asked for in the rules.

5       Q.     Okay. So if I want you to assume for  
6           purposes of the question that the landowner  
7           can cut as many trees as she might want to,  
8           as long as she leaves 4 that have a diameter  
9           of at least 12 inches -- do you understand  
10          that assumption?

11      A.     (DeWan) Four within a 50-by-50-foot square.

12      Q.     Within a 50-by-50-foot square. If the  
13          landowner of this buffer were in fact to cut  
14          to this maximum assumed limit, would it  
15          change the nature of the filter that you are  
16          relying on in your overall assessment of the  
17          impact here?

18      A.     (DeWan) Well, if that cutting had occurred  
19          prior to or at the time that we did the  
20          assessment, and we could see what the cutting  
21          would look like, then it may have changed the  
22          result. But our assignment was to take a  
23          look at existing conditions. And in doing  
24          so, we evaluated the way things look like

1 right now. We don't take into consideration  
2 potential cutting that may or may not happen.  
3 Likewise, we don't take credit for any  
4 additional vegetation growth that may occur  
5 that may actually block the structures at  
6 some point.

7 Q. And so your position is that the existing  
8 condition does not include the probability of  
9 any change in the vegetation besides normal  
10 maturity and decline.

11 A. (DeWan) Common professional practice is to  
12 take a look at existing conditions and do an  
13 evaluation on what is known about the  
14 existing landscape. If we knew for a fact  
15 that there was going to be harvesting, that  
16 may be a different situation.

17 Q. If you knew for a fact that there was going  
18 to be harvesting, that would be a different  
19 condition. Is that what you just said?

20 A. (DeWan) That's right.

21 Q. Okay. Thank you.

22 So let's go to -- and what other reasons  
23 besides cutting might threaten this buffer  
24 that you're relying on?

1 A. (DeWan) That be very speculative on our part.  
2 Any number of reasons that could cause a --  
3 oops.

4 Q. Jumping ahead.

5 A. (DeWan) Any numbers of reasons that could  
6 cause the loss of trees. Natural mortality,  
7 for example. But as I said earlier, if a  
8 tree dies, that creates light in the forest  
9 and allows more trees the opportunity to  
10 grow.

11 Q. But we're talking about a 150-foot buffer  
12 that's already too thin to provide a  
13 completely blocked visibility; right?

14 A. (DeWan) No.

15 Q. We're not talking about --

16 A. (DeWan) No. One hundred fifty feet, that's  
17 certainly adequate to provide a blockage of  
18 visibility during leaf-on conditions.

19 Q. Even though it's -- okay.

20 And so what else might happen to these  
21 trees? This is Slide 76. Can you just  
22 describe what has happened in this  
23 photograph?

24 A. (DeWan) I don't know exactly what happened.

1 But in similar situations where I've seen  
2 slumpage occur in some areas, this is  
3 sometimes the result of that, where a piece  
4 of earth has moved from an upper portion of  
5 an embankment down to a lower portion of the  
6 embankment.

7 Q. And would you accept my assertion that this  
8 is made on the west bank of the Pemi, only a  
9 couple dozen yards from Sawhegenet?

10 MR. NEEDLEMAN: Objection.  
11 Relevance. The witness has testified multiple  
12 times about the fact that they looked at this  
13 based on existing conditions and that they  
14 don't account for changes, either positive or  
15 negative, in the future. So I don't understand  
16 the need for these questions.

17 CHAIRMAN HONIGBERG: Ms. Crane.

18 MS. CRANE: I am trying to  
19 establish whether that's an appropriate  
20 approach to the definition of "existing  
21 conditions" in these circumstances.

22 CHAIRMAN HONIGBERG: Well,  
23 establishing appropriateness or not isn't  
24 something you're going to do with this witness.

1           You're going to do that as a matter of law in  
2           argument to us. You can find out what he did  
3           and why he did it, and you can disagree with  
4           him when it's appropriate to do so.

5   BY MS. CRANE:

6   Q.   Okay. So, then, Mr. DeWan, you did not take  
7           into account erosion along the banks of the  
8           Pemi in assessing the adequacy of the visual  
9           buffer here.

10   A.   (DeWan) As I stated, we looked at existing  
11           conditions. We recognized in some places  
12           there was some erosion. You can see that in  
13           places.

14   Q.   And we are now looking at the Sawhegenet  
15           location again, this time from the north.  
16           Would you agree with that?

17   A.   (DeWan) Yes.

18   Q.   And there seems to be an incomplete buffer  
19           there just to the left of the leaves that are  
20           really close in the foreground here that you  
21           can see through those trees?

22   A.   (DeWan) I can see there's a place where you  
23           can --

24   Q.   We don't know what you could see, but --

1 A. (DeWan) Looks like you can see more of the  
2 sky in some places, which is typical  
3 throughout the entire riparian zone there.

4 Q. And what do we see in the foreground?

5 A. (DeWan) I see a dead log in the river.

6 Q. And in the middle of the picture, on the  
7 left?

8 A. (DeWan) Middle of the picture, on the left, I  
9 see, oh, another looks like a tree that may  
10 have floated down from upstream.

11 Q. And in the immediate foreground on the left?

12 MR. NEEDLEMAN: Objection.  
13 Relevance.

14 CHAIRMAN HONIGBERG: Ms. Crane.

15 MS. CRANE: I'm hoping to ask  
16 him whether, if similar erosion happened closer  
17 to the location, it would affect the adequacy  
18 of the buffer.

19 CHAIRMAN HONIGBERG: Okay. That  
20 sounds like a fair question.

21 BY MS. CRANE:

22 Q. If similar erosion happened closer to the  
23 buffer, would it affect the adequacy of the  
24 buffer?

1 A. (DeWan) It may cause an opening in the  
2 buffer. And as I've said before, that would  
3 then have the effect of allowing more light  
4 to enter the ground plain, thus allowing some  
5 of the young trees to achieve a higher rate  
6 of growth.

7 Q. Okay. Thank you. Let's move on.

8 And we are now looking at slide 78,  
9 Exhibit 52. Can you read what  
10 the handwritten notation says?

11 A. (DeWan) "Webster Road toward bridge after  
12 tornado, September 22, 1938."

13 Q. And do you know what happened on  
14 September 21st and 22nd, 1938?

15 A. (DeWan) I don't. But I would just surmise  
16 from the caption that there was a violent  
17 windstorm, perhaps even a tornado.

18 Q. And will you accept my assertion that Webster  
19 Road is a footpath now running north/south on  
20 the west bank of the Pemigewasset?

21 A. (DeWan) I will accept that.

22 Q. And that if a similar natural occurrence were  
23 to happen, there would be a likely loss of  
24 trees in the buffer that we haven't yet



1 talked about on the west side of the river?

2 A. (DeWan) I suppose there's a remote  
3 possibility of that happening, knowing how  
4 often tornadoes hit this part of the  
5 northeastern part of the United States.

6 MS. CRANE: Okay. We don't need  
7 this, don't need this. And I'm going to skip  
8 over these and go straight to the top of the  
9 road. Oops. No. Back one.

10 BY MS. CRANE:

11 Q. So can you tell me again what this picture  
12 from your analysis depicts?

13 MR. NEEDLEMAN: Objection.  
14 Asked and answered.

15 CHAIRMAN HONIGBERG: That is  
16 true.

17 BY MS. CRANE:

18 Q. Then can you read the caption, which I don't  
19 believe we've done?

20 A. (DeWan) "Beech Road leading down to the  
21 parking area. Recreation area is restricted  
22 to Bridgewater residents. There will be no  
23 views of the Project from Beech Road."

24 Q. And on what are you relying in concluding

1           that there's no views of the Project -- that  
2           there will be no views of the Project from  
3           Beech Road?

4    A.    From our observations taken at the time that  
5           we visited the site.

6    Q.    And what was the reason for there being no  
7           views?

8    A.    (DeWan) The dense vegetation consisting of a  
9           mixture of some deciduous and a lot of  
10          softwood vegetation.

11   Q.    And that softwood vegetation is currently in  
12          what form?

13   A.    (DeWan) Tree form.

14   Q.    Huh?

15   A.    (DeWan) Tree form.

16   Q.    Tree form. Pine tree form.

17   A.    Pines, hemlocks, furs, other --

18   Q.    Oh, I hope there's a lot of hemlock in there,  
19          yeah.

20                 Okay. And if the landowner were  
21                 involved in a commercial tree farm, would  
22                 there be any restrictions on this landowner's  
23                 ability to remove this buffer?

24   A.    (DeWan) When you say "this landowner," are we

1 talking about the falls area right here?

2 Q. I'm talking about the owner of the trees.

3 A. (DeWan) Of these trees?

4 Q. Of these trees.

5 A. (DeWan) I don't know if this landowner is  
6 part of a tree farm or not.

7 Q. Okay. But if they were, if this landowner  
8 were --

9 A. (DeWan) I would suspect if this was a tree  
10 farm and for some reason they wanted to  
11 remove those trees, they probably could be  
12 done under whatever laws would govern tree  
13 removal in this type of environment.

14 Q. Okay. Now, moving on. No, let me ask one  
15 more question.

16 You did no other visual impact  
17 assessments from any other elevation or  
18 location along River Road in Bridgewater; is  
19 that correct?

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

21 Q. Okay. And will you accept my assertion that  
22 this is a picture taken essentially from the  
23 entrance to Sawhegenet, looking at the other  
24 side of the road?

1 (Witness reviews document.)

2 A. (DeWan) I will take that statement. Yeah, I  
3 have no way of verifying it.

4 Q. Okay. And if you were doing your field work  
5 looking for other potential scenic resources,  
6 what would your reaction to this scene be?

7 A. (DeWan) I would say this looks like a typical  
8 woodland that we found throughout much of our  
9 field evaluation. And I see an access road  
10 going off at right angles to an existing,  
11 what may have been a gravel road at one  
12 point. The fact that there's a bar across it  
13 implies a message that the public's not  
14 welcome here.

15 Q. It implies that they might not be welcome.  
16 But are they legally entitled to access?

17 MR. NEEDLEMAN: Objection.

18 BY MS. CRANE:

19 Q. Would you assume that they, that the public,  
20 would have legal access here?

21 A. (DeWan) I would assume that there would not  
22 be legal access that we're looking for when  
23 we've done the type of evaluation we've been  
24 doing here.

1 Q. And again I know this has been covered, but I  
2 would like you to just summarize your  
3 assumptions about what "public access" means  
4 for these purposes.

5 MR. NEEDLEMAN: Objection.

6 Asked and answered multiple times.

7 CHAIRMAN HONIGBERG: If you can  
8 just get us to a quick recap to move along.

9 A. (DeWan) "Public access," to us, is a right  
10 that's granted to the general public that  
11 allows the public to go onto a piece of  
12 property without being questioned.

13 Q. Public access allows you to go on without  
14 being questioned. So if I were to go to a  
15 state park and jump the wall and not pay  
16 admission, I wouldn't be questioned. Would I  
17 be questioned?

18 A. (DeWan) With any definitions like that, there  
19 are subtilties, of course. There has to be  
20 some provision for allowances for  
21 circumstances that protect public health,  
22 safety and welfare. The state park, for  
23 example, they have rules that say you shall  
24 not go there at night.

1 Q. And they also have rules that require you to  
2 pay admission; is that correct?

3 A. (DeWan) That's correct.

4 Q. And they are no less a scenic resource  
5 because they charge admission; is that  
6 correct?

7 A. (DeWan) It's a totally different situation  
8 than a commercial operation that we talked  
9 about earlier.

10 Q. Why?

11 A. (DeWan) I think, you know, in doing the work  
12 we did, we relied upon a lot of thought. And  
13 we also looked at precedent that may be  
14 before us right now. We know in the case,  
15 for example, with the Antrim Project, you  
16 know, there is a consideration for a similar  
17 situation where there is a facility on a body  
18 of water that was accessible to the public.  
19 You could walk down there, but you had to pay  
20 a fee to get in there. It's our  
21 understanding that it was the judgment of the  
22 body we're before right now that that did not  
23 constitute public access because it required  
24 an individual or group of people to pay a fee

1 to get down there and use that particular  
2 facility.

3 Q. Thank you.

4 Okay. Let's go to the next slide. And  
5 can you tell us what appears on Slide 88?

6 A. (DeWan) It's a dense woodland with a red sign  
7 that I cannot read. Maybe it says  
8 "prohibited." I'm sorry. I can't read that.

9 Q. It does say "prohibited." And can you make  
10 out what is prohibited?

11 A. (DeWan) I can't.

12 Q. Would you allow me to assert that it is a  
13 picture of an ATV and a picture of a mountain  
14 bike?

15 A. (DeWan) I will assume that's correct.

16 Q. And would you allow me to assert this is, in  
17 fact, where the snowmobile trail that we saw  
18 on an earlier picture comes up onto the River  
19 Road level?

20 A. (DeWan) I have no reason to doubt that.

21 Q. Okay.

22 MS. CRANE: Let's go. We don't  
23 need this one. We don't need this one. We  
24 don't need this one. And this one's fun, but

1           let's keep going. No, keep going, keep going.  
2           We'll come back if we feel we have time. Go,  
3           go, go.

4 BY MS. CRANE:

5 Q.    Okay. And you didn't take any impact  
6           assessments of any areas along River Road or  
7           of any of the elevated areas above River  
8           Road; is that correct?

9 A.    (DeWan) We did not do a formal visual impact  
10           assessment except at those locations shown in  
11           our VIA.

12 Q.    And that was because you didn't identify any  
13           scenic resources in those areas. Is that  
14           likely correct? Indeed, I think that we  
15           established a few hours ago that you didn't  
16           even identify any possible areas of impact in  
17           the elevations above River Road in the area.  
18           You were going to --

19 A.    (DeWan) Oh, I'm sorry. You were looking at  
20           the viewshed map that you showed us before  
21           and asked us if there's anything on those  
22           slopes above the River Road and another road.

23 Q.    That's correct.

24 A.    (DeWan) We did not go up into those secondary



1 roads that were up there.

2 Q. And why?

3 A. (DeWan) They're not scenic resources.

4 Q. They're not scenic resources. Is a  
5 snowmobile trail a scenic resource?

6 A. (DeWan) We identified snowmobile trails in  
7 general as scenic resources. We've included  
8 those in our evaluation.

9 Q. Did you assess the views from any particular  
10 locations in snowmobile trails?

11 A. (DeWan) For the most part, we did not.

12 Q. So you're including them as scenic resources  
13 but not evaluating views. Is that what  
14 I'm -- what you're saying?

15 A. (Kimball) They were identified and described  
16 in the list of scenic resources. Generally,  
17 the assignment of "low" cultural value was  
18 assigned to snowmobile trails, which filtered  
19 them out to before receiving a formal  
20 assessment like we saw at Sawhegenet Falls.

21 Q. Okay. Let's keep going.

22 And did you include bike trails in your  
23 identification of scenic resources?

24 A. (Kimball) We included rails-to-trails that

1           are bike trails.

2    Q.    And we are looking at Slide 99 now.  Can you  
3           help me with what this is?

4    A.    (Kimball) Looks to be a map of recommended  
5           bike routes.

6    Q.    And the route that has "132" on it, that's  
7           the route number -- that's the street -- the  
8           road level.  Can you identify any of the  
9           features within the route defined by the loop  
10          that is the smallest loop you can make that  
11          includes the 132?

12   A.    (DeWan) I'm not sure I understand what you  
13          mean by "features."

14   Q.    Well, unfortunately, the contrast is bad.  
15          But there's a river and a conservation  
16          easement that have been part of our earlier  
17          slides.  Will you accept my assertion that  
18          this loop runs from along River Road on the  
19          west bank of the Pemi?

20   A.    (DeWan) It's not labeled as such, but I will  
21          accept that.  I see it goes through a bus  
22          station down at the lower portion of it, and  
23          it is located either side of Interstate 93.

24   Q.    Actually, I think that's a Park & Ride.  But

1           that's okay.

2                     Did you include this as a scenic  
3           resource in your analysis?

4    A.    (DeWan) We looked at the designation of bike  
5           routes.  And bike routes, as I understand  
6           them, are the roads.  Our understanding was  
7           that the bike routes were designated as  
8           transportation, part of the transportation  
9           infrastructure, not because they were  
10          necessarily scenic routes.

11   Q.    Okay.  So it was your assumption that they  
12          were not necessarily of scenic quality.  Is  
13          that --

14   A.    (Kimball) No.  When looking at Section  
15          102.45, the definition of "scenic resources,"  
16          bike routes or transportation corridors are  
17          not listed as a potential scenic resource.

18   Q.    So they can't be scenic resources, or they're  
19          just not required to be identified?

20   A.    (Kimball) They don't meet the definition of  
21          "scenic resource."

22   Q.    Because?  I'm sorry.  Could you read the  
23          language again?

24   A.    (Kimball) 102.45?

1 Q. Yeah.

2 A. (Kimball) Scenic resources --

3 Q. The one that includes trails.

4 A. (Kimball) "(d) Recreational trails, parks, or  
5 areas established, protected or maintained in  
6 whole or in part with public funds."

7 Q. And what does "trails" mean?

8 A. (DeWan) Trails, to me, implies that there is  
9 an off-road facility for walking, ATVs,  
10 snowmobiles, bicycles and some other use  
11 separate from a roadway.

12 Q. Okay. So, even though the state is  
13 maintaining a web site informing those who  
14 want to find bicycle routes, those bicycle  
15 routes wouldn't count as scenic resources, as  
16 long as they are not separately located.

17 A. (DeWan) I'm sorry. This is labeled as a  
18 "route," not as a "trail."

19 Q. Okay. Thank you.

20 MS. CRANE: Move on. Move on.  
21 And I guess we better move on. That's my  
22 morning light entertainment, and it's falling  
23 flat. Keep moving. So I guess roller blading  
24 wouldn't count either, or roller skiing. Let's

1 keep going. Good.

2 BY MS. CRANE:

3 Q. Okay. And did you happen to drive south on  
4 River Road from Sawhegenet?

5 A. (Kimball) Yes.

6 Q. And did you notice this view as you drove by?

7 A. (Kimball) I'm sure we passed it.

8 Q. And part of your field work, you were  
9 attempting to identify other scenic resources  
10 that might not have been designated. Is that  
11 the summary of your testimony over the last  
12 couple days?

13 A. (DeWan) That's one of many reasons why we did  
14 the field evaluation.

15 Q. And did you take any notes on this location?

16 A. (DeWan) I don't believe we did.

17 Q. What would you be looking for if you were  
18 looking for new places to identify?

19 A. (DeWan) Well, looking for places that had  
20 expansive views, a variety of different land  
21 forms, the views of water, interesting  
22 vegetation, things of that nature.

23 Q. So you're only looking for the views. You're  
24 not looking for the view -- for the

1 observation points when you're doing your  
2 field work.

3 A. (DeWan) Well, we look for any number of  
4 different aspects of the landscape.

5 Q. Okay. But you did not notice this view in  
6 particular.

7 A. (DeWan) This seems to us to be a view of a  
8 private residence. Private residences, by  
9 definition, are not "scenic resources."

10 MS. CRANE: And then next slide,  
11 next slide.

12 BY MS. CRANE:

13 Q. In the foreground there appears to be a road  
14 next to the same private residence. This is  
15 slide 108. Is that correct?

16 A. (DeWan) It appears to be a road in front of  
17 the residence.

18 Q. And in the foreground?

19 A. (DeWan) There appears to be a way that  
20 vehicles have traveled. I don't know if it's  
21 a road or driveway.

22 Q. Would you accept my assertion, and we'll see  
23 it again more clearly in a moment, that  
24 that's Cass Road, previously identified?

1 A. (DeWan) For purposes of this discussion,  
2 we'll go with that.

3 Q. Okay. In any part of your evaluation, do you  
4 take into account the historic significance  
5 of a scenic resource, either the resource  
6 itself or the views from it or of it?

7 A. (Kimball) We took scenic resource -- excuse  
8 me. We took eligible historic properties and  
9 historic properties on the National and State  
10 Register into account if they had a legal  
11 right of public access.

12 Q. But only if they had a legal right of access  
13 to the residence itself?

14 A. (Kimball) That's the primary item in the  
15 definition of scenic resources.

16 Q. But not of the landscape surrounding it, even  
17 if there's public access to the landscape  
18 around it?

19 A. (Kimball) The rules are very clear in several  
20 locations that it is the view from the scenic  
21 resources that we are supposed to evaluate.  
22 And I'd be happy to go into the rules to  
23 discuss that.

24 Q. No, we don't need that. Let's keep going.

1           Okay. And this is a summertime view of  
2           the same location facing west instead of  
3           south.

4    A.    (DeWan) This is Cass Road?

5    Q.    This is Cass Road. And while we're here --

6    A.    (DeWan) I'm sorry. Cass Road is the dirt  
7           road in front of us?

8    Q.    Cass Road is the dirt road in front of us.

9    A.    (DeWan) Not the one you're standing on.  
10           Okay. That's River Road.

11   Q.    River Road.

12           And if you were to notice this road --  
13           as I understand it, one of the things that  
14           you mentioned you took into account was  
15           whether when finding a road or a path you  
16           looked to see whether the public seemed to  
17           be -- now I'm forgetting the language you  
18           used -- but seemed to be invited rather than  
19           discouraged; is that correct?

20   A.    (DeWan) Well, can I address this particular  
21           situation? Use this as a general example of  
22           how we did our work. Again, we're going to  
23           Section 102.45, what is a scenic resource.  
24           And I think that's the basis of your question



1 right here. In addition to having public  
2 access, one of the criteria, one of the  
3 characteristics is lake, pond, rivers, parks,  
4 scenic drives and rides and other tourism  
5 destinations. So you could look at this and  
6 say, oh, it's a nice, scenic drive or ride.  
7 But the operative words right here is, is it  
8 a "tourism destination"?

9 We look upon this road and we see it's a  
10 gravel road. We saw it wasn't fully plowed  
11 during the wintertime. We don't see any sign  
12 out front. We don't consider this to be a  
13 tourism destination. This may be a nice  
14 country road. There may be a nice view at  
15 the top of it. We don't put this in the same  
16 category as the other well-known,  
17 well-established tourism destinations that  
18 New Hampshire is known for.

19 Q. So this is another place where, because there  
20 is nothing shouting "come visit me," you're  
21 assuming nobody wants to visit here, or at  
22 least it's unimportant.

23 A. (DeWan) I'm not saying that at all. I  
24 understand this must be a delightful place,

1 and a lot of people would love to go there  
2 and visit it and maybe even enjoy the view at  
3 the top. But what is "tourism"? Tourism to  
4 us is the act of bringing people from  
5 probably outside of the immediate area to  
6 come to a location for its qualities, the  
7 scenic quality, the recreation and so forth.  
8 Usually, "tourism" implies some sort of an  
9 infrastructure. It implies that there is  
10 some sort of publicity mechanism. A  
11 "destination" means that it's more than just  
12 a way to get there; it's the arrival point.

13 Q. So, does tourism include summer residents?

14 A. (DeWan) I suppose it could. But again --

15 Q. In your analysis, did you interpret tourists  
16 to include summer residents?

17 A. (DeWan) We don't think of this as being a --  
18 well, to answer your question, do we consider  
19 summer residents, we didn't make a separate  
20 analysis of who lives there or why they're  
21 there, summertime versus wintertime. I don't  
22 know if that would apply to this particular  
23 situation or not. But it's pretty clear to  
24 us, though, that what we're looking at right

1 now is clearly not an example of tourism  
2 destinations that are described and we have  
3 to consider as part of the rules.

4 Q. But if one were to include summer residents  
5 and tourists within the category of  
6 "tourists" for whom tourist destinations  
7 might be relevant, would it not be the case  
8 that they might actually prefer places of  
9 more limited use?

10 A. (DeWan) That may be true. But summer  
11 residents to us aren't necessarily tourists.  
12 Tourists are people that come from someplace  
13 else to visit for the purpose of enjoying a  
14 destination.

15 Q. So how long does a visit last before you're  
16 not a tourist under your assumption?

17 (Pause)

18 Q. Please, is there an answer to the question?

19 A. (DeWan) I don't have a pat answer to that. I  
20 would think that someone who comes here to  
21 enjoy the summertime would be considered to  
22 be a summer resident as opposed to a tourist.

23 Q. Okay. So you're not likely to include  
24 destinations and the uses of destinations by

1 summer residents. Is that what you're  
2 meaning to say?

3 A. (DeWan) I think what I'm saying is that I'm  
4 looking at this, and even if there were, you  
5 know, 50 summer residents that had a camp on  
6 the top of the hill here, it would not be a  
7 tourism destination. It's not the sort of  
8 place that's going to attract people, large  
9 numbers of people that would constitute  
10 tourism in it's broadest form to this  
11 location.

12 Q. So, large numbers of people have to use  
13 scenic resources in order for them to count  
14 as scenic resources?

15 A. (DeWan) Our understanding of tourism is it's  
16 more than a few people. It's some place that  
17 has a destination to it that attracts  
18 tourists.

19 Q. Okay. Let's move on.

20 CHAIRMAN HONIGBERG: Off the  
21 record.

22 (Discussion off the record)

23 BY MS. CRANE:

24 Q. If we hadn't gone really quickly, we would

1           have learned that "Noah's Shoulder" is what  
2           the local residents call the elevations that  
3           you previously noted to the northwest of the  
4           intersection of Cass Road and River Road;  
5           correct?

6    A.    (DeWan) That's correct.  Yeah.

7    Q.    And what do you see in this picture taken  
8           from Noah's Shoulder?

9    A.    (DeWan) I see a farmscape with a small pond  
10           in the middle.  I see agricultural fields.  I  
11           see what appears to be a road running roughly  
12           diagonally through the landscape.  I see  
13           indistinct hills in the background.  And the  
14           rest of it's quite blurry.

15   Q.    And if we had dwelled longer on the  
16           immediately prior slides, you might have been  
17           able to recognize the structure that you see  
18           as the farmhouse that is still present on the  
19           property.  Will you accept that assertion?

20   A.    (DeWan) That's the Webster Farmhouse or  
21           Webster Farm?  I think we saw a sign to that  
22           effect.

23   Q.    Yeah, this is what we call Webster Farms,  
24           okay.

1 A. (DeWan) Okay.

2 Q. And the pond is consistent with the maps that  
3 have labeled the pond as Webster Pond. Would  
4 you agree?

5 A. (DeWan) I would agree, yes.

6 Q. And do I gather from our immediately prior  
7 conversation that your not including Webster  
8 Pond as a scenic resource has to do with not  
9 anything about its visual qualities or  
10 ability the see it from this distance, but  
11 solely because of your assumptions about how  
12 it's used and whether it's a tourist  
13 destination; is that correct?

14 A. (DeWan) Not necessarily, no. When we did our  
15 viewshed analysis, it did not come up as a  
16 place where the Project would be potentially  
17 visible.

18 Q. Okay. And let's look at the picture a little  
19 harder. I know it's kind of blurry, but do  
20 you see the cleared area that is roughly  
21 parallel to the water that we can see  
22 about -- starting at about the middle of the  
23 photograph?

24 A. (DeWan) On which side of the pond are we

1 talking?

2 Q. On the east side of the pond, toward the top  
3 of the picture.

4 A. (DeWan) On the far side of the pond.

5 Q. On the left-hand side of the picture.

6 A. (DeWan) I think I see what you're talking  
7 about. Looks like there is scattered  
8 vegetation still in what appears to be a  
9 partially cleared field.

10 Q. And the little white dot that you see just  
11 above that cleared field?

12 A. (DeWan) I'm sorry. I see a lot of white dots  
13 here.

14 Q. Okay. You've got the cleared field, the  
15 first cleared field?

16 A. (DeWan) The one immediately adjacent to the  
17 pond or the other side of the River Road?

18 Q. The other side of River Road.

19 A. (DeWan) Okay.

20 Q. And then there's a little bit of tree?

21 A. (DeWan) Yes.

22 Q. And then there's a linear feature with a  
23 white dot.

24 A. (DeWan) I see that horizontal line that runs

1 a third of the way across the photograph.

2 Q. And what do you suppose that horizontal line  
3 to be?

4 A. (DeWan) A road of some sort, perhaps the  
5 interstate. I don't know the date of this  
6 photograph.

7 Q. Well, I don't either. But those other  
8 structures besides the big, white house  
9 burned in 1920.

10 A. (DeWan) That answers that question about the  
11 interstate.

12 Q. Or 1919. Sorry. So it's a road on the other  
13 side of the river, but not the interstate.

14 And so from this advantage point, if  
15 this amount of vegetation were eliminated,  
16 would you think that you should be doing an  
17 assessment of whether the Project would be  
18 visible?

19 A. (DeWan) There's no reason to. It's not a  
20 scenic resource.

21 Q. And what would make it a scenic resource?

22 A. (DeWan) If this was a tourism destination.  
23 When you say "this," are you talking about  
24 the pond or the viewpoint that it's taken



1 from?

2 Q. Well, I would be willing to ask about both,  
3 but I think I was talking about the viewpoint  
4 itself.

5 A. (DeWan) So we're at an elevated viewpoint on  
6 private property. Are we on private property  
7 now?

8 Q. Well, we'll just put an asterisk. This is in  
9 recreational current use right now.

10 A. (DeWan) So it's on private property;  
11 therefore, it's not a scenic resource.

12 Q. Okay. Could you summarize how much less  
13 vegetation there is in this picture than  
14 had -- no, let me go back.

15 Your visibility analysis did not  
16 identify this location; is that correct?

17 A. (DeWan) When you say "this location," I know  
18 there was one point on the map that we showed  
19 earlier that showed some visibility.

20 Q. That was south of Cass Road -- north of Cass  
21 Road. That's why I asked you the question.

22 A. (DeWan) I don't know where we are  
23 specifically to the map.

24 Q. So we are right next to the farmhouse. River

1 Road is running across the picture. Cass  
2 Road is coming toward us. It's actually not  
3 the road you can see. It's the break in the  
4 trees closer to the pond that joins River  
5 Road perpendicularly here. And your  
6 visibility analysis did not reveal any areas  
7 of potential effect in that quadrant?

8 A. (DeWan) Right. And that was true of a lot of  
9 visibility analysis that we did. As I said  
10 earlier, the visibility analysis, the  
11 viewshed maps are not the endpoint. It's  
12 simply a way of helping us determine where to  
13 do further evaluation. However, we never  
14 stopped there. If the visibility analysis  
15 said there's no visibility, but we had a  
16 sense that there may be an elevated viewpoint  
17 that the public had access to, we would go  
18 then to guidebooks, to descriptions online,  
19 to other resources and see if there's a  
20 description of a trail system, for example.  
21 And we found this in the several occasions  
22 where we went to places because the guidebook  
23 said there's good views here, even though  
24 those views didn't show up on our visibility

1 maps. We found places like that.

2 Q. But if they weren't in the guidebooks, you  
3 wouldn't try to look for them?

4 A. (DeWan) When you're looking at 192 miles, we  
5 did not -- we're not able to look at every  
6 single elevated viewpoint along there,  
7 especially on properties that were not  
8 accessible to the public.

9 Q. But if the Project were only 5 miles long  
10 instead of 192 miles long, you might have  
11 spent a little more time trying to identify  
12 those sources?

13 A. (Kimball) It still comes back to the issue of  
14 public right of access.

15 Q. That is not responsive to my question.

16 A. (Kimball) Well, it is because we would have  
17 identified it as a scenic resource and then  
18 potentially visited it if we knew there was a  
19 trail system from an elevated viewpoint. We  
20 would have identified it and explored it.

21 A. (DeWan) If this had been a state park, for  
22 example, we would have read the online or the  
23 available information about it, and if there  
24 was a description of a trail system offering

1           wonderful views off to the east, we would  
2           have visited it.

3    Q.    And would it make any difference if I told  
4           you there is a designated snowmobile trail  
5           that runs up Cass Road and it has a loop to  
6           this viewpoint?

7    A.    (Kimball) If that snowmobile trail exists,  
8           it's not located in the state snowmobile  
9           trail that we received from the state or the  
10          recreational trail data base.

11                   MS. CRANE:   Okay.  Let's just  
12                  jump forward a whole lot.  Getting tiresome,  
13                  even for...  Go to the trail map.

14  BY MS. CRANE:

15  Q.    Okay.  I just wanted to orient us on this web  
16          page.  This is the Parks and Recreation  
17          interactive snowmobiling page.  Will you  
18          allow me to assert that?  This is Slide 137  
19          of Ashland to Deerfield Non-abutters Exhibit  
20          52.  Mr. DeWan, is that what it appears to  
21          be?

22  A.    (DeWan) Appears to be Slide 52 [sic], yes.

23  Q.    And the next slide, this appears to be the  
24          home page of the Bridgewater Mountain

1 Snowmobile Club. This is Slide 138. Would  
2 you agree with that?

3 A. (DeWan) That's what it appears, yes.

4 Q. Okay. Let's go. I have other things to do  
5 with this picture as well. But this is one  
6 of the favorite pictures that is included in  
7 the Bridgewater Mountain Snowmobile Club's  
8 web page. It is a picture of what?

9 A. (DeWan) Appears to be the Route 3 bridge over  
10 the river between Bridgeton -- Bridgewater  
11 and Ashland.

12 Q. And what else?

13 A. (DeWan) And the railroad bridge in the  
14 immediate foreground.

15 Q. And the railroad bridge in the immediate  
16 foreground.

17 And I'm not going to fight with the  
18 resolution. Would you allow me to assert  
19 that the red arrow is pointing to where the  
20 transmission lines are about to cross the  
21 river?

22 A. (DeWan) In that general vicinity.

23 Q. Okay. Let's move on. And this is the state  
24 park snowmobile map. Is that what it appears

1 to be?

2 A. (DeWan) It appears to be.

3 Q. And I want to stop for a minute and look at  
4 the legend. The red bar indicates what?

5 A. (Kimball) Corridor trail system.

6 Q. And are you familiar enough with the trail  
7 system to be able to tell us what the  
8 designation of "corridor" means?

9 A. (Kimball) No.

10 Q. No? Even though you evaluated snowmobile  
11 trails with their scenic impact in mind and  
12 the volume of use and the duration of use was  
13 a significant part of your assessment  
14 elsewhere?

15 A. (DeWan) If it's similar to what we have in  
16 Maine, we have what's called an  
17 interconnected trail system. I would suspect  
18 that these are part of the network --

19 Q. I'm sorry. I didn't get an answer to my  
20 question.

21 A. (DeWan) I was trying to answer it.

22 Q. No. It was a "Yes" or "No" question.

23 MR. NEEDLEMAN: No, it's not.

24 Objection.

1 CHAIRMAN HONIGBERG: Sustained.

2 You want to try the question again?

3 BY MS. CRANE:

4 Q. You are not familiar with the designations on  
5 this legend and the meaning; is that correct?

6 A. (DeWan) I'm not familiar with the specific  
7 designations.

8 Q. And yet your assessment included an  
9 assessment of the snowmobile trails affected  
10 by the Project; is that correct?

11 A. (DeWan) That's correct.

12 Q. So you never analyzed the snowmobile trail  
13 system enough to know which were the heavily  
14 used routes and which weren't, because that  
15 is the distinction that is being made. I'm  
16 sorry. You never -- I'll stop with to know  
17 the difference. So you never examined it  
18 closely enough to become familiar with the  
19 difference in these designations.

20 A. (DeWan) We identified snowmobile trails per  
21 se and located them on the map based upon the  
22 information that we received.

23 Q. And you didn't try to figure out which ones  
24 were more heavily used?

1 A. (DeWan) We did not.

2 Q. Okay. Next slide. Sorry. That's just  
3 making it easier to read. This is a blow-up  
4 of the prior map. We are now on Slide 152.

5 Could you tell me what seems to be  
6 happening right near the Interstate 93  
7 symbol?

8 A. (DeWan) I'm sorry. It's somewhat of a blur  
9 on my screen. I see a green line. I see a  
10 shield that represents Interstate 93. I see  
11 an eight. I see what appears to be the  
12 interstate.

13 Q. And do you see where Ashland is?

14 A. (DeWan) I see the word "Ash."

15 Q. Okay. And we've looked at this same location  
16 long enough today, that it probably says  
17 Ashland. Would you agree?

18 A. (DeWan) No doubt.

19 Q. And where it says 24 --

20 A. (DeWan) I see a 24 there, yes.

21 Q. And it is leaving I-93 and the Pemigewasset  
22 River and traveling west from there. And do  
23 you recall what the terrain is like between  
24 I-93 and Newfound Lake?



1 A. (DeWan) I don't recall specifically.

2 Q. So if I were to tell you that that is going  
3 up over Bridgewater Mountain, would that  
4 help?

5 A. (DeWan) I would say that sounds like my  
6 distant recollection of it.

7 Q. Okay. So is it appropriate to conclude that  
8 the trail, the snowmobile trail marked "24"  
9 is leaving the Pemigewasset River just south  
10 of Ashland -- that would be where the  
11 Sawhegenet Park is, where we saw the trail  
12 previously -- traveling south for a few  
13 hundred yards along River Road, also where we  
14 saw in a previous slide, and then traveling  
15 west over Bridgewater Mountain? Is that a  
16 fair --

17 A. (DeWan) I have no reason to doubt.

18 Q. But you never tried to do any visual impact  
19 analysis along any of this route.

20 A. (Kimball) As I said, snowmobile trails were  
21 identified, then assigned a low cultural  
22 value and filtered out from a complete visual  
23 impact analysis.

24 Q. Okay. But snowmobile trails do afford public

1 access to other potential scenic resources;  
2 do they not?

3 A. (DeWan) That's right. And a lot of them are  
4 located within transmission corridors.

5 Q. But these are not; is that correct?

6 A. (DeWan) I don't know. I cannot tell you  
7 where these particular ones are located from  
8 looking at this map.

9 Q. But if there had been another a transmission  
10 corridor along this area, it would have  
11 appeared on some of the other maps we have  
12 been looking at, right, and you would have  
13 taken the fact that they existed into account  
14 when evaluating the views from those places.  
15 So would you agree that it's safe to assume  
16 that, at least going over that, the route  
17 designated 24 is probably not in a  
18 transmission corridor?

19 A. (DeWan) I can't make that judgment based upon  
20 the information provided in this particular  
21 map.

22 Q. Fair enough. And there's no information in  
23 your head about this area enough to make that  
24 conclusion either; is that correct?

1 A. (DeWan) That is correct.

2 Q. Okay. Next slide.

3 CHAIRMAN HONIGBERG: How many  
4 more slides are in this deck?

5 MS. CRANE: I can cut it down to  
6 10 or 15. They'll be quick ones.

7 Okay. And we're going to skip  
8 over this one because it's the same  
9 intersection. I hadn't found the other map  
10 yet. Keep going.

11 BY MS. CRANE:

12 Q. And there's your summary of the snowmobile  
13 trail in Bridgewater, like every other  
14 snowmobile trail in the state. And this was  
15 treated as an aggregate resource, I take it,  
16 like the Pemi River itself; correct? You  
17 just had one assessment for all snowmobile  
18 trails? This slide does not represent that.  
19 This is an entry for Bridgewater.

20 A. (DeWan) That's right. This is typically what  
21 we looked at, you know, where's the closest  
22 point to the snowmobile trail to the Project,  
23 and we presented the distance to that.

24 Q. Okay. And there's very little -- there is

1           essentially the same entry for every  
2           snowmobile trail within the Project corridor;  
3           is that correct?

4    A.    (DeWan) That's pretty much correct.

5    Q.    Okay.

6                           MS. CRANE:  Next slide, next  
7           slide, next slide.

8    BY MS. CRANE:

9    Q.    And we are looking at the railroad bridge  
10           again; is that correct?

11   A.    (DeWan) Yes, we are.

12   Q.    And did you ever consider this bridge as a  
13           potential scenic resource?

14   A.    (DeWan) We did.  In fact, we thought about  
15           going down to it, but on the Bridgewater side  
16           there's a sign that said "Keep Out.  Private  
17           Property."

18   Q.    On the bridge?

19   A.    (DeWan) Not on the bridge.  On the field that  
20           led up to the bridge.

21   Q.    Okay.  So you didn't get a chance to get  
22           closer to the bridge?

23   A.    (DeWan) As close as the photograph that I  
24           believe we took.

1 Q. And that's the reason why you didn't consider  
2 it a scenic resource was because you couldn't  
3 get there?

4 A. (DeWan) Again, does the public have a legal  
5 right of access? If we saw a sign on the  
6 property surrounding it --

7 Q. So the public doesn't have a right of legal  
8 access to walk across the adjoining landowner  
9 [sic] to look at the bridge, and therefore  
10 it's not a scenic resource.

11 A. (DeWan) Well, again, if there had been a sign  
12 that said "Public Access Way" or a pathway  
13 that seemed to lead down there, we would have  
14 taken it. We would have gone down there.

15 MS. CRANE: Move to the next  
16 slide. That's just another view of the bridge.  
17 Oh, yeah, let's keep going. Keep going, keep  
18 going. Okay.

19 BY MS. CRANE:

20 Q. If you had gotten down to the bridge, may I  
21 assert that this is what you would have seen?  
22 This is Slide 155. Does it look like a  
23 regular railroad bridge?

24 A. (DeWan) It looks like a railroad bridge.

1 Q. Yeah, and what else is it? Or what else is  
2 different from most railroad bridges?

3 A. (DeWan) I see two parallel lines of tracks  
4 here.

5 Q. Yeah?

6 A. (DeWan) And I see a wooden surface on either  
7 side of the tracks.

8 Q. Is that common on railroad bridges?

9 A. (DeWan) I've seen a lot of railroad bridges  
10 that have some type of covering over the  
11 ties.

12 Q. And why might this -- why might a railroad  
13 bridge have covering like this?

14 A. (DeWan) I suppose, you know, perhaps to allow  
15 snowmobiles to travel over it.

16 Q. That would be to allow snowmobile to travel  
17 over it, yes. I believe that is why these  
18 are here.

19 MR. NEEDLEMAN: Objection.  
20 Testimony.

21 MS. CRANE: Yeah, okay.

22 BY MS. CRANE:

23 Q. I'll just accept your supposition that --

24 CHAIRMAN HONIGBERG: Just give

1           him credit that he made a really good guess at  
2           that? Sounds about right? We should move on.

3 BY MS. CRANE:

4 Q.    Okay. Let's go. And I'm just going to ask  
5           you to read the paragraph under Requested  
6           Action.

7 A.    "Authorize the Department of Resources and  
8           Economic Development Division of Parks and  
9           Recreation, Bureau of Trails, to award  
10          Recreational Trails Program grants to the  
11          organizations listed on the attached sheet,  
12          vendor codes included, in the total amount of  
13          \$722,575.16 for the development and  
14          maintenance of recreational trails and  
15          trail-related safety and educational projects  
16          from June 1, 2015 through December 31, 2015,  
17          100 percent federal funds."

18 Q.    And the blue arrow is pointing towards what  
19          label?

20 A.    (DeWan) The Bridgewater Mountain Snowmobile  
21          Club.

22 Q.    And will you accept my -- no, let's just move  
23          on. But let's just say that the state has  
24          subsidized this club's activities in this

1 year.

2 MS. CRANE: Move on, move on.

3 BY MS. CRANE:

4 Q. Now I have a different map. And can you read  
5 the part of the legend that the blue arrow is  
6 pointing to?

7 A. (DeWan) It says is a parallel light green  
8 line. The label is "State of New Hampshire  
9 Active."

10 Q. And do you see running through essentially  
11 the heart of the map a light green line?

12 A. (DeWan) I see several light green lines. I  
13 see one right in the middle of it.

14 Q. And can you make out which towns it seems to  
15 encompass?

16 A. (DeWan) I can read a label that says  
17 "Concord-Lincoln Line, Plymouth and Lincoln  
18 Railroad."

19 Q. Thank you. So, the Plymouth & Lincoln  
20 Railroad is apparently owned by the State of  
21 New Hampshire. Does that seem to be a  
22 correct interpretation of this?

23 A. (DeWan) I have no idea.

24 Q. So the green indicates State of New



1 Hampshire. Legend is owner. And the stretch  
2 that is labeled "Plymouth & Lincoln" is that  
3 same green color?

4 A. (DeWan) Yes.

5 Q. Okay. And did you use this map in  
6 identifying scenic resources?

7 A. (DeWan) No, we did not.

8 Q. Did you look for any railroads to identify as  
9 scenic resources?

10 A. (DeWan) No, because railroads were not listed  
11 as a category of scenic resources according  
12 to the rules.

13 Q. Okay. This is that same bridge. The bridge  
14 is part of this rail line. Will you accept  
15 that for convenience, or do I need to go --

16 A. (DeWan) We're aware of the fact it's there,  
17 yes.

18 Q. You're aware of the fact that it's there.  
19 And are you aware of the fact that the State  
20 owns it?

21 A. (DeWan) I can see from this description  
22 that -- well, I don't see where it says  
23 ownership. For purposes of argument, I will  
24 assume that.

1 Q. I'm not arguing, I hope. I may soon, but not  
2 yet.

3 Next page. And what does this page  
4 depict? We are looking at Slide 160.

5 A. (DeWan) This appears to be a publication  
6 regarding foliage train tours.

7 Q. And could you read the sentence that begins  
8 at the blue arrow?

9 A. (DeWan) "This route is only traveled during  
10 fall foliage season, so sit back in our comfy  
11 coaches and enjoy the fall scenery. You will  
12 pass Lake Waukegan and Lake Winona, follow  
13 along and over the Pemigewasset River from  
14 Ashland to Plymouth, with stations stops  
15 along the way."

16 Q. And we can stop before we get to eat at the  
17 Common Man. Sorry.

18 Next slide. And this is Slide 161.  
19 I've included the URL here so I don't to have  
20 to go through quite as much rigmarole to  
21 identify it. But it is the home page of the  
22 Hobo Railroad. Are you familiar with the  
23 Hobo Railroad?

24 A. (DeWan) I am not.

1 Q. Did you evaluate scenic resources in Lincoln  
2 and Franconia? Never mind. I withdraw the  
3 question.

4 Can you read the last sentence?

5 A. (DeWan) "The B & M continued service as  
6 required, but heavy rains in the summer of  
7 1973 caused several washouts north of  
8 Meredith which the B & M could not justify  
9 repairing, thus the northern portion of the  
10 line was embargoed."

11 Q. And the next page, a continuation of this  
12 history.

13 A. "In 1975, the Profile Paper Company announced  
14 intentions to reopen the mill at Lincoln,  
15 provided that rail service was available.  
16 The State of New Hampshire purchased the  
17 Concord to Lincoln trackage on October 30,  
18 1975, repaired it and resumed service, with  
19 the Wolfeboro Railroad serving as the first  
20 of several operators. The Lincoln Paper Mill  
21 closed for good in 1977" --

22 Q. That's enough. Thanks. Next slide. And  
23 this --

24 CHAIRMAN HONIGBERG: Is there a

1 question about what you just had him read into  
2 the record?

3 MS. CRANE: I just wanted to  
4 confirm that the --

5 CHAIRMAN HONIGBERG: That he  
6 could read?

7 MS. CRANE: And that the State  
8 in fact owns the railroad. He was challenging  
9 that when --

10 CHAIRMAN HONIGBERG: Do you know  
11 if the State owns the railroad?

12 WITNESS DeWAN: I assume so from  
13 that one map that she showed.

14 CHAIRMAN HONIGBERG: But you  
15 don't have any other knowledge of that; right?

16 WITNESS DeWAN: I haven't seen  
17 any deeds of that --

18 CHAIRMAN HONIGBERG: Fair  
19 enough. You may proceed.

20 BY MS. CRANE:

21 Q. Next slide. This is Slide 164. Can you tell  
22 me what this slide shows?

23 A. (DeWan) This is a clip from a New York Times  
24 article showing a section of some river that

1 looks like the Hobo River along the  
2 Pemigewasset River at some point --

3 Q. I'm sorry. Let's start that again. It's the  
4 Hobo Railroad.

5 A. (DeWan) I'm sorry. The Hobo Railroad running  
6 along the Pemigewasset River in New  
7 Hampshire. It doesn't identify where along  
8 the river this is located.

9 CHAIRMAN HONIGBERG: How many  
10 more slides are in this stack? Direct answer.  
11 How many more slides are in this stack?

12 MS. CRANE: Six.

13 CHAIRMAN HONIGBERG: Are there  
14 any questions after you're done with the six  
15 slides?

16 MS. CRANE: I don't believe so.

17 BY MS. CRANE:

18 Q. Okay. So this is the Hobo Railroad along the  
19 Pemigewasset. It is the Pemigewasset in  
20 Area 3, not Area 4, but I'm not sure we're  
21 supposed to care about that.

22 If the railroad were a scenic resource,  
23 would it be a single scenic resource, the  
24 same way the river is a single scenic

1 resource?

2 A. (DeWan) I would say I would consider it the  
3 same way we've evaluated the rail trails as a  
4 scenic resource.

5 Q. Okay. But you didn't identify this railroad  
6 as a scenic resource; is that correct?

7 A. (DeWan) No, because we don't know about  
8 public right of access. I don't know if  
9 pedestrians are allowed to use this.

10 Q. And why would pedestrians need to be allowed  
11 to use it in order to count a state-owned,  
12 franchised train as a scenic resource?

13 A. (DeWan) I think we're getting into a legal  
14 argument here. You know, we've looked at  
15 legal rights of access to scenic resources,  
16 and, you know, we've considered a situation  
17 where, if pedestrians were on here, would  
18 somebody have the ability to tell them not to  
19 be there.

20 Q. And the train itself could not possibly be a  
21 scenic resource?

22 A. (DeWan) The train itself?

23 Q. The Hobo Railroad that runs on a seasonal  
24 basis, sharing the tracks with the snowmobile

1 clubs.

2 A. (DeWan) We have not considered the Hobo  
3 Railroad as a scenic resource.

4 Q. You did not consider the Hobo Railroad --

5 CHAIRMAN HONIGBERG: He just  
6 said that.

7 BY MS. CRANE:

8 Q. Okay. And can you summarize again for me  
9 why?

10 A. I believe we --

11 (inaudible objection.)

12 CHAIRMAN HONIGBERG: Sustained.

13 BY MS. CRANE:

14 Q. And this is a continuation of the same New  
15 York Times Travel Log web page. Can you read  
16 what's circled in blue?

17 A. (DeWan) I could.

18 Q. Will you?

19 A. (DeWan) "Although the notion of 'foliage  
20 trains' has been around since tourist  
21 railroads replaced working ones, these trains  
22 keep their popularity because most roll  
23 through undeveloped land."

24 Q. Thank you. Let's move on.

1           And this is a totally different subject.  
2           Do you recognize this location? Here's a  
3           hint. The railroad is --

4   A.    (DeWan) Oh, it's the same location, yes, just  
5           a different viewpoint of it.

6   Q.    Okay. So the railroad is down there coming  
7           across the river --

8   A.    (DeWan) The very bottom of the page where you  
9           see the railroad bridge.

10   Q.    Right, slicing the view in half. And are you  
11           familiar enough with the Project overall to  
12           take a guess at what the blue circle is  
13           roughly trying to represent?

14   A.    (DeWan) I am.

15   Q.    And it would be?

16   A.    (DeWan) A transition station.

17   Q.    A transition station. And the five blue  
18           stars?

19   A.    (DeWan) That could be the representation of  
20           locations for transmission structures.

21   Q.    For transmission structures.

22   A.    I should say general locations.

23   Q.    And if the scenic railroad were a scenic  
24           resource, would the presence of these



1 structures affect the visual quality of the  
2 experience at the scenic resource?

3 A. (DeWan) Not having been on the railroad or  
4 having walked the line, I can't make that  
5 assessment. However, I would, if I were to  
6 be down there, I would look at the existing  
7 vegetation. I would look at the location of  
8 the star closest to the word "Google" on the  
9 bottom of the page, and I would put myself in  
10 the mind of somebody inside of a railroad car  
11 looking out towards the river and knowing  
12 that that band of vegetation just north of  
13 that star probably blocks most of the view of  
14 the transmission structure from the viewpoint  
15 of the person in the railroad.

16 Q. But you didn't do this analysis; is that  
17 correct?

18 A. (DeWan) As I said, we were discouraged by the  
19 fact that there was signs which indicated it  
20 was private property in that field around  
21 there.

22 Q. And so you did not designate the bridge as a  
23 scenic resource and you did not designate the  
24 railroad; correct?

1 MR. NEEDLEMAN: Objection.

2 Asked and answered.

3 CHAIRMAN HONIGBERG: Sustained.

4 BY MS. CRANE:

5 Q. Okay. Next slide. This is just another view  
6 of the bridge. I think we can skip over  
7 this.

8 Okay. This is one more slide, and it is  
9 probably my last. Unfortunately, it is the  
10 hardest to read. Are you familiar with this  
11 map?

12 A. (DeWan) No, I'm not.

13 Q. You have never seen this map before?

14 (Witness reviews document.)

15 A. (DeWan) I don't believe we have --

16 A. (Kimball) We certainly have seen this area --

17 (Court Reporter interrupts.)

18 A. (DeWan) I don't believe we have.

19 Q. Okay. This map, if you read the red --

20 A. (DeWan) I can see there's red printing on the  
21 map. I have a hard time reading. I see the  
22 word "total."

23 Q. And beginning just to the left of the word  
24 "river," what does it say?

1 A. (DeWan) I'm sorry. I couldn't hear what you  
2 asked.

3 Q. I'm sorry. Just to the left of the word  
4 "river," can you make out what it says?

5 A. (DeWan) No, I cannot.

6 Q. If I told you that it said "Proposed taking  
7 for scenic easement or protective screen," is  
8 that plausible?

9 A. (DeWan) If that is, then I think you may be  
10 discussing the scenic easement that we  
11 evaluated as one of the crossings in our  
12 Visual Impact Assessment.

13 Q. And when you assessed it --

14 MS. CRANE: Could you zoom back  
15 out again, or is that all we've got on this  
16 one?

17 (Pause)

18 BY MS. CRANE:

19 Q. So do you see the circle that's a 3?

20 A. (DeWan) I'm sorry. I do not.

21 Q. Do you see where the scenic easement -- I'm  
22 sorry -- where the right-of-way was when the  
23 photograph was taken?

24 A. (DeWan) You're asking --

1 Q. Same right-of-way that's there now.

2 A. (DeWan) You're asking for a lot of detail on  
3 a very obscure map that I'm having a hard  
4 time making out.

5 Q. Is that easier now? Can you see the word  
6 "power" and the word "line"?

7 A. (DeWan) I see the word "power" and I see the  
8 word "line." Yes. Okay.

9 Q. Just below the word "line," what does it say?

10 A. (DeWan) I'm sorry.

11 CHAIRMAN HONIGBERG: What's the  
12 point here? Is this a test, a reading test of  
13 an illegible map?

14 MS. CRANE: My intent is to  
15 ultimately ask him whether he took into account  
16 who owned which rights at this location when he  
17 made his assessment of the visual impact at  
18 this location.

19 A. (DeWan) I believe we discussed this in detail  
20 in our Visual Impact Assessment. This is a  
21 scenic easement that was created to protect  
22 the view from what was then the proposed  
23 interstate highway. Our understanding at the  
24 time, there was a view looking down to the

1 river. We went back there. We drove it. In  
2 the intermediate years between the time that  
3 the highway was built and the current  
4 conditions, those trees that used to be this  
5 tall are now of sufficient height, that when  
6 you drive by on Interstate 93 you see the  
7 river for a period of maybe three seconds.

8 BY MS. CRANE:

9 Q. Thank you. That was not where I was going.  
10 The numeral 3 that was circled just above  
11 "line" and the language just below it says  
12 "Luther Drake Estate"?

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

14 Q. And it says "8.3 acres total taking"?

15 A. (DeWan) Yes, I see that.

16 Q. And the right-of-way intersects the area  
17 designated as taken; is that correct?

18 A. (DeWan) I hesitate to agree with that without  
19 knowing the details.

20 Q. Well, the land circumscribed within which it  
21 says 8.3 acres --

22 MR. NEEDLEMAN: Mr. Chair,  
23 objection. They testified they analyzed this  
24 easement extensively. If there's a specific

1 question here in light of that analysis, it  
2 should be asked.

3 CHAIRMAN HONIGBERG: Yeah, I  
4 think there was -- you said you had a question  
5 about ownership. Can you focus on that  
6 question and ask it? I thought I heard it when  
7 you said, "This is what I wanted to ask him."  
8 That seems like a question he should be able to  
9 answer.

10 BY MS. CRANE:

11 Q. So the question that I ultimately want to ask  
12 is: Did you take into account or even -- I'm  
13 sorry. Did you make note of the fact that  
14 the land that was taken subject to the  
15 right-of-way appears to have been taken by  
16 the State, and the right-of-way actually runs  
17 over the land subject to the easement?

18 A. (DeWan) If you go to Page 4-14 in our Visual  
19 Impact Assessment, that's the start of two  
20 pages where we describe this particular  
21 easement and the effects that the Project  
22 would have on the easement and the view from  
23 the interstate.

24 Q. Did you take any note of who the owners of

1 the various rights were?

2 A. (DeWan) We saw documents. We did not include  
3 that information in our VIA report.

4 Q. Do you think it might have been helpful for  
5 the Committee to know --

6 A. (DeWan) I'm sorry. In terms of? I'm sorry.

7 CHAIRMAN HONIGBERG: Finish your  
8 question.

9 BY MS. CRANE:

10 Q. -- who owns the subservient and dominant  
11 estates at this particular site? I'm sorry.  
12 I should say that in a different way. Who  
13 the owners of the land subject to the  
14 easement --

15 A. (DeWan) I don't know how important it is for  
16 the Committee to know the specific owners. I  
17 know that in our VIA, on Page 4-14, we do  
18 talk about the easement and ownership and the  
19 uses that are allowed on the land. And from  
20 our Visual Impact Assessment, I think that's  
21 the important information that needs to be  
22 brought forward before the Committee.

23 Q. And did you include the impacts of the  
24 Project on the landowners subject to the

1           easement across the river?

2    A.    (DeWan) We know that the easement was on both  
3           sides of the river, and the function of the  
4           easement was to protect the view from  
5           Interstate 93. Again, the analysis was done  
6           and presented on Page 4-15.

7    Q.    But you did no analysis that took into  
8           account the land subject to the easement on  
9           the opposite side as if it itself were a  
10          scenic resource, nor did you -- no. Sorry.

11   A.    (DeWan) Again, we provided the Committee with  
12          as much information as we had available to  
13          look at.

14   Q.    This is a map that was obtained from the  
15          Department of Transportation. Did somebody  
16          not ask for it?

17   A.    (DeWan) We have a map of the area shown on  
18          Page 4-14. I don't know how it compares with  
19          the map you have here.

20   Q.    That's all my questions.

21                           CHAIRMAN HONIGBERG: Ms. Crane,  
22                           your 1-1/4-hour examination of these witnesses  
23                           was accompanied by a slide deck of 170 slides.  
24                           You took almost four hours of questioning to do



1 that. That is unacceptable. That is not  
2 reasonable. If you had some indication that  
3 you needed more time, you needed to tell  
4 someone, because people make plans based on the  
5 estimates that were given.

6 Ms. Saffo, I'm sorry you had  
7 to sit and wait for as long as you did. You  
8 would have been called this morning had we  
9 known what was going on.

10 Ms. Crane, please return to  
11 your seat.

12 Off the record.

13 (Discussion off the record)

14 CHAIRMAN HONIGBERG: Let's take  
15 a five-minute break.

16 (Whereupon a recess taken at 4:29 p.m.  
17 and the hearing resumed at 4:36 p.m..)

18 CHAIRMAN HONIGBERG: We're going  
19 to go back on the record. Before we resume  
20 questioning, there's an outstanding issue about  
21 whether the recently issued procedural order  
22 regarding "friendly cross" applies to the  
23 witnesses being presented by Counsel for the  
24 Public. And we're going to rule from the Bench

1           that they do not. Those requirements do not  
2           apply to witnesses for the Counsel -- to  
3           Counsel for -- I can't even speak. It does not  
4           apply to the witnesses being called by Counsel  
5           for the Public. As that order indicates in  
6           another context, Counsel for the Public has a  
7           special statutory status here. They represent  
8           the public for a variety of interests, and we  
9           don't feel it's appropriate to apply that rule  
10          to their witnesses and the examination of those  
11          witnesses. That's not to say that  
12          cross-examination of those witnesses isn't  
13          appropriately limited to real cross-examination  
14          and not repetitive, all of the same  
15          requirements.

16                           Ms. Boepple, does that cover  
17          the issue?

18                           MS. BOEPPLE: Yes. Thank you,  
19          Chair.

20                           CHAIRMAN HONIGBERG: All right.  
21          Anyone have any questions on that?

22                           [No verbal response]

23                           All right. Ms. Saffo, you may  
24          proceed.

1 MS. SAFFO: Thank you.

2 CROSS-EXAMINATION

3 BY MS. SAFFO:

4 Q. Going afternoon.

5 A. Good afternoon.

6 Q. I put a document in front of you that's going  
7 to be Exhibit 36, Grafton Exhibit 36. And  
8 I'm going to be limiting my questions to the  
9 underground portion of the Project.

10 A. (DeWan) Okay.

11 Q. And my understanding from earlier testimony  
12 is you did not do visual impact studies, and  
13 in part, at the time you wrote your report  
14 you thought it was going to be under  
15 pavement, for lack of a better description.

16 A. (DeWan) That was our --

17 MR. NEEDLEMAN: I'm sorry. Mr.  
18 Chair, could I interrupt for one minute? I  
19 don't have a copy of the document that they're  
20 looking at.

21 MS. SAFFO: We can put it onto  
22 the ELMO.

23 CHAIRMAN HONIGBERG: We can't  
24 see it either.

1 MS. SAFFO: Yup. And I'll  
2 definitely as we talk about points in it.

3 BY MS. SAFFO:

4 Q. But at this point I'm not talking about the  
5 document. I'm just talking about your  
6 earlier testimony here; correct?

7 A. (DeWan) That is correct.

8 Q. And you did your joint prefiled testimony,  
9 first part, on October 16, 2015; correct?

10 A. (DeWan) I think that's right.

11 Q. And the same day, Northern Pass submitted a  
12 document to New Hampshire Department of  
13 Transportation. And that is what's in front  
14 of everyone as Grafton 36. And this was from  
15 the Law Office of Mark Hodgdon, PLLC. And  
16 you can tell by the caption there, it's the  
17 Petition for Aerial Road Crossings, Railroad  
18 Crossings and Underground Installations in  
19 State-Maintained Highways.

20 Now, I'd like to turn to Page 72 of that  
21 document. On the bottom, if you look at  
22 bottom Bates numbers, I think it's Northern  
23 Pass Transmission Discovery 30072. And if  
24 you look at the -- there's a half paragraph

1 in the top. Second full paragraph down, it  
2 says, "While the alignments vary slightly due  
3 to technical constraints" -- this is now  
4 going to be reading the goals of this  
5 document -- "the underground sections propose  
6 to make extensive use of the previously  
7 disturbed areas within the traveled way,  
8 ditches and shoulders of the road." So what  
9 Northern Pass was doing was proposing to the  
10 New Hampshire Department of Transportation to  
11 use only previously disturbed areas along the  
12 underground portion of the roadway.

13 And then it goes on to say why. "Using  
14 the disturbed areas will speed construction  
15 time, thereby reducing the impacts on the  
16 traveling public and abutters," and then more  
17 importantly for today, "avoid extensive  
18 impact to wetlands and water resources,  
19 historical properties, reduce ledge and  
20 mature tree removal and preserve the natural  
21 terrain." Do you see that?

22 A. (DeWan) I do.

23 Q. Okay. So what we're talking about in this  
24 document is it's a permission to the New

1 Hampshire Department of Transportation to go  
2 under pavement, ditches and the shoulders of  
3 the road; correct?

4 A. (DeWan) I think so, yes.

5 Q. Okay. So at this time, on October 16, 2015,  
6 the idea presented to you, as you drafted  
7 your pretrial testimony, dated the same day  
8 and presented to the New Hampshire Department  
9 of Transportation, was to do just that, use  
10 the disturbed area, paved shoulders and  
11 ditches; correct?

12 A. (DeWan) That was our understanding, that it  
13 was going to be primarily within the paved  
14 surface of the right-of-way.

15 Q. And while that was your understanding, this  
16 document shows that that was certainly  
17 nothing guaranteed at that point in time;  
18 correct?

19 A. (DeWan) At the time that we did our VIA, it  
20 was our understanding the objective was to  
21 locate it within the pavement of the road.

22 Q. And while that may have been an objective,  
23 the petition hadn't been filed yet because  
24 the petition is dated the same date as your

1           prefiled testimony; correct?

2     A.     (DeWan) It appears to be.

3     Q.     Okay. Now, this particular document talks  
4           about why Northern Pass Transmission was  
5           proposing to go underneath the paved areas.  
6           And one of the reasons was to avoid impact on  
7           the land around the paved areas, shoulders  
8           and ditches. And just to make it easier for  
9           the record, I'm going to say "paved areas."  
10          Every time I say that, I mean shoulders and  
11          ditches as well.

12                 But the reason why Northern Pass  
13           presented this document was because they  
14           didn't want to see other adverse impacts in  
15           the surrounding land; correct?

16     A.     (DeWan) That's what it appears to be, yes.

17     Q.     Now, at this point in time, October 16, 2015,  
18           had you provided any guidance whatsoever to  
19           Northern Pass on impacts along the  
20           underground portion of the roadway?

21     A.     (DeWan) Did we provide any guidance to them?  
22           We took what they said was going to be the  
23           assumed route -- i.e., underneath the paved  
24           section -- and we did our evaluation based

1           upon that. We drove the entire route. We  
2           didn't see anything that immediately jumped  
3           out at us as being unusual, for the most  
4           part.

5       Q.    But you were assuming that the route was  
6           going to go underneath the roadway; correct?

7       A.    (DeWan) With the exception of the two  
8           endpoints.

9       Q.    Yeah, yeah. So as you're driving those  
10           52 miles, you're presuming -- never mind.  
11           Strike that.

12                       (Court Reporter interrupts.)

13       Q.    Sorry. So, Attorney Hodgdon would have  
14           written this document without your input; is  
15           that fair to say?

16       A.    (DeWan) It's the first time I've seen this  
17           document.

18       Q.    Okay. Now, as it turned out, the request to  
19           bury under the paved areas was not granted  
20           for a variety of reasons. And so now we're  
21           in Plan B; is that fair to say?

22       A.    (DeWan) I don't know what Plan B is. But I  
23           know that there is a reaction on the part of  
24           the Department of Transportation that they



1 did not want to see it in the roadway.

2 Q. Yeah. So it's fair to say that Plan A, which  
3 is in the roadway, is no longer a valid plan,  
4 correct, as things stand right now?

5 A. (DeWan) I don't know the status of the  
6 Project right now --

7 Q. Okay.

8 A. (DeWan) -- exactly.

9 Q. So that's one of the concerns is that you  
10 don't know the status, as the aesthetic  
11 person and the aesthetic panel. If you don't  
12 know the status of these 52 miles of  
13 roadways, do you have any information as to  
14 what the landowners along those 52 miles of  
15 roadway might know?

16 A. (DeWan) I don't know what the landowners  
17 know. I've been informed of what the current  
18 discussions have been with the Department of  
19 Transportation.

20 Q. And what's your understanding of the current  
21 discussions?

22 A. (DeWan) Well, since the last time we talked  
23 about this, we did have some conversations  
24 with the engineering team, and we know that

1           there's been a number of exceptions filed  
2           with the Department of Transportation.  It's  
3           my understanding -- again, I'm not the  
4           engineer.  I'm relying primarily on what the  
5           conversations I've had with Don Cortez, one  
6           of the engineers with SGC Engineering on the  
7           underground portion, and Tom Hannigan from  
8           Quanta, who told us about recent  
9           conversations and meetings that they've had  
10          with the Department of Transportation.

11                 I think the overall objective, of  
12                 course, is to minimize disturbance to the  
13                 landscape, to put it in their proper  
14                 location, to work with them in a way that  
15                 will satisfy the concerns of the Site  
16                 Evaluation Committee and the Department of  
17                 Environment -- the Department of  
18                 Transportation.  From what we've been told,  
19                 again, in conversations with these  
20                 individuals, the primary location for the  
21                 facility, underground facility, would be in  
22                 the shoulder, roughly -- again, these are  
23                 general terms -- roughly 3 feet away from the  
24                 edge of the pavement, the ditch itself.  The

1           underground section would have a width of  
2           about 3 feet, and that would be the ideal  
3           location. Now, the final location, of  
4           course, would have to be set based upon  
5           survey information, looking at things like  
6           the edge of the right-of-way, the existence  
7           of utility poles, underground water lines,  
8           fire hydrants, those sort of things which may  
9           prove to be a conflict with the underground  
10          facility.

11        Q.    And what was your understanding of what needs  
12           to be cleared for construction in order to  
13           put these ditches 3 feet away from the  
14           pavement?

15        A.    (DeWan) When you say "cleared for  
16           construction," in most of these areas there's  
17           virtually no trees. And again, to continue  
18           on, you didn't let me finish --

19        Q.    Okay. I apologize.

20        A.    (DeWan) Now, that's the ideal. Most of the  
21           roads, as you know, have a drainage ditch on  
22           one side or both sides of the road. So the  
23           other limiting factor may be the outer edge  
24           of the drainage ditch within which this

1 facility might be located. I don't know how  
2 far that might be off the road, but it's  
3 generally fairly close to the edge of the  
4 road. But you can imagine the roadway to the  
5 shoulder, to the drainage ditch, not the sort  
6 of place one normally finds large trees or  
7 other types of vegetation.

8 Now, again, as I said, it's our  
9 understanding in talking with these  
10 individuals, a final location for the  
11 location of the line has not been set yet,  
12 the duct bank. It would be based upon  
13 further engineering, which is in progress  
14 right now, as I understand it. Continuing  
15 discussions with the Department of  
16 Transportation I'm certain will ensue to  
17 arrive at a final determination.

18 Another thing that was talked about, and  
19 I've heard some mention made when we sat in  
20 on some of the earlier sessions with the  
21 Committee, is the location of splice pits.  
22 As you know, they would be located roughly  
23 every 2,000 feet. There's been enough site  
24 evaluation done at this point so that the

1 splice pits are going to be located in places  
2 where there are no trees right now. And we  
3 were told, again by the engineering team,  
4 that there's certain flexibilities in the  
5 location of the splice pits, that they can be  
6 moved, I think the term was "several hundred  
7 feet in one direction," to avoid any specific  
8 site issues. I also found out in these  
9 discussions that once the splice pits were  
10 put into place -- and again, not being the  
11 engineer, I don't know exactly what  
12 constitutes a splice pit; it's an underground  
13 facility where the lines are joined  
14 together -- that the manhole that provides  
15 access to these splice pits would either be  
16 sealed off or covered over, and so a person  
17 driving or walking by wouldn't see the  
18 location of the splice pits. They would look  
19 like any other part of the gravel surface or  
20 the grass ditch, or if it was even located in  
21 the road, it would be paved over.

22 The other thing that we heard again in  
23 these discussions is that there may be a few  
24 locations where you have to go outside of

1           that roughly 20 feet away from the edge of  
2           the road. But those locations are primarily  
3           in areas -- there are four locations that  
4           have been identified. And I don't know where  
5           they are, but I was told these are all in  
6           lands that are owned by the Department of  
7           Transportation. These are areas that have  
8           been disturbed already. These are areas that  
9           do not have any trees in them.

10                        So that is a summary of what I  
11           understand to be the current state of the  
12           discussion with the Department of  
13           Transportation.

14    Q.    So that's kind of a fancy way of saying,  
15           though, that no one still knows how far off  
16           the pavement is needed to be cleared for  
17           construction and for to put these cables in  
18           the ground; correct?

19    A.    (DeWan) As I said, based upon what we've  
20           heard, the intent is to locate them in such a  
21           way that would have minimal amount of tree  
22           clearing.

23    Q.    So I understand intent and I understand goals  
24           and I understand aspirations and I understand

1 desires. The question for the landowners and  
2 for the public is: Where are these cables  
3 going to be buried, and what kind of impact  
4 is going to happen on aesthetics and on the  
5 public private land? So I think my main  
6 question is -- I understand goals and hopes  
7 and aspirations. My question is: What is  
8 going to happen? Where is the holes going to  
9 be dug? And what needs to be cleared along  
10 the way to build this?

11 So have they told you how big the  
12 machinery is to install the splice vaults and  
13 to do the trench operations?

14 A. (DeWan) We did not get into the mechanics of  
15 the construction. I was more interested in,  
16 you know, what ultimately is going have to be  
17 disturbed and what the final result would be,  
18 and ultimately what effect it would have on  
19 the visual characteristics, primarily on  
20 Route 116 which as we know is a scenic byway.

21 Q. Absolutely. So when you're looking at -- I  
22 live on 116. I'm not on this part of  
23 Northern Pass. I'm on the other side of it.  
24 I'm very familiar with that road, just so you

1 know.

2 A. (DeWan) Okay.

3 Q. What ultimately has to be disturbed? I think  
4 that is the issue. What ultimately has to be  
5 disturbed? And what ultimately has to be  
6 disturbed would include what has to be  
7 clear-cut to build these to bury these lines;  
8 correct?

9 A. (DeWan) Again, it's my understanding in  
10 talking to the team that we've been in  
11 contact with that there would be minimal  
12 amounts of tree clear-cutting.

13 Q. Okay.

14 A. (DeWan) There may be some trees. I don't  
15 know. I have not gone and looked at  
16 individual trees. But, you know, the  
17 conversation that we've had is that, if there  
18 are trees that are cut that are part of  
19 someone's property, let's say, and, you know,  
20 we've heard commitments on the part of Ken  
21 Bowes and others before this Committee that  
22 if there was disturbance of landscaping that  
23 affected someone's property -- and we're  
24 talking about public property here, not



1 talking about private property -- that if  
2 there were disturbances that landowners felt  
3 needed to be addressed, the Applicant is  
4 willing to work with those Applicants [sic]  
5 to address the issue, if there is an issue.

6 Q. Okay. So you haven't been here for a lot of  
7 the testimony. So the Applicants initially  
8 have testified that they initially told the  
9 landowners what they told you, which is the  
10 hope is it would be under the pavement and  
11 not in their roadway. Now the public and  
12 private owners are saying that there's this  
13 construction easement onto their private  
14 property, and that within that construction  
15 easement on their private property -- and  
16 there's been a lot of testimony about  
17 easements and what they are. I won't bother  
18 you with that, not relevant for this  
19 question -- that it's their position they can  
20 clear anything in that DOT construction  
21 easement. There's also been testimony, and  
22 this is just forming my next question, that  
23 Northern Pass is maintaining a 66-foot --  
24 maintaining there's a 66-foot New Hampshire

1 DOT construction easement along a lot of this  
2 roadway, including 116.

3 Now, 116 is about 24 at its widest feet  
4 wide. So if there's a construction easement  
5 of 66 feet, that would be approximately  
6 20 feet on both sides of that road. If  
7 20 feet on either side of that road, just  
8 pick one side or the other, is cleared, would  
9 that have a significant impact on aesthetics?

10 A. (DeWan) If that was the clearing that had to  
11 happen, which I don't believe is going to be  
12 the case, it would be something which we  
13 would look at. But I don't believe that  
14 there is the situation as it was described to  
15 us where that would be the result.

16 Q. Okay. What exactly -- have you been shown a  
17 map showing you what's going to be cleared  
18 along Route 116?

19 A. (DeWan) I have not seen any engineering  
20 drawings.

21 Q. Okay. So if you have not seen any  
22 engineering drawings and there is no concrete  
23 information about how far they have to go off  
24 the road, how can you make a determination

1           that there isn't going to be a significant  
2           adverse impact?

3       A.     (DeWan) Based upon the information that was  
4           provided to us as I described earlier, that  
5           the location for the underground ductwork is  
6           going to be usually 6 feet away from the edge  
7           of -- the outer edge is going to be 6 feet  
8           away from the edge of the pavement, from what  
9           we know about Route 116, you know, this will  
10          result in minimal visual impact to the  
11          overall scenic byway.

12       Q.     Okay. So if you're on Route 116 in between  
13           Franconia and Route 112 and they have to go  
14           more than 6 feet -- let's say they have to go  
15           15 feet -- would that be a significant visual  
16           aesthetic impact on Route 116?

17       A.     (DeWan) That's impossible to say at this  
18           point without knowing the specifics. But as  
19           I said, the outer edge of what they would  
20           anticipate going is to the outer edge of the  
21           ditch, and these are locations that generally  
22           do not have any trees.

23       Q.     And they haven't explained to you that they  
24           need about 25 feet for their equipment when

1           they're digging that ditch?

2    A.    (DeWan) Again, I'm not the construction  
3           panel. I know there's a lot of  
4           construction-related issues here that you're  
5           bringing up. And I think that portions of  
6           the construction panel certainly would be  
7           willing to come back and talk about these  
8           issues before the SEC.

9    Q.    The only thing I'm asking you about, to be  
10           clear, just to be clear, is what has to be  
11           clear-cut in order to build. So if what has  
12           to be clear-cut in order to build is about  
13           25 feet, that the equipment to do all the  
14           drilling and the trench building and placing  
15           those cables requires 25 feet of space, and  
16           they only can go halfway into the roadway, so  
17           they only have 12 feet to the center line of  
18           the roadway, so they need another 12 feet off  
19           the pavement, if you presume that as part of  
20           construction, so they have to clear-cut that  
21           as part of construction, does that clear-cut  
22           result in an adverse impact?

23   A.    (DeWan) Again, I'm dealing with the  
24           information that I have in front of me --

1 Q. Okay. Now I'm asking you to deal with my  
2 information. If they have to go 12 feet from  
3 the pavement into the woods or people's front  
4 yards -- just presume that, 12 feet -- would  
5 that be a significant adverse impact if  
6 they're doing that all along Route 116?

7 A. (DeWan) If you're asking me if by taking  
8 trees from the edge of the pavement out  
9 12 feet, would that be a significant impact?  
10 I don't know of many locations, if there's  
11 any, where there are that density of trees  
12 that are that close to the road.

13 Q. Okay. Well, we can show the Site Evaluation  
14 Committee a lot of pictures, and we can show  
15 you. Take it from me, who lives on that  
16 road, that's probably half the road.

17 But putting that aside, if you have to  
18 clear-cut 12 feet from the edge of the  
19 pavement into people's front yards, and all  
20 along 116 -- so it isn't just removing mature  
21 trees; you're removing stone walls, you're  
22 removing fences, you're removing the  
23 shrubbery and landscaping in front of  
24 people's houses -- would that be an adverse

1 impact?

2 A. (DeWan) Well, I believe that Ken Bowes and  
3 others have testified that if things had to  
4 be removed, they would be replaced.

5 Q. Okay. Now, have you learned that you're not  
6 allowed to -- well, first of all, have you  
7 read that we can't replace trees and  
8 shrubbery on top of where the cables are dug?  
9 Is that new information for you?

10 A. (DeWan) I have not had that conversation with  
11 them, but that's typical of any sort of  
12 utility information.

13 Q. So, wherever the utility is located, for at  
14 least 3 meters on both sides you can't  
15 replace anything there; right?

16 A. (DeWan) I don't know that.

17 Q. Okay. Does it make sense to you that you  
18 don't want roots and trees growing around  
19 utilities?

20 A. (DeWan) That's typically why they don't allow  
21 vegetation on top of underground facilities  
22 like this.

23 Q. So if you heard there was a restriction on  
24 the planting of trees and hedges over the

1 cables within 3 meters of the cable trench to  
2 prevent encroachment by vegetation, would  
3 that make sense to you?

4 A. (DeWan) That would seem like a logical  
5 practice.

6 Q. And if the residents had landscaping that  
7 cannot only not be rebuilt or replanted, it  
8 could never be replanted; correct?

9 A. (DeWan) According to the rules as you  
10 presented them to me. Again, I don't know  
11 what restrictions there would be on  
12 landscaping.

13 Q. So, again, to confirm your testimony, it's  
14 your understanding that along Route 116 and  
15 the underground route, chances are they don't  
16 need to take more than 6 feet from the  
17 pavement; correct?

18 A. (DeWan) No, I didn't say that.

19 Q. Okay. What's your understanding?

20 A. (DeWan) My understanding is that the location  
21 that was explained to me where they intend to  
22 build the majority of the line is starting at  
23 the edge of the pavement. The trench would  
24 start at roughly 3 feet and extend a width of

1           3 feet; so, 6 feet away from the edge of the  
2           pavement. In some places it may be necessary  
3           to go to the outside edge of the ditch line.  
4           And that may be a variable distance.

5    Q.    And if on one side of the road it immediately  
6           goes into a slope, so that there isn't even a  
7           walkway or any ditch, and if on the other  
8           side road it immediately goes into a stream  
9           instead of a ditch, would you agree there'd  
10          be an adverse impact on either the slope or  
11          the stream in order to put something there?

12   A.    (DeWan) Well, I don't think those are the  
13          sort of places you'd expect to see the  
14          transmission line go. You know, the intent  
15          is to put it under the pavement, especially  
16          in those situations where there may be a very  
17          steep slope on one side and an environmental  
18          restriction on the other side.

19   Q.    So in those cases, would they -- presuming  
20          they need 24 feet to build these trenches,  
21          24 feet for their equipment because their  
22          equipment needs that much space, then on  
23          those locations where you have a slope on one  
24          side and an environmental item on the other



1 side, they'd have to basically then have to  
2 go under the road there.

3 A. (DeWan) That would be the desirable location,  
4 yes.

5 Q. And they would have to close the road in  
6 order to build it there.

7 A. (DeWan) I don't know that.

8 Q. So if there's no way to fit the equipment on  
9 one side of the road, do you agree they'd  
10 have to then take over more than --

11 MR. NEEDLEMAN: Objection.

12 CHAIRMAN HONIGBERG: Sustained.

13 BY MS. SAFFO:

14 Q. Okay. So as you talked to Northern Pass  
15 about the impacts, you didn't ask them how  
16 much space they needed to clear in order to  
17 build this trench for their equipment?

18 A. (DeWan) It's my understanding that's  
19 information that was discussed with the  
20 Committee by the construction panel.

21 Q. But for you making your analysis on  
22 aesthetics, sitting here right now, you still  
23 don't know the width needed to build this  
24 trench.

1 MR. NEEDLEMAN: Objection.

2 Asked and answered.

3 CHAIRMAN HONIGBERG: Ms. Saffo.

4 MS. SAFFO: I don't think it has  
5 been. I think he's been dancing around it.  
6 Now it's a very clear question. I just asked  
7 him, How much space do you think is needed to  
8 build this trench?

9 BY MS. SAFFO:

10 Q. If you're saying -- I understand you're  
11 saying the trench will be 3 feet from the  
12 roadway. But to build that trench, to  
13 construct that trench, what is the width that  
14 you understand needs to be cleared?

15 MR. NEEDLEMAN: Same objection.

16 A. (DeWan) I'm not a construction manager. I  
17 don't know.

18 BY MS. SAFFO:

19 Q. And so you haven't considered that in your  
20 analysis.

21 A. (DeWan) I know there's a variety of different  
22 ways it could be built. I don't know what is  
23 being proposed in this situation.

24 Q. Okay. Thank you.

1           Now, you updated your testimony on  
2           April 17, 2017; correct? You did a  
3           supplemental testimony?

4           A.     (DeWan) That's correct.

5           Q.     And you still didn't write anything about the  
6           underground portion; correct?

7           A.     (DeWan) I believe that's correct.

8           Q.     But by this time, you know that what you knew  
9           back in 2015, which you thought back in 2015,  
10          which is they were going under the pavement,  
11          was no longer the case; correct?

12          A.     (DeWan) I don't know if we had much  
13          information about that portion of the Project  
14          when we wrote that.

15          Q.     Okay. So I'd like to ask -- turn to Page 72.  
16          We're still on that page, on 72. The very  
17          top line I have underlined in front of us,  
18          the first word is on the previous page, which  
19          is just the word "the." But "The underground  
20          design is laid out to avoid unnecessary  
21          impacts on the roadsides and abutters along  
22          these historic, scenic and largely rural  
23          roads."

24                 Do you agree that the roads on the

1           underground portion are historic, scenic and  
2           largely rural?

3       A.     (DeWan) I can't address the word "historic."  
4           I know that it's a scenic byway and therefore  
5           would qualify for the word "scenic." And a  
6           large part of it goes through rural  
7           landscapes.

8       Q.     So you don't dispute Mark Hodgdon's  
9           characteristic here.

10      A.     (DeWan) Certainly is scenic and rural.

11      Q.     Okay. And then turning to the previous page,  
12           on 71, in the bottom, Mr. Hodgdon writes to  
13           the New Hampshire Department of  
14           Transportation, "The proposed underground  
15           construction techniques are intended to avoid  
16           undue impacts on the roadways, environmental  
17           resources, historic and archeological sites,  
18           scenic areas and local residents. By staying  
19           within the previously disturbed areas,  
20           substantial impacts on natural, scenic,  
21           environmental, archeologic and historic  
22           resources are greatly reduced, if not  
23           eliminated." Did I read correctly?

24      A.     (DeWan) Appears to be, yes.

1 Q. Conversely, if we don't stay within the  
2 previously disturbed areas, there will be  
3 substantial impacts on natural, scenic,  
4 environmental, archeologic and historic  
5 resources; correct?

6 A. (DeWan) I wouldn't agree to that.

7 Q. Do you agree that that would be the same way  
8 of saying what he's saying here?

9 A. (DeWan) The word "substantial" doesn't  
10 necessarily flow from the opposite of what  
11 you just read. There could be minor impacts.

12 Q. So let's turn to the impacts listed by Mr.  
13 Hodgdon on behalf of Northern Pass  
14 Transmission.

15 If you look at the next page, 72, yeah,  
16 we already read about -- the third full  
17 paragraph down, starting with the word  
18 "furthermore." "Furthermore, using the  
19 disturbed areas will preserve the nature of  
20 these roadways"; correct?

21 A. (DeWan) That's what it says.

22 Q. So if we don't use the disturbed areas, we  
23 would have a concern about the nature of  
24 these roadways; correct?

1 A. (DeWan) Depends upon what's adjacent to the  
2 disturbed areas.

3 Q. Yeah. He goes on to say, "Many of the  
4 impacted roads have numerous historic,  
5 environmental and archeological features that  
6 would be adversely impacted by the extensive  
7 roadside construction necessary for the  
8 Project to be sited outside the disturbed  
9 areas." Do you see that?

10 A. (DeWan) That's what he says.

11 Q. Basically saying to the New Hampshire  
12 Department of Transportation that, if we do  
13 not stay in the roadway, extensive roadside  
14 construction necessary for the Project would  
15 be sited outside the disturbed areas; right?

16 MR. NEEDLEMAN: Objection. The  
17 document speaks for itself.

18 CHAIRMAN HONIGBERG: Ms. Saffo.

19 MS. SAFFO: I think it's fair to  
20 see if this particular expert agrees with Mr.  
21 Hodgdon's characteristic.

22 CHAIRMAN HONIGBERG: Sure, you  
23 can ask if he agrees.

24 BY MS. SAFFO:

1 Q. Do you agree with what Mr. Hodgdon is saying  
2 there?

3 A. (DeWan) Not totally. I would not say "would  
4 be adversely affected" without seeing them  
5 and seeing what the effects may be.

6 Q. And you haven't been shown exact effects yet,  
7 have you?

8 A. (DeWan) I have not seen any of the current  
9 plans for the underground section.

10 Q. So, turning to Page 75, at this point, now  
11 Mr. Hodgdon discusses specific roads. So  
12 we're going to go through the roads.

13 First one on 75 he discusses is  
14 Clarksville.

15 MS. SAFFO: If you want to pull  
16 it down and focus on that first top paragraph,  
17 you can zoom it a little bit and people can  
18 read it a little better.

19 BY MS. SAFFO:

20 Q. So this is Northern Pass Transmission  
21 Discovery 30075 in Exhibit 36.

22 At this part he says, starts off by  
23 talking about the Clarksville portion. He  
24 says it has no recorded layout, dates back to

1           around 1828. He then goes on to say, "It's  
2           therefore considered a prescriptive highway.  
3           Without a specific right-of-way width,  
4           locating the Northern Pass Transmission  
5           outside of the traveled way and beyond the  
6           [disturbed] ditch lines is legally  
7           problematic."

8                       He then goes on to say, "This is  
9           especially so since existing utilities,  
10          notably distribution lines, occupy much of  
11          the roadside and greatly complicate the  
12          installation of the underground transmission  
13          line."

14                      But what I want to point your direction  
15          to is the next two sentences. "Furthermore,  
16          the Route 145 roadside contains several  
17          residences, stone walls, fences and heavy  
18          tree cover just beyond the shoulder and ditch  
19          lines. A few steep roadside grades and wet  
20          areas are present as well. Construction of  
21          the underground transmission line in this  
22          area outside of the disturbed area would  
23          result in significant and likely unacceptable  
24          impacts due to these characteristics." Do



1           you see that?

2       A.     (DeWan) I do.

3       Q.     Do you know what part of Route 145 he's  
4           talking about here?

5       A.     (DeWan) Not specifically. I know where the  
6           transition station in Clarksville is, and I  
7           know where it goes under the roadway.

8       Q.     Do you have any reason to dispute his  
9           characterization that Route 145 in  
10          Clarksville contains "several residences,  
11          stone walls, fences and heavy tree cover just  
12          beyond the shoulder and ditch line"?

13      A.     (DeWan) That's not my recollection of that  
14          section of 145.

15      Q.     But if that is correct, would that mean that  
16          there might be significant and likely  
17          unacceptable impacts if he's correct?

18                   (Witness reviews document.)

19      A.     (DeWan) We're looking at that section of 145.

20      Q.     It's the Old County Road.

21      A.     (DeWan) Yes. It's mostly fields on one side  
22          of the road. There is a line of trees on the  
23          east side of the road. There is one farm on  
24          the west side of the road. I don't see any

1 stone walls. I don't see the type of  
2 landscape that he's describing right here.

3 Q. Well, if he's correct, and portions of Route  
4 145 do contain several residences, stone  
5 walls, fences and heavy tree cover just  
6 beyond the shoulder and ditch line, would  
7 that be problematic for aesthetics?

8 A. (DeWan) We don't like to deal with  
9 hypotheticals when we have the reality in  
10 front of us.

11 Q. Right now, as you just scanned that, how many  
12 miles of that road did you look at?

13 A. (DeWan) About two tenths of a mile.

14 Q. Is it longer than two tenths of a mile there?

15 A. (DeWan) We just measured it on Google Earth.

16 Q. Okay. Now continuing on to Mr. Hodgdon's  
17 analysis.

18 Bear Rock Road, Stewartstown,  
19 District 1. So now we're in Stewartstown.  
20 This part talks about the state-maintained  
21 portion of Bear Rock Road running from Route  
22 145 to Guy Placey Road. He noted that,  
23 although the traveled way measures  
24 approximately 20 feet, fences, stone walls,

1 trees, wetlands and steep slopes consistently  
2 occupy between 8 to 10 feet on both sides of  
3 the traveled way and shoulder. The last line  
4 he says, "While the northern roadside slopes  
5 sharply upward from the ditch line, it is  
6 covered with numerous wetlands, stone walls,  
7 utility poles, fences, and dense, mature tree  
8 growth, often within 10 feet or so of the  
9 traveled way."

10 If he's correct, and there is dense,  
11 mature tree growth, would clear-cutting that  
12 change the character of this road?

13 A. (DeWan) We haven't looked at this in detail.  
14 Bear Rock Road, from our estimation, is not a  
15 scenic resource.

16 Q. Okay. Now I'd then like to turn to the next  
17 page, which is 76. Now we're looking at the  
18 White Mountain National Forest part of the  
19 underground road.

20 MS. SAFFO: You may want to go  
21 to the relevant portion. See Route 302? Slide  
22 it over. Thank you.

23 BY MS. SAFFO:

24 Q. This part, he talks about the relevant

1           portion of Route 302 in Bethlehem. So now  
2           we're in the town of Bethlehem, and now we're  
3           on Route 302.

4                    He writes there that is no defined  
5           right-of-way width. "The pertinent portion  
6           of Route 18 from Route 302 intersection in  
7           Bethlehem to the intersection of Route 116 in  
8           Franconia was originally laid out in the  
9           1800s as a 4-rod layout." Then he notes, "In  
10          practicality, however, it is a narrow, rural,  
11          two-lane highway. Dense, mature woods and  
12          old stone walls line the roadway through most  
13          of Sugar Hill."

14                   He then says, "South of Streeter Pond  
15          Road, Route 18 is bounded to the west by  
16          Coffin Pond and the Gale River, which it  
17          follows south, making work outside the  
18          roadway non-viable. As Route 18 passes Route  
19          117, it becomes Franconia's main street,  
20          lined closely with numerous businesses and  
21          residents. Signs, fences, walls,  
22          landscaping, walkways, and likely a few  
23          structures would be impacted by any attempt  
24          to utilize the margins of the right-of-way in

1           this area. Due to its age, historic and  
2           archeological features are located adjacent  
3           to this stretch, most notably the last stone  
4           iron works in New Hampshire." Do you see  
5           that?

6       A.     (DeWan) I do see that.

7       Q.     Did you consider the last stone iron works in  
8           New Hampshire?

9       A.     (DeWan) We looked at this section of Route 18  
10          and do not recognize it as a scenic resource.

11      Q.     And did Northern Pass Transmission give you  
12          this information that they were giving to  
13          DOT?

14      A.     (DeWan) Which information are you talking  
15          about? This letter that we're reading right  
16          here?

17      Q.     Anything that -- any stuff I'm reading to you  
18          from the letter. You already said you didn't  
19          see the letter itself. But any of the  
20          information --

21      A.     (DeWan) I do not believe so.

22      Q.     Okay. So they're relaying this information  
23          to the Department of Transportation, but you  
24          don't recall them relaying it to you.

1 A. (DeWan) They've given us information about  
2 the general location of the underground  
3 section.

4 Q. Okay.

5 A. (DeWan) Yeah.

6 Q. Okay. Now turning to Route 116 in Franconia  
7 and Easton. Again we start with talking  
8 about the layout, skipping -- "Ancient layout  
9 issues aside, the road is a narrow, two-lane  
10 highway with modest traffic. Numerous  
11 wetlands, historic resources, water courses  
12 and ponds sporadically adorn the roadside.  
13 Mature trees crowd much of its length."

14 Now, you said you didn't recall that.  
15 As someone who drives on 116 on a very  
16 regular basis, the mature trees is something  
17 that stands out to me that would need to be  
18 cleared. I'm trying to figure out why that  
19 wouldn't be something that would have been  
20 considered by you?

21 A. (DeWan) You're talking about trees growing  
22 right up against the pavement.

23 Q. No, talking about trees that would have to be  
24 cleared in order to construct this project.

1 But in this case, I think you're right. Even  
2 if we went with your 6-foot space needed off  
3 the pavement, you're still hitting trees on  
4 116; correct?

5 A. (DeWan) Depends on what side of the road it's  
6 on. And I don't know --

7 Q. Do you know what side of the road it's going  
8 to be on?

9 A. (DeWan) Again, based upon the conversation I  
10 had with the design engineers, that's a  
11 decision that has not been made yet. And  
12 it's going to be made based upon a lot of  
13 factors that I've outlined earlier.

14 Q. But how do you do an aesthetical impact if  
15 you don't even know what side of the road  
16 it's going to be on, never mind how far into  
17 the road you're going?

18 A. (DeWan) Based upon the information that's  
19 been provided to us --

20 Q. Which is that they don't know what side of  
21 the road it's going to be on yet.

22 A. (DeWan) Well, the information that we  
23 provided at the time we did the VIA was based  
24 on an assumption that the line would be in

1 the road and therefore minimize or eliminate  
2 any disturbance to the adjacent vegetation.

3 Q. But that assumption has long since been taken  
4 off the table; correct?

5 A. (DeWan) I know there's been exceptions that  
6 have been submitted, but the ideal location  
7 is still going to be within the pavement.  
8 And again, it's still part of the discussion  
9 with the Department of Transportation.

10 Q. So we're now in September of 2017 and we  
11 still don't know if this project is going on  
12 the right side of a scenic byway or the left  
13 side of a scenic byway; correct?

14 A. (DeWan) As far as I know, the final  
15 engineering has not been done.

16 Q. So you don't know how much clearing has to be  
17 happening and whether it's going to be on the  
18 right side or the left side yet; correct?

19 A. (DeWan) Again, my information from the people  
20 we've talked with is to minimize disturbances  
21 to utilities, to trees, to the various  
22 resources that we've been concerned about.

23 Q. The issue isn't that they want to minimize  
24 disturbances. The issue is what is going to



1           happen. So this goal I keep hearing over and  
2           over again, the goal is to minimize  
3           disturbance. Well, what if they don't?  
4           That's the whole issue in front of the Site  
5           Evaluation Committee right now. It isn't  
6           people hoping not to do something. It is  
7           what is going to happen. That's what we have  
8           to base our decisions on; correct?

9    A.    (DeWan) Ultimately the SEC will make that  
10          determination. And ultimately it will be a  
11          decision reached by the Department of  
12          Transportation.

13   Q.    Absolutely. And you're here as the aesthetic  
14          experts. Both of you are here as the  
15          aesthetics experts; correct?

16   A.    (DeWan) That is correct.

17   Q.    So what we need from you is what is going to  
18          happen aesthetically on Route 116, a scenic  
19          byway, a promoted scenic byway in the state  
20          of New Hampshire. But what you're telling me  
21          right now is you don't even know what side of  
22          the road it's going to be on. And you're  
23          looking like you're cautiously optimistic,  
24          based on conversations, that people are

1 hoping to build it within 6 feet of the  
2 pavement. Earlier testimony makes that  
3 highly unlikely. If it's built within 6 feet  
4 of the pavement, and the pavement is 12 feet  
5 because they can't take over the whole  
6 road -- we can't close the road, so you have  
7 to leave one lane open -- leaving one lane  
8 open is still difficult for everybody, but  
9 it's at least one lane.

10 So you have 12 feet of pavement. If  
11 you're correct and there's 6 feet off  
12 pavement, that's 18 feet. The construction  
13 panel has already been clear that they need  
14 more than 18 feet to build these trenches and  
15 to install these cables, okay. So if I'm  
16 correct that the construction panel has been  
17 crystal clear that they need more than  
18 18 feet to build these trenches, that would,  
19 by definition, mean your 6-foot hope is  
20 inaccurate; correct?

21 MR. NEEDLEMAN: Objection. It  
22 mischaracterizes the testimony of the  
23 construction panel, and it's asked and  
24 answered.

1 CHAIRMAN HONIGBERG: Ms. Saffo.

2 MS. SAFFO: I think it's a fair  
3 question.

4 CHAIRMAN HONIGBERG: Do you  
5 think it accurately recounts the testimony of  
6 the panel?

7 MS. SAFFO: I do. My  
8 recollection is I thought they needed over  
9 20 feet.

10 CHAIRMAN HONIGBERG: For every  
11 foot along the line?

12 MS. SAFFO: For every foot along  
13 the line, that the equipment that they use to  
14 dig the trench and to then fill in the trench  
15 and to pull the wires --

16 CHAIRMAN HONIGBERG: So if you  
17 are wrong, then whatever answer he gives you is  
18 invalid; right? Just so it's clear. I mean,  
19 this is a hypothetical --

20 MS. SAFFO: This is a  
21 hypothetical.

22 CHAIRMAN HONIGBERG: You asked  
23 him to assume a bunch of things are true. And  
24 if those things aren't true, you accept the

1 consequences of it not being true, just like he  
2 has to -- they have to --

3 MS. SAFFO: Absolutely.

4 (Court Reporter interrupts.)

5 CHAIRMAN HONIGBERG: So you  
6 understand the hypothetical, Mr. DeWan? I'm  
7 going to let you go. Do you understand the  
8 hypothetical, Mr. DeWan? It is being presented  
9 as a hypothetical.

10 WITNESS DeWAN: It's a  
11 hypothetical.

12 CHAIRMAN HONIGBERG: Yup.

13 Why don't you go through it  
14 again. What do you want him to assume is  
15 true?

16 BY MS. SAFFO:

17 Q. So, assuming that they need to clear-cut what  
18 space they need to construct the trenches,  
19 okay, and assuming they need more than  
20 18 feet of space to build --

21 A. (DeWan) Measured from the center line.

22 Q. -- measured from the center line, that their  
23 equipment will take more than 18 feet of  
24 space, does that mean your 6-foot hope from

1 the pavement is inaccurate?

2 A. (DeWan) I don't know. When you say they need  
3 more than 18, I don't know what the  
4 requirements are. I don't know how the  
5 construction team would handle specific  
6 situations like that. I don't know what  
7 sensitivities are brought to bear. Having  
8 worked a lot with construction crews, I know  
9 that they are instructed that there are  
10 certain precautions that have to be taken in  
11 certain situations to preserve environmental  
12 features, trees and so forth.

13 Q. Okay. Now, you know there's exceptions. So  
14 they were told they couldn't bury under the  
15 pavement, and now the hope is these  
16 exceptions go through; correct?

17 A. (DeWan) I'm not aware of the wording of the  
18 exceptions. I know that they're looking for  
19 exceptions that would allow them to put the  
20 line under the pavement in certain designated  
21 areas.

22 Q. Over a hundred designated areas. You aware  
23 of that?

24 A. (DeWan) I know there was a great deal, a

1 great number that had been submitted.

2 Q. Okay. So I want to ask, that comment of Mr.  
3 Hodgdon about "the last stone iron works in  
4 New Hampshire," do you know anything about  
5 that?

6 A. (DeWan) I do not.

7 Q. Okay. Turning to Easton and Franklin, they  
8 also noted -- we talked about the mature  
9 trees crowding much of its length. Stone  
10 walls and existing utilities occupy the land  
11 just past the ditch lines and shoulders. Is  
12 that correct? Am I reading that correct?

13 A. (DeWan) That seems to be, yes.

14 Q. Do you agree that stone lines -- stone walls  
15 are aesthetically pleasing?

16 A. (DeWan) Absolutely -- well, generally, yes.

17 Q. Okay.

18 A. (DeWan) I don't say there's any absolutes.

19 Q. Turning to the last page. I'm almost done  
20 here. 30077, first paragraph. Now we're  
21 heading east from the intersection with Route  
22 116, and Route 112 passes through the scenic  
23 Kinsman Notch and skirts along Lost River.  
24 The last line -- well, second to the last

1 line says, "Numerous utility structures  
2 already occupy the roadside extensively,  
3 including some underground installations  
4 which would be impacted by further roadside  
5 construction. More importantly, the road's  
6 scenic quality would invariably be altered by  
7 the additional widening, tree removal and  
8 terrain changes necessary to place the NPT  
9 underground facility in the undisturbed  
10 areas." Do you see that?

11 A. (DeWan) That's what I read, yes.

12 Q. Did Northern Pass tell you that additional  
13 widening, tree removal and terrain changes  
14 are necessary?

15 A. (DeWan) No. As I stated earlier, the  
16 assumption was made that the Project would be  
17 located within the paved portion of the  
18 roadway.

19 Q. And when we learned that it wasn't going to  
20 be in the paved portion, did they come to you  
21 and say, We can't put it in the paved portion  
22 anymore?

23 A. (DeWan) We have had no further discussion  
24 about it since we submitted that part of the

1 VIA.

2 Q. Although you did supplement in April of 2017;  
3 correct?

4 A. (DeWan) That's correct.

5 Q. And as part of the April 2017, you were not  
6 asked to supplement your testimony in light  
7 of now understanding that you can't put it in  
8 the pavement?

9 A. (DeWan) I don't believe there had been a  
10 final decision made about the location at  
11 that point.

12 Q. Okay. Now we lastly go to Route 3, and  
13 that's Woodstock, Thornton, Campton, Plymouth  
14 and Bridgewater. What he wrote here is,  
15 "Extending south from the center of  
16 Woodstock, Route 3 has a long-established  
17 presence in the communities it serves."

18 Fair to say from your drive on Route 3,  
19 you'd agree with that?

20 A. (DeWan) Long-established presence, yes.

21 Q. "This importance is reflected in a relatively  
22 densely built roadside with numerous  
23 residences, institutions and businesses  
24 crowding the right-of-way along its length."



1 Do you agree with that?

2 A. (DeWan) I would maybe dispute the word  
3 "crowding." But I would say there are  
4 institutions, residences, businesses along  
5 the right-of-way.

6 Q. And there are some within 5 feet of the  
7 right-of-way; correct?

8 A. (DeWan) I'm just objecting to the word  
9 "crowding." There's a lot of implications  
10 there.

11 Q. But he might have meant crowding because some  
12 of those residences and buildings are  
13 literally within 10 feet of the road;  
14 correct?

15 A. (DeWan) I don't know that for a fact. I  
16 don't know where they're located.

17 Q. Did you look at how closely residences and  
18 buildings are located to the roadway there?

19 A. (DeWan) We did not measure them.

20 Q. Okay. Then he goes on to say, "Innumerable  
21 signs, landscaping, trees, curbs, parking  
22 spaces, walls and fences lie just beyond the  
23 traveled surface"; correct?

24 A. (DeWan) That's what it says, yes.

1 Q. And is that your recollection from traveling  
2 that road?

3 A. Yes.

4 Q. And then a variety of water courses and  
5 rivers weave across and along the highway;  
6 correct?

7 A. That's correct.

8 Q. Do you agree with his characterization, that  
9 attempting to construct a utility of this  
10 nature outside the disturbed area of the  
11 roadway is "highly problematic"?

12 A. (DeWan) That's an engineering consideration,  
13 and I really have not studied that in detail.  
14 I don't know what is meant by "highly  
15 problematic." He's certainly outlined some  
16 of the issues that may be faced.

17 Q. "Construction outside the roadway's disturbed  
18 area would unnecessarily impact these  
19 abutting properties" --

20 A. (DeWan) That's what it says.

21 Q. -- "several of which undoubtedly have  
22 historical significance." That's what it  
23 says.

24 A. (DeWan) That's what it says.

1 Q. Did Northern Pass Transmission, who gave this  
2 information to DOT, give you this  
3 information, that there are several abutting  
4 properties which undoubtedly have historic  
5 significance?

6 A. (DeWan) Again, we were dealing with the  
7 information that was provided us when we did  
8 our initial VIA.

9 Q. Were you given any items that have historic  
10 significance on Route 3?

11 A. (Kimball) It's possible there are historic  
12 properties on Route 3. Again, we are  
13 concerned with those where there's a legal  
14 right of public access. So...

15 Q. Are you saying that, to your knowledge, there  
16 are no abutting properties with historic  
17 significance that have right of public  
18 access?

19 A. (Kimball) I would have to go back and look at  
20 the list of historic properties. But nothing  
21 is coming to mind immediately.

22 Q. Okay. Fifty-two miles of clearing along a  
23 road, on one side of the road through  
24 Bethlehem, Sugar Hill, Franklin, Easton,

1 Woodstock, Thornton, Campton, Plymouth and  
2 Bridgewater, that would impact the aesthetics  
3 of a town; correct?

4 MR. NEEDLEMAN: Objection. It  
5 mischaracterizes the facts.

6 CHAIRMAN HONIGBERG: Ms. Saffo.

7 MS. SAFFO: I think it's very  
8 clear. The testimony's been very clear that  
9 there's going to be an underground -- the plan  
10 and the proposal is for an underground trench  
11 to be constructed along these 52 miles. I  
12 think my characterization is more than  
13 appropriate.

14 CHAIRMAN HONIGBERG: So what's  
15 the question again?

16 MS. SAFFO: Fifty-two miles of  
17 clear-cutting along a road through all these  
18 towns --

19 CHAIRMAN HONIGBERG: No,  
20 that's -- the problem with the question is the  
21 "clear-cutting." That word "clear-cutting" is  
22 a problem with the question.

23 MS. SAFFO: See, I don't think  
24 it is, because to build this, you have to clear

1 everything.

2 CHAIRMAN HONIGBERG: Well --

3 MS. SAFFO: I can be ruled  
4 against, obviously. That's just my opinion.

5 CHAIRMAN HONIGBERG: Well, there  
6 is no testimony that clear-cutting is required  
7 along 52 miles of the underground portion. I'm  
8 fairly confident of that. Because if there's  
9 nothing there, nothing needs to be cut; right?

10 MS. SAFFO: How many places --  
11 I'm not going to debate this.

12 CHAIRMAN HONIGBERG: Yeah.  
13 Well, then maybe try the question a different  
14 way and see if you can get what you need.

15 BY MS. SAFFO:

16 Q. Burying a trench along 52 miles alongside a  
17 roadside where you have to go in to beyond  
18 the currently disturbed areas would have a  
19 significant impact; correct?

20 MR. NEEDLEMAN: Same objection.

21 CHAIRMAN HONIGBERG: Well, I  
22 think the very end of the question may have  
23 saved it. I think it turned into a  
24 hypothetical at the end.

1 MR. NEEDLEMAN: As long as it's  
2 a hypothetical, that's fine.

3 CHAIRMAN HONIGBERG: Want to  
4 repeat the question, please?

5 WITNESS DeWAN: I think I  
6 understand the question.

7 BY MS. SAFFO:

8 Q. Okay.

9 A. (DeWan) Hypothetically, if it had to go  
10 outside of the area that I've described, it  
11 may have an effect.

12 Q. Okay. And the area you described is 6 feet  
13 off the pavement.

14 A. (DeWan) In general. But it may in some  
15 places extend to the outer edge of the ditch,  
16 which includes the ditch itself. These are  
17 the areas that generally you don't find trees  
18 because they've already been maintained by  
19 the Department of Transportation.

20 Q. So if I mailed you pictures with tape  
21 measurements going 6 feet off the ditch, and  
22 you saw there are lots of trees there, would  
23 that change your opinion?

24 A. (DeWan) No, because I wouldn't know where the

1 underground cable would be located.

2 Q. Okay. Curbside appeal is important, correct,  
3 in front of residences?

4 A. (DeWan) That's what realtors tell us.

5 Q. And you're a landscape architect. That's  
6 your undergrad degree; correct?

7 A. (DeWan) That is correct.

8 Q. Yeah. You rated scenic significance for the  
9 overhead portion of this project; correct?

10 A. (DeWan) That is correct.

11 Q. But you've submitted no information regarding  
12 the underground portion; correct?

13 A. (DeWan) That's not correct.

14 Q. Okay. What information have you submitted in  
15 writing regarding the underground portion?

16 A. (DeWan) In the Visual Impact Assessment, we  
17 divided the entire study area to various  
18 sections, subsections, and our Section 3  
19 deals with the underground section.

20 MS. SAFFO: Thank you. No  
21 further questions.

22 CHAIRMAN HONIGBERG: All right.  
23 That is the entire list that I have of  
24 intervenors to question this panel. Let's go

1 off the record for a minute.

2 (Discussion off the record)

3 CHAIRMAN HONIGBERG: So it looks  
4 like we're going to break for the day and  
5 resume on Monday and do everything in our power  
6 to get through in the morning. I don't see any  
7 obstacle there, given the amount of time that  
8 the Subcommittee members indicate they have.  
9 Again, if past is a good predictor, each of us  
10 will ask each other's questions in some  
11 instances, and there'll be some give and take  
12 and some follow-up. And then again, given what  
13 you have done in the past, Mr. Needleman, and  
14 your colleagues, I don't expect your redirect  
15 to take a long time. So I do think there's a  
16 very high likelihood that the panel will be  
17 done in the morning.

18 MR. NEEDLEMAN: In terms of  
19 planning, then, we'll have Mr. Varney here in  
20 the morning and ready to go.

21 CHAIRMAN HONIGBERG: All right.  
22 We'll look forward to seeing him.

23 Is there anything else we need  
24 to do today before we --



1                   MR. NEEDLEMAN:  There's one  
2                   thing I should probably say, which is to answer  
3                   your question earlier about the cultural  
4                   landscape issue.

5                   I had a chance to confer with  
6                   my colleagues, and we won't object to people  
7                   asking questions regarding the cultural  
8                   landscape reports that have been made  
9                   available.  We would hope that those wouldn't  
10                  be duplicative, and that people and the panel  
11                  would have in mind that many elements of  
12                  those reports do relate to historic resources  
13                  that have already been evaluated, so that  
14                  people would not ask questions that they  
15                  could have already asked.

16                  CHAIRMAN HONIGBERG:  I'm also  
17                  optimistic that people will be sensitive to  
18                  that.  And I'm sure Mr. Walker, if he's here  
19                  when that -- Mr. Walker will probably have to  
20                  be here when that happens.

21                  MR. NEEDLEMAN:  Yeah.

22                  CHAIRMAN HONIGBERG:  And he will  
23                  be sensitive it to as well and alert us if  
24                  there's a problem.

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Any other issues we need to  
take up before we leave today?

[No verbal response]

CHAIRMAN HONIGBERG: All right.  
Thank you all. We are adjourned.

(Whereupon the Day 34 Afternoon  
Session was adjourned at 5:38  
p.m., with Day 35 hearing to resume  
on Monday, September 18, 2017  
commencing at 9:00 a.m.)

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I, Susan J. Robidas, a Licensed  
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