

[WITNESS PANEL: DeWan|Kimball]

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

2 CHAIRMAN HONIGBERG: All right. Good
3 morning, everyone. We're starting Day 35. And
4 the Committee is going to be asking questions
5 of the aesthetics panel.

6 We're going to start off with
7 Mr. Oldenburg.

8 MR. OLDENBURG: Good morning,
9 Mr. DeWan and Ms. Kimball.

10 WITNESS KIMBALL: Good morning.

11 WITNESS DeWAN: Good morning.

12 MR. OLDENBURG: I'm Bill Oldenburg,
13 Department of transportation.

14 BY MR. OLDENBURG:

15 Q Could you refresh my memory -- a lot of these
16 questions that I have are similarly sort of
17 clarification-type questions.

18 A (DeWan) Certainly.

19 Q Because everybody delved into a lot of the
20 details on specific properties and specific
21 resources. And I'm just trying to gather some
22 more information to get it clear in my mind
23 exactly how you did what you did.

24 So, could you refresh my memory, when you

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1 did a photosimulation, at what point in time is
2 that photosimulation -- what does that
3 represent from a point in time?

4 A (DeWan) From a point in time -- we did a number
5 of photosimulations --

6 Q Uh-huh.

7 A (DeWan) -- at various points in time.
8 Remember, we initially did a series of
9 photosimulations that captured the appearance
10 of the existing landscape when we went out and
11 visited it at a wide variety of times during
12 the course of the year. And we then went back
13 when we saw the final rules, which required a
14 representative sampling of photosimulations in
15 leaf-off conditions. So, we went back during
16 the wintertime, primarily in January and
17 February of that year.

18 Q So, are they -- so, they're taken at a certain
19 time. Do you advance them, so that, when the
20 Project is complete, so, you might take a
21 picture in 2015, and, when the Project is
22 complete in 2020, do you try to change the
23 photo to make it represent what it's going to
24 look like in 2020, with like tree growth and

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1 stuff like that?

2 A (DeWan) You know, ideally, that's probably what
3 we should do. Because we know that we're
4 taking the photographs, you know, two years
5 ago, and, by the time it's approved and built,
6 it's going to be five years hence. We did not
7 do that.

8 And I think that you saw that, for
9 example, in McKenna's Purchase. We showed a
10 photograph of what those pine trees look like,
11 they're fairly sparse. Then, we also saw an
12 image of what it looked like today, and there
13 was quite a stark difference. The trees had
14 grown, they had filled in a little bit.

15 So, yes. Ideally, we should, but we have
16 not made any attempt to do that.

17 Q Okay. So, you took a picture, and whatever
18 time it was, and you just photosimulated that?
19 You didn't --

20 A (DeWan) Yes.

21 Q You didn't try to change the photo in any way
22 to represent what it would look like in the
23 future?

24 A (DeWan) We did not. And, as I said, that would

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1 probably be the ideal. But, if we did a little
2 bit, then we'd really have to think about
3 "well, what does the entire landscape look like
4 in five years, let's say?" You know, the trees
5 are going to grow incrementally taller. It's
6 rather difficult to do that.

7 Q So, when you -- another topic. So, when you
8 rank the resource, so, when you went out and
9 ranked the resource, you ranked it specifically
10 for the uses at that time, correct?

11 A (DeWan) Yes. Our evaluation was done when we
12 were there looking at it, yes.

13 Q Okay. So, I think we touched upon enough, for
14 me at least, on the specific individual
15 properties. The one I have -- the ones that I
16 have a hard time grasping are the larger ones,
17 like Coleman State Park. So, I pulled up and
18 on the screen is, from your report, is Coleman
19 State Park. And you noted it has a great
20 number of uses by a great diversity of people.
21 And, so, what I did is, this is your assessment
22 from the pond, where you assess the use as
23 "medium", and then for the Visitor Center and
24 the campground as "low". And the next part is

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1 you have users groups, and the expectation
2 there from the users you have as "medium".
3 And, in the user group, you list anglers and
4 boaters, and, you know, you see your assessment
5 there of all these different groups.

6 A (DeWan) Yes.

7 Q So, I'm wondering how you take all those
8 different groups and rate them. So, one
9 question I have is, did you review this -- did
10 you review the park from like the entrance to
11 the park and rank that?

12 A (DeWan) Yes. I don't know if "ranking" is the
13 right word.

14 Q Okay.

15 A (DeWan) But we did the evaluation, yes. We
16 have two separate photosimulations. One is at
17 the park -- well, what you call the park
18 entranceway there, where you came off the road
19 and that's the view that you would see, I think
20 primarily during leaf-off conditions. And,
21 then, we did another one down by the lake.

22 Q Okay. And did you go up and see the cabins at
23 the Coleman Estates and do a rating of that
24 use?

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1 A (Kimball) Are those located in the state park
2 or is that a private development around --

3 Q I believe they are. The impression I had, they
4 were. And, to verify, I went on the State
5 website and it listed it as being part of the
6 Coleman State Park. But I wasn't -- I'm not
7 positive. The only reason I bring up Coleman
8 State Park is it's fresh in my mind. We went
9 on a site visit and we stopped at Coleman State
10 Park. We went to the campground, we went to
11 the boat launch, and we went back by and it was
12 pointed out to us the Coleman Estates. And I
13 think one of the rangers that was there
14 explained the Coleman Estates, the cabins
15 there, how you could rent them through the
16 State Park ground.

17 A (DeWan) And we did not go in, yes.

18 Q And you talked about, if I remember right, you
19 didn't really rate any of the properties from
20 like trails, because of the wide-ranging, you
21 know, mileage of trails, or did you rank them
22 from like hiking trails or ATV trails?

23 A (DeWan) Well, we looked at the viewshed
24 mapping, and we looked at where the Project may

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1 be visible from. And I think that was the
2 basis for doing the work that he did. You
3 know, we found those places where the viewshed
4 maps said the Project would be most visible
5 from.

6 Q Okay. All right. So, the park, from your
7 assessment, is like over 1,500 acres. So, how
8 do you take all those different uses, and all
9 those different folks that access the park, and
10 assess them all and clump them into one
11 overarching rating?

12 A (DeWan) I think what we -- to answer your
13 question, we looked at all the various types of
14 uses, and try and get a sense about, you know,
15 "are people going to be affected by the view of
16 it, depending upon the uses that they are
17 enjoying there?"

18 You know, let's just take ATV riding. We
19 know that's a part of a very large network, and
20 snowmobiling, snowmobile trails. Now, a lot of
21 those use existing corridors. There's an
22 extensive series of, you know, hundreds, if not
23 thousands, of miles of trails up in that area.
24 We know that there was a limited number of the

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1 trails that would have any visibility. I know
2 that there's some people that go across the
3 pond, some people would go along the edge of
4 the pond.

5 A lot of the people that go there to enjoy
6 this, and apparently it's very popular with
7 snowmobilers, they park down at the boat
8 launch. And that's a place that does not have
9 a view of the Project, because it would be in
10 back of them at that point.

11 So, we get a sense of, you know, where
12 they're going, what their activity is, what
13 they're doing. Are they moving? Are they
14 stationary? What else do they see along the
15 trail? And those are all considerations that
16 we take when we come up with an evaluation of
17 how the facility that's being proposed would
18 affect their continuing use and enjoyment of
19 that type of activity.

20 Q Okay. So, I guess the next thing, and you sort
21 of -- sort of led into my next question, and
22 it's more of a hypothetical.

23 So, people are going to Coleman State
24 Park. And you mentioned ATV users and

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1 snowmobilers. So, they're on the trails.
2 They're sort of looking at the trails. They
3 actually, I think you previously testified,
4 they actually may use, legally or illegally,
5 the corridor itself to go up, you know, to go
6 up and down. So, they may view it as, say,
7 "low", it may have a low visual impact to them.
8 And, say a fisherman in the boat on the pond,
9 you know, he's paying attention to the water,
10 he's looking for fish. He may look up
11 occasionally at the scenery and see how
12 beautiful it is and everything else. So, let's
13 say he may assess that view impact as "low".

14 A camper at the campground, depending on
15 why they're there, I realize campers go, they
16 might go to ATV, they may go to fish, they may
17 go to hike. So, maybe their impact is
18 "medium".

19 And, then, you get the hiker, who is there
20 truly to see the scenery and the wildlife and
21 the non-human encroachment, may see that
22 impact, even though it's relatively, you know,
23 isn't seen very often, may say that's a "high"
24 visual impact.

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1 So, how do you take those different
2 ratings and lump them altogether? Is it more a
3 qualitative or quantitative assessment?

4 A (DeWan) Well, let me answer that more
5 indirectly, breaking it down by the types of
6 uses that you just described.

7 Q Okay.

8 A (DeWan) The person is out there fishing, and I
9 think we've testified to the effect that
10 fishing is one of those activities that has a
11 medium relevance to scenic quality. Okay?
12 And, so, a person who is out fishing is going
13 to expect to be in a nice surrounding. And,
14 so, I think the question in our mind "well,
15 what percentage of their experience or their
16 view is going to be occupied by the facility?"
17 And we know that there's seven or eight
18 structures that may be visible as it crosses
19 over that hill. We know that there is a
20 limited amount of the 360-degree experience
21 that somebody can have when they're out
22 fishing.

23 So, our understanding is that, yes, people
24 who are fishing have a medium expectation of

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1 visual quality. And the fact that this is
2 there may somewhat diminish their enjoyment of
3 the facility. But, if they're there to fish,
4 that's, to us, the motivation for being there.
5 And, whether or not they can see these
6 structures at a distance of 1.2 to 1.4 miles, I
7 think, is going to be a factor. But we don't
8 think it's going to stop people from going
9 there. If they're going there to fish, that's
10 not going to affect their views. It may affect
11 they're enjoyment to some extent. That's why
12 we rated it as a low when we tried to balance
13 continuing use and enjoyment.

14 People that are hiking, first of all, we
15 didn't see, in the work that we did, an awful
16 lot of hiking trails in the area. And, so, if
17 this is a park that's well known for hiking, I
18 think we would have paid a lot of attention to
19 it. We didn't see that in this particular
20 situation.

21 People that are camping, you know, most of
22 the campsites are in the trees or surrounded by
23 vegetation. And, yes, when we get out of your
24 tent in the morning, you may have been able to

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1 look up and looking the back of your tent, you
2 might see those up on the hillside. But,
3 again, for the most part, they seem to be
4 screened by existing vegetation.

5 Q So, it does matter to some degree the number of
6 the people that use the resource?

7 A (DeWan) Yes.

8 Q Correct?

9 A (DeWan) Yes.

10 Q So, do you, because there's a thousand ATV
11 users, and fifty boaters, and one hiker, do we
12 ignore the hiker? Or, does the ATV use over --
13 because of the sheer quantity, does it overrate
14 everyone else?

15 A (DeWan) Yes. I guess, well, that gets to that
16 whole question of "extent, nature, and
17 duration", which we've done an evaluation for.
18 And "extent", of course, is the level of use
19 that it gets. You know, from our reading and
20 our understanding, this is a place that's
21 heavily used by snowmobilers and ATV users.
22 And, so, you know, that got a significant
23 rating because of the number of people that use
24 it.

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1 We look at the nature of the use, you
2 know, what they're doing there, and we've just
3 talked about that. And then the other question
4 is "the duration". How long are people going
5 to be exposed to the view of this. You know,
6 if someone is out fishing, they might see it
7 for a few minutes, or half an hour, when
8 they're out there. Depends upon, you know, a
9 lot of factors, like the direction of the wind.

10 A person who's camping, it depends on
11 where they are. You know, if they're in the
12 woods, they're probably not going to see it at
13 all.

14 Q Okay. So, how did you determine how many
15 people would use the resource?

16 A (DeWan) Not the specific number. We talk about
17 "relative numbers".

18 Q All right.

19 A (DeWan) And I think we've testified that it's
20 very difficult to get exact numbers or even
21 approximate numbers. Those are records that
22 just aren't taken.

23 You know, we know, in some situations, we
24 were able to talk to people that said "oh,

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1 yeah, we get 50,000 visitors a year." And we
2 saw that, in fact, at Franklin Falls. But, for
3 the most part, we don't have that information.
4 So, you know, we look at the type of facilities
5 that are out there, we look at the size of the
6 parking lot. And, in the case of -- at Coleman
7 State Park, it looked like the parking lot held
8 about thirty cars or so. And the people who
9 may be camping, you know, that may add another
10 thirty.

11 So, we know that, judging from this
12 observation, the fact that there's a lot of
13 publicity about this place, this place is
14 pretty popular.

15 Q Okay.

16 MR. WAY: Mr. Oldenburg, may I ask a
17 quick question?

18 MR. OLDENBURG: Sure.

19 BY MR. WAY:

20 Q Mr. DeWan, so, in Coleman State Park, did you
21 talk to anyone in the park?

22 A (DeWan) We did not. We relied upon information
23 we were able to find.

24 Q And, so, that's one thing, and when I get to my

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1 questions I'll talk about it a little bit more
2 that I'm wrestling with. You're in the park,
3 you're taking a lot of pictures. There are
4 people there that know the park. And you just
5 said you're making assumptions based upon the
6 parking lot and maps and all that. Why
7 wouldn't you talk to someone in the park?

8 A (DeWan) I think the day that we were there, we
9 got there, I don't know exactly the situation,
10 I don't think there was anybody around that we
11 saw. Perhaps we should have. But there's --
12 our experience has been that there's just not a
13 lot of information like that available readily.

14 Q There's not a lot of the information?

15 A (DeWan) Like use, use numbers.

16 Q All right. So, I mean, the head of the park
17 would probably be able to tell you the use
18 numbers, the hiking trails, who's, to
19 Mr. Oldenburg's point, who is using the park
20 more than others. But that -- and can I assume
21 that that's true for other state parks as well,
22 that you didn't talk to people at the park?

23 A (DeWan) I think that's a fair assumption, yes.
24 We looked at annual reports, and sometimes they

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1 would have information about the number of
2 people that visited the park.

3 Q Did you talk to Parks & Trails at the State for
4 any of those numbers originally?

5 A (DeWan) We did not. We got -- some information
6 was available, for example, Weeks State Park,
7 there is rather detailed information on the
8 number of people that visited some of the
9 facilities, that participated in programs, and
10 went on guided tours.

11 MR. WAY: Thank you.

12 BY MR. OLDENBURG:

13 Q So, I can also assume Mr. Nichols, the tourism
14 expert, he didn't have specific numbers for
15 tourists going to these spots either. He had
16 sort of "regional numbers", as he called it.
17 So, the tourism numbers weren't useful in your
18 analysis either, I would imagine?

19 A (DeWan) As you said, those were kind of
20 generalized statements. We didn't rely upon
21 his report to any degree.

22 Q Okay. Moving on to a different topic. So, I
23 think it was Ms. Boepple, from SPNHF, who
24 showed you the scenic byways map.

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1 A (DeWan) Yes.

2 Q And you agreed you'd seen it?

3 A (DeWan) We have.

4 Q And I think you, in your assessment, testified
5 that the routes of the underground section are
6 considered scenic resources. And, see if my --
7 so, if you can see my cursor up in Bethlehem,
8 around 302, we come down to a section that
9 isn't part of the scenic byway. But 116,
10 through Franconia and Easton is, and 112, into
11 Woodstock, and then down Route 3, all the way
12 to what appears to be about the roundabout in
13 Plymouth, is all considered the River Heritage
14 Trail Scenic Byway?

15 A (DeWan) That is correct.

16 Q And, in your Subarea 3 assessment, you showed
17 46 resources along that route, two or three I
18 think were the scenic byways. The main one
19 being the River Heritage Trail Scenic Byway.
20 All of them you listed as -- potential
21 visibility as "no", except for the ones that
22 had little asterisks that said "the transition
23 stations at either end would be seen".

24 A (DeWan) That's correct.

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1 Q And just those are the two scenic byways that
2 you had listed as "medium" for cultural and
3 "no" for visibility. You've already stated,
4 this is out of your report, about what a scenic
5 byway is and what a visual impact is. Just in
6 order to refresh your memory.

7 And, then, in your Impact Summary, I
8 wanted to focus on a couple of the things that
9 are in the Impact Summary. Under the
10 significant -- number 2, which is the
11 "Significance of Scenic Resources and
12 Distance", you list the 46 resources. And you
13 say that some of them are statewide
14 significance that intersect or share the
15 roadway with the underground route, and one
16 being the River Heritage Trail Scenic Byway.
17 But, because the line is located underground,
18 there will be no permanent visual impact of any
19 scenic resource.

20 Correct? That's your -- that's right out
21 of your assessment.

22 A (DeWan) That's right. Yes.

23 Q And then the extent, nature, and duration of
24 the public use, you again say "none of the

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1 activities will permanently be affected by the
2 presence of the underground line." Correct?

3 A (DeWan) That's correct.

4 Q The overall visual impact, none of the scenic
5 resources identified will be physically
6 affected by the installation of the underground
7 transmission line.

8 I want to stop there and ask about the
9 River Heritage Scenic Byway. I mean, the line
10 is going under the road. So, how is that not
11 physically affected by the installation of the
12 line? I mean, for almost fifty miles, the
13 scenic resource is being dug up.

14 A (DeWan) Yes. We, for the most part, did not
15 identify "temporary" impacts.

16 Q Okay.

17 A (DeWan) Recognizing, of course, that, you know,
18 we've heard a lot of testimony about what it
19 would do to traffic patterns and so forth. You
20 know, our evaluation looked to what was called
21 the "end game". What is going to happen once
22 the facility is in place?

23 Q Okay.

24 A (DeWan) And, so, our assumption was, you know,

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1 back then, as you heard, when wrote this, it
2 was going to be within the paved portion of the
3 right-of-way. And, you know, after it was in
4 place, and the ground -- the facility was
5 finished, and the road was repaved, life would
6 go on. There would be no obvious change.

7 Q Okay. So, the reason why I highlighted the
8 "permanent", where you said "permanent" and
9 "little evidence will exist following
10 construction" is the construction -- isn't the
11 construction going to be the most visible
12 impact that people will get of the whole
13 underground?

14 A (DeWan) Yes.

15 Q But you really didn't assess the two-year
16 construction period, where the road's dug up,
17 and all the scenic resources that are along
18 that route, the 46 or so that are within the
19 area, are going to have to look at it. So,
20 that wasn't part of your assessment?

21 A (DeWan) Well, we felt that that was part of the
22 construction panel's report. And we sat in and
23 heard a lot of the testimony from the people,
24 and we heard the construction panel talk about

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1 the effect that it may have.

2 Q Okay. So, I guess how much of a visual impact
3 would construction have to be for you to say
4 "this is a visual impact" as part of a project?

5 A (DeWan) Well, there will be a visual impact.
6 There's no doubt.

7 Q Okay.

8 A (DeWan) There will be a temporary visual
9 impact. And, you know, it will involve,
10 obviously, the construction, the presence of
11 the machinery that will be used, involved in
12 it. And it will be done, as I understand, on a
13 segment-by-segment basis. So, it won't be for
14 the whole two-year process. And I don't know
15 how long it would take to do any one particular
16 segment. But, yes, there will be a temporary
17 impact.

18 Q I think what the -- I don't want to put words
19 in their mouth, but I think what the
20 construction panel testified is the entire 50
21 miles is basically going to see construction
22 for the whole two years. You know, there's --
23 just the method that they have to use to put
24 the trench 50 miles underground, and all the

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1 vaults that they have to place, and then come
2 back in and cable, connecting all the cables
3 up, that there would be construction along the
4 whole 50 miles for that two years. It would
5 take them that long to build the underground.

6 So, it may not be in front of someone's
7 driveway, but it might be a couple hundred
8 yards down the road. And then all the
9 horizontal drilling locations and everything
10 else.

11 So, I just -- I didn't know if anybody had
12 really in-depth explain to you what the
13 construction would entail?

14 A (DeWan) No. We were really looking for, you
15 know, what would happen after it was in place.

16 Q Okay. I think I understand what you did there.

17 A (DeWan) Yes.

18 Q So, that just reiterates that. And, so, that
19 was -- I couldn't understand, and now I
20 understand it better, how you -- the continued
21 use and enjoyment, how the construction is
22 going to affect how the resource is currently
23 used. It will affect it, but for a short
24 period of time, so that's not considered,

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1 correct?

2 A (DeWan) That was our understanding, yes.

3 Q Okay. And that's the same for the public's
4 enjoyment of that resource for the two years
5 while it's under construction or so. Once it's
6 done, the enjoyment of that would -- the use
7 would be back to normal, that's sort of what
8 you're saying?

9 A (DeWan) Yes. That is our anticipation.

10 MR. OLDENBURG: All right. I have no
11 further questions. Thank you.

12 CHAIRMAN HONIGBERG: Mr. Way, you
13 want to go next?

14 MR. WAY: Sure. Give me a moment.
15 Good morning again.

16 WITNESS DeWAN: Good morning.

17 WITNESS KIMBALL: Hi.

18 MR. WAY: As Mr. Oldenburg said, I
19 think we've talked a lot of the details and a
20 lot of the questions I have is just to clarify
21 in my mind. Excuse me.

22 BY MR. WAY:

23 Q First off, on the photosimulations, a couple
24 quick questions. I think I saw in your

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1 supplemental testimony that you had done a few
2 before-and-after photos, did I not? I thought
3 I saw that. There was some pictures of
4 photosimulations that had been done, and then a
5 project -- a representative project you showed
6 afterwards?

7 A (DeWan) Oh. You're talking about work that we
8 had done in other situations.

9 Q Yes. Work that you had done previously. I'm
10 sorry.

11 A (DeWan) Okay. Yes. Yes. I think we provided
12 a couple of examples from the work that we did
13 for the Maine Power Reliability Program.

14 Q Right, the Maine Power Reliability Program.
15 So, you had pictures that you put into your
16 testimony. So, the question I have is, is that
17 a common practice for you to do, is to take
18 pictures, while you have your photosimulations,
19 and then, after the project is done, you go
20 back and, from that same vantage point, take
21 other pictures?

22 A (DeWan) We have done that in a few occasions.
23 I must say that this particular request caused
24 us to go back to these places and rephotograph

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1 it.

2 Q And, so, when you -- when you look at what you
3 had projected in your photosimulations, and
4 what actually came to be, the photos that you
5 provided, they were very good, they were
6 spot-on, I thought. But were those -- is that
7 representative of your work? In other words,
8 your photosimulations that you tend to put
9 together, is that actually what occurs in the
10 final --

11 A (DeWan) We certainly think so. And I think
12 that's one of the reasons why clients keep
13 coming back to us, because we are able to
14 produce these images. There were a few
15 changes. I don't know if you noticed
16 carefully, but sometimes things get adjusted
17 during the course of construction. You know,
18 pole heights may vary slightly. But, I think,
19 for the most part, those were, to use your
20 words, "spot-on".

21 Q And, so, I would have to imagine that, if there
22 are instances where it's not spot-on, you
23 probably didn't -- do you have pictures of
24 situations when it wasn't spot-on, when the

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1 photosimulation wasn't representative of what
2 the final outcome was?

3 A (DeWan) I don't believe so, no.

4 Q What are some of the factors that are within
5 the control of Northern Pass within that
6 right-of-way that might alter that, what the
7 photosimulation had projected?

8 A (DeWan) Well, we've talked about the subject of
9 *de minimis* change, for example. And, as part
10 of the development of the Project, we may find
11 that, for example, we've talked about the use
12 of landscaping along, in some situations, as a
13 mitigation measure. Obviously, our
14 photosimulations did not include that. But I
15 talked the other day about the one
16 photosimulation that we had of the transition
17 station that would be visible from the scenic
18 byway along Route 145, in Clarksville. And I
19 suggested that, with time, the existing
20 vegetation that's between the observer and the
21 transition station probably would grow another
22 five to eight feet above the image that we
23 showed. There would also have been the
24 opportunity to use earth berms and other

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[WITNESS PANEL: DeWan|Kimball]

1 mitigation measures to help screen that
2 particular Project.

3 So, what we showed you then was what it
4 would look like if the Project had been built
5 at the time we took the photograph, which was a
6 couple of years ago.

7 So, to answer your specific question, at
8 that particular point, the actual photograph
9 taken, let's say, five years from now is
10 probably going to look somewhat different from
11 the photosimulation, because of the fact that
12 there will be growth in the vegetation and
13 there may additional mitigation measures.

14 Q Thank you. And I would imagine, in other
15 projects, it's probably much like we have here.
16 You have a photosimulation, and there will be
17 criticism of that simulation. Has there been
18 instances where the photosimulation did not
19 come out as expected, that maybe criticisms of
20 the photosimulation came to bear?

21 A (DeWan) Perhaps I don't understand what your
22 question --

23 Q Well, in other words, did you ever make -- I
24 mean, these are projections, these

[WITNESS PANEL: DeWan|Kimball]

1 photosimulations.

2 A (DeWan) Right.

3 Q Have you been wrong?

4 A (DeWan) I remember there's a couple of
5 instances where light conditions were slightly
6 off. You know, we assumed a certain amount of
7 visibility of the structure, it may have been
8 more or less visible. But I think the intent,
9 though, is to provide a view of the overall
10 Project. What will it change -- how will it
11 change the overall view?

12 I think what we've noticed in a few
13 situations, there have been places where
14 they're -- because of light conditions, may
15 have changed. It looks different. And that's
16 an interesting point, though.

17 Lighting conditions play a great deal in
18 the development of photosimulations. And just
19 take wind power projects, for example. We try
20 and do ours that show, you know, the worst case
21 scenario, when the turbines are fairly bright
22 and white. Sometimes we go back, and the
23 photographs that we take show the turbines a
24 different color because of the cloud patterns.

[WITNESS PANEL: DeWan|Kimball]

1 There's so many factors that go into this.

2 It's hard to give you an exact answer.

3 Q You took hundreds of photos from what we were
4 talking about last week.

5 A (DeWan) I think it's more like tens of
6 thousands.

7 Q Ten of thousands.

8 A (DeWan) Yes.

9 Q All right. I'll give you tens of thousands.

10 A (DeWan) And we may have given you tens of
11 thousands.

12 Q Thank you. What percentage of those would you
13 say were taken from private property?

14 A (DeWan) A very small percentage.

15 Q And the reason I'm asking, because I'm looking
16 at the rules, and as we go through this more
17 and more we're going to be focusing a lot more
18 on the fine details. 301.05(b)(7), and I think
19 it says "to the extent feasible, from a sample
20 of private property observation points within
21 the area of potential visual impact", the key
22 observation points. Was there any attempt to
23 have photos taken from private property or did
24 you pretty much stay off of that?

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) For the most part, we did not go onto
2 people's private property. There were some
3 instances where people asked us to go onto
4 their property to take a photograph from the
5 backside. I think we saw one near Weeks State
6 Park, just south of Weeks State Park that we
7 talked about. Obviously, places like the
8 Mountain View Grand, that's private property,
9 and we photographed from places like that. We
10 have probably half a dozen situations where the
11 public was already invited onto private
12 property.

13 Q And, when you said the "Mountain View Grand",
14 if you took it from the road, the road is not
15 private property, correct?

16 A (DeWan) Right. And our photosimulations is
17 taken from the veranda at the end.

18 Q So, I guess, as I mentioned earlier, I want to
19 explore a little bit more about this public
20 process. We're going to be getting into
21 orderly development, Mr. Varney is back there I
22 saw, later today. And I'm trying to get a
23 sense of what the process was that you decided
24 that there was not a need to go to the

[WITNESS PANEL: DeWan|Kimball]

1 communities for more information. So, for
2 example, when I go to a place I haven't been
3 before, or that I'm reasonably unfamiliar with,
4 I'll look online, I'll go to literature, and
5 then, when I get there, I'm talking to people
6 and I'm finding out what's of interest to them.

7 And I know we've sort of beaten this over
8 and over, but I'm still trying to get a clarity
9 of why you didn't decide to do that. Because,
10 for example, in Coleman State Park, it seems
11 like talking to the park manager would have
12 cleared up a lot of the issues that we
13 discussed in the question.

14 What was the thought process for not
15 making that interaction?

16 A (DeWan) A lot of times we went to places before
17 the parks were open, Forest Lake State Park,
18 for example. Many times we were there when
19 there just didn't seem to be anybody around. I
20 think we probably wanted a consistency in the
21 way we did the evaluation.

22 Where there were people that were
23 available, we, you know, we would contact them.

24 You know, for example, we intercepted a ranger

[WITNESS PANEL: DeWan|Kimball]

1 who happened to be at Franklin Falls Dam, and
2 we had a good conversation there, and got
3 some -- her impression about use data.

4 But, you know, we relied, for most of the
5 work that we do, on published information.

6 Q And, I'm trying to recall from the earlier
7 testimony, has that been the norm for all your
8 past projects or has there been more or less
9 more interaction with the communities?

10 A (DeWan) I'm just thinking back over the years.
11 Our norm has been to rely upon published data,
12 because the published data is what we rely upon
13 to create a record of what the community has
14 felt is significant. If we're looking at, for
15 example, where are there scenic roads or where
16 are there scenic overlooks? Generally, if a
17 community feels that these resources are
18 significant, then they will be included in
19 either scenic assessments or in their town
20 master plan or their comprehensive plans.

21 Q Some of the questions I've had for the other
22 panelists has focused on the same issue. And
23 there seems to be somewhat of that same theme
24 of not interacting directly with the community.

[WITNESS PANEL: DeWan|Kimball]

1 And I know you were asked, and I think by the
2 Counsel for the Public last week, whether you
3 had been told not to do that step. Was there
4 any coordination with the other panelists at
5 all to not have that interaction? Or is this
6 something you came up with and decided a
7 pathway by yourself?

8 A (DeWan) I think that's a fair characterization.
9 That's typically the way we do these sort of
10 assessments.

11 Q So, there was no --

12 A (DeWan) We were not told by the attorneys or
13 the Applicant "don't talk to people".

14 Q Well, and when I say "don't talk to people",
15 I'm talking about communities. There was no
16 direction there?

17 A (DeWan) There was no direction that was given.

18 Q No coordination with the other panels that just
19 so happened to have that lack of communication?

20 A (DeWan) We did not coordinate with other
21 panelists or other consultants.

22 Q All right. Ms. Kimball, because I don't want
23 to leave you out of the mix here, you had
24 talked a bit about what you need to do when you

[WITNESS PANEL: DeWan|Kimball]

1 first come to an area, and that you may not be
2 familiar with, and you have to make an
3 assessment of where you're going to study.
4 And, as I recall, you said you go to the
5 databases, and I think you explained what those
6 databases were last time. Then, you talked
7 about master plans. And those were helpful to
8 you, the master plans?

9 A (Kimball) Very helpful. Some master plans,
10 like, for example, the Deerfield Master Plan
11 references a great number of scenic resources
12 to include. Other master plans, depending on
13 how they were conducted, are more sparse. But
14 I think it provides a good representation of
15 places that are important to the community
16 after they have gone through the public process
17 of having to identify those places.

18 Q So, they're very important to you. I'm
19 looking, and having worked with communities at
20 some points with master planning, I'm familiar
21 that a lot of them don't have them on the
22 website. What percentage of the communities
23 did you look at master plans?

24 A (Kimball) I believe all of them. And we used

[WITNESS PANEL: DeWan|Kimball]

1 Normandeau Associates, who is doing the orderly
2 development work.

3 Q Okay.

4 A (Kimball) They also used the master plans. So,
5 if I wasn't able to get one off of the website,
6 I would ask them for the material.

7 Q So, you were able to get a master plan for
8 every affected community?

9 A (Kimball) I believe so. Nothing comes to mind
10 of one that may have been missed.

11 Q Regional planning commissions, because we have
12 to take into account their input as well. Did
13 you have any coordination, any communication
14 with regional planning commissions?

15 A (Kimball) We did not.

16 Q Are you aware of regional planning commissions
17 and what their role is in this state?

18 A (DeWan) We are, to some extent.

19 A (Kimball) Generally.

20 Q Generally?

21 A (DeWan) Yes.

22 Q And they may have been a good resource as well,
23 because I think, even like North Country
24 Council, I believe they have their own master

[WITNESS PANEL: DeWan|Kimball]

1 plan that addresses some of these types of
2 activities.

3 A (DeWan) We relied upon the corridor management
4 plans that are created by the scenic byways
5 councils. And we collected and reviewed all
6 the ones that were available for the scenic
7 byways that were within our study area.

8 Q Just a couple quick questions on historical
9 sites. So, the list of historical sites, just
10 to recap, that's what you got, Division of
11 Historical Resources, they are either eligible
12 or on the Historic Register?

13 A (Kimball) Correct.

14 Q National Register?

15 A (Kimball) Correct.

16 Q And I don't know if you were available for that
17 discussion, but we had talked about our
18 interpretation of the rule. I think it's -- I
19 don't have the rule number right in front of
20 me. But the concern that includes those sites
21 that are on the National Register or eligible
22 may not be the whole universe that we might
23 look at. Were you available for that
24 discussion?

[WITNESS PANEL: DeWan|Kimball]

1 A (Kimball) This is with the historic panel?

2 Q Right.

3 A (Kimball) I don't believe we were here for that
4 portion of the discussion.

5 Q All right. You did clarify more on the
6 continued use and enjoyment concept. One of
7 the concerns I have is that continued use and
8 enjoyment, does that focus more on tourism, on
9 visitors, than it does to the actual people
10 that are living in the affected area, in your
11 mind, people that are visiting?

12 A (DeWan) We were -- not just the tourists,
13 because tourists to us are people from outside
14 that come to an area. But continuing use and
15 enjoyment really addresses the way the scenic
16 resource is used right now by, you know, people
17 that live in the area, people that may come
18 from the surrounding towns, people -- as well
19 as tourism, people that come to the resource.

20 Q The enjoyment piece is the hard thing to
21 evaluate, I have to imagine, because continued
22 use, if I live, for example, on Turtle Pond or
23 if I live on Route 145, it's the only game in
24 town. And, so, I'm going to continue to use it

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[WITNESS PANEL: DeWan|Kimball]

1 more than likely. But, you know, I'm still
2 wrestling with the idea of how you evaluate
3 enjoyment.

4 And the other thing that concerns me is I
5 hear the word "think", "believe", "assume" a
6 lot. But how do we know, we haven't done
7 surveys, we haven't really talked to people
8 that might be using that resource. There
9 hasn't really been a discussion with tourism.
10 How do you know the extent to which people will
11 continue to enjoy it?

12 A (DeWan) Well, to the extent that there is an
13 analogy between infrastructure projects of this
14 scope, you know, we looked at the Baskahegan
15 study that was done in Maine, we looked at the
16 Lempster review that was done here in New
17 Hampshire. Those are the questions that were
18 asked. And people's reaction was, yes, I know,
19 in the Baskahegan case, people --

20 Q And if I could interrupt. Sorry, Steve. You
21 said "the people were asked". Who was asking?

22 A (DeWan) There is a -- in both cases, and in the
23 Baskahegan study I'm more familiar with, that
24 was a survey that was done by First Wind, the

[WITNESS PANEL: DeWan|Kimball]

1 group that did the wind power project, that was
2 highly visible from most of Baskahegan Lake.
3 And several years after it was -- the wind
4 power project was in place, Kleinschmidt
5 Associates, an engineering firm from Maine,
6 with a very strong record in the recreation
7 evaluation, developed a survey, and they
8 interviewed people who were using the lake, and
9 asked them questions about their experience in
10 using it, how they liked the lake, how they
11 liked the changes that they had seen. And they
12 got to the question about whether or not it had
13 had a noticeable effect on use patterns and
14 people's enjoyment. And, for the most part,
15 it's almost surprising to say that people
16 accepted the fact that the turbines were there.
17 And people also said that, from, again, these
18 are the people that were actually there
19 recreating, they thought that the use levels
20 had actually increased in the preceding several
21 years since the Project had been put into
22 place.

23 Q But those -- and those are the intercept
24 surveys that we had talked about?

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[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Yes. And, again, we weren't involved
2 in that.

3 Q Right.

4 A (DeWan) And I think I referenced that in some
5 of our -- in our supplemental prefiled
6 testimony.

7 Q But there was a value to you of those intercept
8 surveys?

9 A (DeWan) Well, they weren't our intercept
10 surveys.

11 Q No, but to you, --

12 A (DeWan) To us, yes.

13 Q -- and maybe as options in this project, --

14 A (DeWan) Yes.

15 Q -- you did consider intercept surveys. And,
16 once again, so I clarify in my own mind, the
17 reason we decided not to do the intercept
18 surveys in this case, did I hear you say that
19 there was a concern that there was just so much
20 awareness of the Project, it might be difficult
21 to get that -- those questions answered?

22 A (DeWan) That was a consideration. Certainly,
23 the logistics of doing the type of survey that
24 may have been required over 192 miles was very

[WITNESS PANEL: DeWan|Kimball]

1 high. As I mentioned before, we looked to see
2 if anybody had any recollection or any
3 experience with doing intercept surveys for
4 transmission lines. We certainly haven't had
5 any experience. We have never had a client ask
6 for it. I know that T.J. Boyle Associates has
7 done a lot of transmission work over the years,
8 has never done an intercept survey. We went
9 online, checked other resources, did not find
10 anybody that has done one specifically for this
11 type of project. That's why we looked for what
12 we felt were relevant studies for similar type
13 of large scale infrastructure projects.

14 Q So, it was mostly the size of the Project, just
15 the very large nature of the Project that just
16 didn't make it feasible?

17 A (DeWan) Well, it was not an easy decision. The
18 size was certainly one factor, the variety of
19 different resources that would be encountered,
20 the number of contact points that would have
21 been required. The fact that it would have
22 required a different type of survey than the
23 one that we were very familiar with and had
24 been instrumental in helping develop over the

[WITNESS PANEL: DeWan|Kimball]

1 years for wind power projects.

2 I think another consideration, of course,
3 was did the rules, as we understand them,
4 require an intercept survey? And I think that
5 was very instrumental in leading us to a
6 conclusion.

7 Q I think the hard part about that is we're going
8 to have to evaluate whether there's continued
9 use and enjoyment. And, with all due respect,
10 it's really coming down to your belief that
11 people will use it in the manner in which they
12 have used it before, maybe even continue to
13 enjoyment it. And based upon surveys that had
14 been done in other studies. But there really
15 isn't a lot of feedback directly from the
16 resource site?

17 A (DeWan) From specific locations.

18 Q From specific locations.

19 A (DeWan) Yes. Yes. One of the other things
20 that we found, just to continue that
21 discussion, when we've done these in Maine, in
22 most instances, we've had the advantage of
23 being able to talk with the peer reviewer.
24 And, in many cases, then Mr. Palmer, who has

[WITNESS PANEL: DeWan|Kimball]

1 reviewed the draft of the intercept survey to
2 make sure that it was totally objective.
3 There's always that fear that the questions
4 could be asked in such a way that perhaps
5 biases the result. So, you know, he acted as
6 an objective third party, has reviewed the
7 surveys, has suggested changes to the questions
8 or additional questions to be asked. And, we
9 didn't have that advantage at this point.

10 Q Because I would have to imagine, like you're
11 just saying, that a good surveyor can ferret
12 out the bias. And all of these projects are
13 always large that we're talking about?

14 A (DeWan) There is that potential. And, so, we
15 wanted to make sure that, again, for our work
16 that's been done in wind power work in the
17 past, that we could say we've had somebody look
18 at it and help to develop the survey to try and
19 figure out any bias.

20 Q So, with everything you've heard last week, and
21 some of the things left to do, you get the call
22 from Eversource and say "We want to retain you
23 for the next six months, a year? What would
24 you envision you might be doing? What

[WITNESS PANEL: DeWan|Kimball]

1 follow-up from these discussions might you do?

2 A (DeWan) Well, the one thing that comes to mind,
3 and, again, this will depend upon the
4 discussion that's occurring right now is the
5 whole question of mitigation. And, again, I
6 have to go back to draw a parallel between the
7 work that we've done here for Northern Pass and
8 the work that we did for the MPRP project.
9 And, following the approval of MPRP, in Maine,
10 we went back and worked with dozens of
11 individuals in situations along the line to
12 develop the sort of planting plans and
13 screening plans that we've talked about and
14 described in our supplemental prefiled
15 testimony that you've heard Mr. Bowes talk
16 about.

17 Q Ms. Kimball, do you have anything to offer?

18 A (Kimball) No. That was -- I think that that's
19 a good characterization of the next steps
20 following the approval.

21 Q All right. One last question. And it's
22 completely different from all the others, but I
23 just had a note here. In terms of Deerfield,
24 and I honestly can't remember from the

[WITNESS PANEL: DeWan|Kimball]

1 testimony, was there a discussion of vantage --
2 of views from vantage points like the Deerfield
3 Fair, or other types of tourism-type, temporary
4 activities?

5 A (Kimball) Well, the Deerfield Fair Grounds were
6 listed in our scenic resource table. I believe
7 we went to the Deerfield Fair Grounds and took
8 a look at potential visibility. And I can look
9 back to our report, but, for that particular
10 location, I believe it was two miles away, if
11 there's potential visibility. Not enough to
12 rise to a level of concern.

13 Q And you feel you've captured the other
14 communities that may have activities like that
15 that may not be on databases, but, you know,
16 certainly may be important to the Town?

17 A (DeWan) I think that the range of
18 photosimulations that we've provided are
19 showing the Project. And how it will be
20 visible at the foreground/midground/background
21 is representative of the Project as a whole.
22 While we may not have captured individual
23 places, I think the information that we've
24 provided is enough to give you and the

[WITNESS PANEL: DeWan|Kimball]

1 communities a sense of what it would do in
2 their particular community. We've tried to
3 capture the most significant ones as we did our
4 work.

5 MR. WAY: All right. That's all I
6 have for now.

7 CHAIRMAN HONIGBERG: Ms. Weathersby.
8 Actually, before you start, I think
9 Commissioner Bailey wants to follow up on
10 something she just heard.

11 BY CMSR. BAILEY:

12 Q Ms. Kimball, you said that the Deerfield Fair
13 Grounds were more than two miles away?

14 A (Kimball) Yes. Let me look.

15 Q I mean, two miles, why would you stop the
16 analysis there? It's not an urban cluster in
17 Deerfield, is it?

18 A (Kimball) Well, the two-mile analysis is
19 related to the urban cluster is around viewshed
20 mapping or the visibility analysis. So, in the
21 case of Deerfield, we identified all scenic
22 resources in the Town of Deerfield, regardless
23 of whether or not they had visibility. So, all
24 of them were identified in a scenic resource

[WITNESS PANEL: DeWan|Kimball]

1 table at the town level, and one of the columns
2 in the table is potential visibility. So,
3 those were the -- the visibility analysis
4 showed up as having potential visibility, we
5 would answer "yes". And those that had no
6 visibility we would answer "no". So, our
7 identification of scenic resources,
8 particularly within three miles, was not
9 limited to those within the visibility
10 analysis. We went beyond.

11 Q So, can you see them from the Deerfield Fair
12 Grounds or not?

13 A (Kimball) I believe there is viewshed mapping
14 that it shows up as potential visibility in the
15 Deerfield Fair Grounds. So, we have the
16 possible visibility of "yes". The distance
17 from the Project to the Deerfield Fair Grounds
18 is 2.4 miles.

19 Q And, so, your analysis ended there? I thought
20 that's what you just told Mr. Way? You didn't
21 do any further analysis because of something
22 related to two miles?

23 A (Kimball) No. The Deerfield Fair Grounds were
24 listed as having a low cultural value, in that

[WITNESS PANEL: DeWan|Kimball]

1 they have primarily local significance. So,
2 they were put into a category that were
3 analyzed, maybe I can -- it was part of our
4 supplemental testimony that we submitted in
5 April. I can look for it.

6 BY MR. WAY:

7 Q And, while you're looking at that, you
8 mentioned "low cultural value" and "local
9 significance". Can you explain that, because
10 it's one of the largest fairs in the state?

11 A (DeWan) Well, we visited it. I believe there
12 is a public meeting that was out there. We
13 photographed it from a variety of different
14 vantage points. We went to some rises within
15 the Fair Ground, we went outside, we looked at
16 the surrounding roads. And, typically, when
17 we've done these, we've also done computer
18 modeling to see how much it would actually be
19 visible.

20 CHAIRMAN HONIGBERG: He's asking you
21 about your use of the phrase "local
22 significance" for the Deerfield Fair Grounds.

23 WITNESS DeWAN: Okay.

24 **CONTINUED BY THE WITNESS:**

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Well, the fact that it was -- is rated
2 as "low", didn't mean we stopped right there.
3 We then went back and looked at it. And, as
4 Jessica said, that the visibility of the
5 structures at a distance of 2.4 miles was very,
6 very small. And, while we could have done a
7 photosimulation, it would have been another one
8 of those situations where you would have to
9 really strain to see it above the trees and
10 other things in the immediate foreground.

11 BY MR. WAY:

12 Q Fair enough. What I'm trying to, and I think
13 as the Chairman just alluded to, when we say
14 "local significance", what does that mean?

15 A (DeWan) We use the term "local scenic value",
16 which means that, if you divide the landscape
17 and the resources that we looked at into high,
18 medium, or low, the ones that are at the high
19 end are the ones that have been identified as
20 having usually a national significance or very
21 high level statewide significance.

22 The ones that are at the low end, means
23 they were primarily resources that are
24 considered to be important at the local level.

[WITNESS PANEL: DeWan|Kimball]

1 MR. WAY: All right. Thank you.

2 CHAIRMAN HONIGBERG: Now, Ms.

3 Weathersby.

4 MS. WEATHERSBY: Good morning.

5 WITNESS KIMBALL: Good morning.

6 WITNESS DeWAN: Good morning.

7 MS. WEATHERSBY: Most of my questions
8 concern your methodology. So, I appreciate
9 your indulgence, kind of we're going to go a
10 little bit step-by-step. We'll cover some
11 ground that was already covered, but hopefully
12 I'll have some new questions about some of the
13 steps along the way. I think, if I can trust
14 the process you used, I can trust your outcome.
15 So, I just want to, --

16 WITNESS DeWAN: Okay.

17 MS. WEATHERSBY: -- you know, kind of
18 make sure I understand the process that you use
19 and why some of the decisions were made that
20 were made.

21 WITNESS DeWAN: Sure.

22 BY MS. WEATHERSBY:

23 Q So, starting the very beginning, I know you
24 prepared an inventory of the sites within the

[WITNESS PANEL: DeWan|Kimball]

1 Project area to get your list of scenic
2 resources. Am I correct that the reason -- the
3 reason that your number was, I think, 525 in
4 the first go-round, and then another 275 or 80
5 supplemental, the reason that number differed
6 so much from what Ms. Widell found for historic
7 resources or what the other experts in this
8 case have found was because of that public
9 right of access issue, correct?

10 A (DeWan) That's one of the -- one of the
11 principal reasons, but not the only reason.

12 Q Would you like to elaborate?

13 A (DeWan) Oh, gladly. And we've heard widely
14 varying numbers. The historic people looked
15 at, what, 1,200?

16 A (Kimball) Yes, 1,300.

17 A (DeWan) 1,300 sites. We know the Counsel for
18 the Public, when they did their initial
19 evaluation, had 18,933 resources that they felt
20 should have been evaluated. We didn't feel
21 that that met the test of what constitutes a
22 "scenic resource", and under our interpretation
23 of what a "scenic resource" is.

24 And, so, when we identified our first

[WITNESS PANEL: DeWan|Kimball]

1 flush of 525 within -- generally, within a
2 three-mile area, you know, we looked at those
3 places that we felt really were significant
4 either at the local level, at a statewide
5 level, that were the sort of resources that
6 needed to be evaluated in terms of looking at
7 the potential impact of this Project.

8 Just to use a specific example, I know one
9 of the reasons that Counsel for the Public's
10 numbers were so high is that they counted as a
11 scenic -- potential scenic resource every road
12 segment within ten miles. Well, to us, and,
13 again, having to rely upon the rules that say
14 "rides and drives and other tourism
15 destinations", that says to us that every back
16 road and every highway within the area is not a
17 scenic resource. Those are not tourism
18 destinations.

19 Q And that was true even if the town or city had
20 designated it as a "scenic road"?

21 A (DeWan) Well, that's different. Because, see,
22 those sort of resources had already achieved
23 some recognition. And I think, to address the
24 earlier question, we looked at places that had

[WITNESS PANEL: DeWan|Kimball]

1 some value that the community had already
2 identified. And, so, the scenic roads that
3 have been identified in many of the
4 communities, certainly the scenic byways have
5 already been identified. Those are on our
6 list, and they certainly were also on Counsel
7 for the Public's list.

8 Q So, if a town had designated all of their roads
9 as "scenic roads", and it was within the area
10 of potential impact, every one of those roads
11 was listed?

12 A (Kimball) In our work, it was, correct.

13 Q Okay.

14 A (DeWan) That is not the case, though. There
15 are some towns that identify just a few, some
16 of them identify quite a few. There's many
17 towns, maybe most of the towns, don't identify
18 any of them.

19 Q Another big difference we've already discussed
20 a lot was the public right of access, correct?

21 A (DeWan) That is correct.

22 Q And, if something was open to the public, but
23 an admission fee was charged, you I think had
24 indicated that that was not included in your --

[WITNESS PANEL: DeWan|Kimball]

1 as a scenic resource?

2 A (DeWan) If we're talking about private
3 property?

4 Q Correct.

5 A (DeWan) That's the case. Yes. Obviously,
6 state parks, you know, need some revenue just
7 for maintenance purposes.

8 Q What about an attraction such as Santa's
9 Village, a major tourist attraction, private,
10 you've got to pay your 30 bucks or whatever it
11 is to get in? Amusement parks?

12 A (DeWan) Yes.

13 Q Rides? Alpine slides?

14 A (DeWan) Yes. And, again, we dealt with a lot
15 those. And some of those are probably on
16 Counsel for the Public's list, because they
17 occurred on a list of recreation resources.

18 But, from our perspective, if you're going
19 to a place to enjoy the view, but someone who
20 owns it says "you can't be here unless you pay
21 a fee", that doesn't count.

22 Q Okay. Why did you include the Mountain View
23 Grand as a scenic resource?

24 A (DeWan) There are many places -- well, there's

[WITNESS PANEL: DeWan|Kimball]

1 a few places like that which I think are iconic
2 in the State of New Hampshire. These are
3 places that are open to the public. Yes, you
4 have to pay a fee if you want to enjoy some of
5 the facilities. But it's a place where you can
6 go, you can walk around, you can sit on the
7 front porch without paying a fee. It's one of
8 those -- it's, obviously, on the National
9 Register of Historic Places. And it qualifies
10 as a "scenic resource" under several of the
11 categories.

12 Q But isn't it private property, and the owners
13 of the Mountain View Grand could ask you to
14 leave and not sit on the veranda?

15 A (DeWan) Yes. That's a subtlety that we really
16 didn't get into. You know, we looked at the
17 Mountain View Grand, and we felt that this is a
18 place that extended their arms. They opened
19 their arms to the public, they welcome the
20 public. Could they ask people to leave? I
21 suppose, if someone is being obnoxious and
22 rude, they could probably ask somebody to
23 leave. But I don't know if that's the test.

24 Q Okay. Well, I mean, you said the test is the

[WITNESS PANEL: DeWan|Kimball]

1 public right of access. You know, kind of this
2 "unfettered access" concept. And, other than
3 the cost of a night's stay, I'm not really sure
4 how the Mountain View Grand differs so much
5 from some other places where -- privately owned
6 places that people go to spend the night that
7 are within the area of potential effect.

8 But --

9 A (DeWan) Uh-huh. That's an interesting
10 discussion. And we've debated it long and
11 hard. And I suppose the other way of looking
12 at it is that the road in front of it is a
13 public road. And, to the extent that that
14 experience, that view is similar to what you
15 see when you're up on the veranda there is
16 somewhat equivalent. I don't think anybody is
17 going to disagree that it's not a significant
18 scenic resource.

19 Q And you didn't include churches, commercial
20 establishments, none of those were included
21 primarily because of that private right of
22 access?

23 A (DeWan) For the most part, yes.

24 Q Okay. And then you started this filtering

[WITNESS PANEL: DeWan|Kimball]

1 process to determine which ones -- which one of
2 the places that you've identified as scenic
3 resources would have a view of the Northern
4 Pass Transmission line. And you indicated that
5 one of the first tools you used was a
6 computerized viewshed analysis, that produced
7 viewshed maps where it showed that the
8 transmission structures would be visible,
9 worked in the vegetation component and the
10 number of structures that could be potentially
11 visible. Correct?

12 A (DeWan) That's correct.

13 Q And you didn't do any viewshed maps of the
14 underground portion because there was no view
15 of the structures?

16 A (Kimball) The visibility analysis takes into
17 account the tops of the structures. So, there
18 could be portions of the underground route that
19 are located within ten miles of an aboveground
20 structure. But it's still the structure tops
21 that are the item that the computer is looking
22 for. In the case of the underground section,
23 there's no physical component for the computer
24 to identify.

[WITNESS PANEL: DeWan|Kimball]

1 Q Okay. If a property didn't have the view of
2 the top of a structure, but had a very clear
3 view of, say, the conductors. Would that be
4 included?

5 A (Kimball) The computer doesn't have the ability
6 to look at lines or polygons. In the
7 visibility analysis, we have to rely on the
8 point basis.

9 Q Okay. And, if the vegetation screening, for
10 example, screened out the top of the structure,
11 but three-quarters of the base of it was
12 apparent, would that also have been screened
13 out?

14 A (Kimball) Can't imagine a situation where that
15 would be the case. But, technically speaking,
16 if you could see the bottom of the structure,
17 but not the top, I can't imagine a situation
18 where it would --

19 Q If you had the bow of a tree, you know, you can
20 see that below where the branches are, but
21 branches of a tree might screen the top from a
22 particular viewpoint just for example. My
23 question is, just in general, if you could
24 see -- you couldn't see the top of the

[WITNESS PANEL: DeWan|Kimball]

1 structure, but you could see another part of
2 the structure, that I'm just trying to
3 understand your sieve that got filtered out.

4 A (DeWan) Yes. Think of the viewshed map that we
5 provided as initial -- an initial evaluation.
6 It doesn't get down to the point of looking at
7 individual trees or specific viewpoints. That
8 gave us an overall pattern. So, while there
9 may be places where you might see the bottom
10 half of the structure, let's say, it's not
11 going to show up on the viewshed maps. As we
12 said earlier, it's based upon rasters that
13 are --

14 A (Kimball) Five meters.

15 A (DeWan) -- five meters square, probably 18 feet
16 square.

17 Q Okay. In the computer program that you used,
18 I've heard you talk about "Intermap" and there
19 was also talk about "Google Earth". And
20 what -- at this stage, what was the program
21 that assisted you in this?

22 A (Kimball) So, the computer program, the
23 software, is ESRI ArcMap. That's the software
24 that allows the visibility analysis to be run.

[WITNESS PANEL: DeWan|Kimball]

1 The data that was used was the Intermap data
2 that was put into the computer software.

3 Q Okay. And, excuse me, ESRI?

4 A (Kimball) ESRI.

5 Q ESRI.

6 A (Kimball) E-S-R-I.

7 Q And is that a commercially available program?

8 A (Kimball) Yes. We pay for a license to use the
9 software.

10 Q Okay. And there must be various assurances
11 concerning its reliability and accuracy that
12 you examined?

13 A (Kimball) Yes. This is the only software on
14 the market that I'm aware of that does this
15 type of mapping analysis. And accuracy really
16 comes down to the data that you're use within
17 it.

18 Q And, then, did you, for these I think there
19 were 800 odd sites that you did this process
20 for, did you save any of that analysis
21 somewhere? Are there printouts or a data stick
22 with -- that show that viewshed mapping on it?

23 A (Kimball) It's a live data source. So, we can,
24 if you have the software, you can zoom in and

[WITNESS PANEL: DeWan|Kimball]

1 out and see how it relates to the various
2 mapped scenic resources. So, no PDFs that were
3 saved, but it's something that's available.

4 Q You pulled up the site, you know, then you put
5 in the data, then you looked at it, and then
6 made a decision and then moved on. So, there's
7 no -- there's no record?

8 A (Kimball) Right. There's no physical JPEG or
9 PDF of every single site.

10 Q Okay.

11 A (Kimball) But we have data that, through the
12 software, we can look at it at any time to go
13 back to.

14 Q Okay.

15 A (DeWan) Yes. And we typically don't just look
16 at a single point within a resource. We may
17 start at a point in a parking lot, say, and
18 then move physically in various points, just to
19 get a sense about what it would do at various
20 points within a resource.

21 Q So, you have the ability to move around within
22 the view?

23 A (DeWan) Oh, yes.

24 Q And your little man there?

{SEC 2015-06}[Day 35/Morning Session ONLY]{09-18-17}

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Yes.

2 Q Okay. You also stated that this filtering
3 process included viewshed mapping and computer
4 modeling and then some fieldwork. What is the
5 difference between "viewshed mapping" and
6 "computer modeling"?

7 A (Kimball) So, "viewshed mapping" is the product
8 of running the visibility analysis, where the
9 computer tells you what points in the landscape
10 you can see various structures.

11 "3-D modeling" is the act of actually
12 putting yourself into the landscape and looking
13 around in a 3-D model. We can use the ESRI
14 software, a plug-in called "ArcScene", which is
15 one way of doing that. Google Earth is another
16 way of doing that, where you can actually get
17 sort of the view of a person within the
18 landscape, as opposed to just zooming out and
19 looking at the viewshed map.

20 Q Okay. And that stage eliminated more than half
21 of the scenic resources. I think it was 325 in
22 your initial review, and 261 of your
23 supplemental review. So, that process, that
24 first filter of the viewshed mapping/computer

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[WITNESS PANEL: DeWan|Kimball]

1 analysis, got rid of a half to two-thirds of
2 the scenic resources?

3 A (Kimball) Yes. In addition to the viewshed
4 mapping, the computer modeling, we also did
5 fieldwork. So, for example, I think of the
6 Catamount Trail in Bear Brook State Park. If
7 you were to look at the viewshed map, it
8 wouldn't show visibility, because it's a
9 forested hilltop. So, the computer doesn't
10 recognize it. Well, through our research and
11 field investigations, we know there's a trail
12 that leads to the top of a hill. It's likely
13 there's going to be views from that. So, we
14 actually would go and do field investigations
15 as well. And, of course, we got up there,
16 found there to be a view, did a
17 photosimulation, included it as being visible.

18 So, the work of filtering out scenic
19 resources for potential visibility isn't
20 limited to just the computer analysis and the
21 modeling. There's also some fieldwork
22 involved.

23 Q Okay. And, when you did the fieldwork and the
24 computer modeling, I think we've talked about

[WITNESS PANEL: DeWan|Kimball]

1 you assumed that the vegetation that's there
2 now is static, it's going to be there for the
3 purposes of evaluation. It's not going to grow
4 and it's not going to be cut. Is that correct?

5 A (DeWan) Well, we also assume that the leaves
6 are going to fall where we had deciduous
7 vegetation, which is one of the reasons we went
8 back then and took the leaf-off photographs
9 made at places from the same location.

10 But, yes. We did not assume any growth.
11 We also did not assume that they would die or
12 would be cut.

13 Q Okay. And you did your computer modeling in
14 2014-2015, correct?

15 A (Kimball) That sounds about right.

16 Q And the fieldwork done in that same time
17 period?

18 A (Kimball) Yes.

19 Q And the data --

20 A (DeWan) Well, I'm sorry. We continued to do
21 it. As we filed our supplemental prefilled
22 testimony, we went back and reevaluated a lot
23 of the work that we had done earlier, just for
24 verification purposes.

[WITNESS PANEL: DeWan|Kimball]

1 A (Kimball) Right.

2 Q Okay. And the intercept data that was used,
3 though, was 2007-2008?

4 A (Kimball) Right. And we don't know the exact
5 date that the data was collected, because it
6 was done through a variety of different
7 flyovers. And it's compiled together by the
8 company that manages the data. It could be a
9 single dataset. But there's not one point in
10 time that they went out and collected the data.
11 It's done over a series of dates.

12 Q Okay. And, when you did the investigations for
13 your supplemental testimony, did you review the
14 sites that you had done for your prefiled
15 testimony or was it just the newly identified
16 scenic resources?

17 A (DeWan) We went back and looked at all those
18 that we had rated as having low cultural value.
19 We visited some of them in person, we looked at
20 them, and did a computer model for them, just
21 to verify what our initial reactions had been
22 for these areas.

23 Q Okay. So, that was the low cultural value,
24 which is a step further down the sieve than

[WITNESS PANEL: DeWan|Kimball]

1 we've gotten to in our discussion this morning?

2 A (DeWan) Yes.

3 Q But you didn't kind of review your initial
4 analysis, since --

5 A (Kimball) For the --

6 Q -- for the originally identified scenic
7 resources since that original sifting?

8 A (Kimball) I think that's correct. We didn't go
9 back to relook at visibility.

10 Q Okay. So, then, the next step was reviewing
11 the scenic significance, where you're
12 determining the cultural value, here's the
13 cultural low, medium, high, correct? Is that
14 the next step?

15 A (DeWan) Scenic significance is a combination of
16 the cultural value and the visual quality.

17 Q And I think you've talked with Mr. Way about
18 the planning documents and the research you've
19 done to determine cultural value. And I know
20 there's a good explanation in your VIA. So,
21 I'm not going to get into any more questions on
22 that.

23 And then you assess the scenic qualities
24 of the resource. And this is where you looked

[WITNESS PANEL: DeWan|Kimball]

1 at land form, --

2 [Court reporter interruption.]

3 MS. WEATHERSBY: I'm sorry.

4 BY MS. WEATHERSBY:

5 Q -- land forms, vegetation patterns, water
6 bodies, rock formations, development patterns.

7 Is that -- that's correct?

8 A (DeWan) Those are some of the things we looked
9 at. We also looked at human development,
10 uniqueness, views, and so forth.

11 Q When you rated -- each scenic resource got a
12 rating for each of those categories, correct?

13 A (DeWan) That's correct.

14 Q And they were able to be rated, not the human
15 development, but the five that I mentioned,
16 they were rated either zero, 1, 3, or 5. Why
17 did you use that scale, and not a 1, 2, 3, or
18 some other --

19 A (DeWan) 1 through 5.

20 Q How do you arrive at that? You know, and --
21 because you're trying to quantify something
22 that's rather objective, and I sympathize with
23 you, but, depending on what the number is, when
24 you add and subtract things, you can come up

[WITNESS PANEL: DeWan|Kimball]

1 with a different result. So, I'm just -- some
2 of my questions go to why you used the scale
3 you did. So, in this instance, you could --
4 things could be rated zero, 1, 3, or 5, why did
5 you use that scale?

6 A (DeWan) I think the easy answer is to say this
7 is the way that the Bureau of Land Management
8 has developed their rating system. And this is
9 a -- it is based upon it, it's not a one-to-one
10 comparison. They did a few things there which
11 are perhaps more applicable to the Southwestern
12 part of the United States that we don't have
13 here. But, for the most part, we felt that it
14 was a reasonable way of looking at it.

15 And, by the way, we didn't assign just a
16 1, 3, or 5. There are many places where we
17 said "well, you know, it's not quite a 1" or
18 "it's not quite a 3", we would give it a number
19 in between. We used --

20 Q So, you did. You could have given something a
21 2 or a 4?

22 A (DeWan) Yes. And I think that's one of the
23 reasons we like the 1 to 5, as opposed to, you
24 know, 1, 2, 3.

[WITNESS PANEL: DeWan|Kimball]

1 Q Okay. And who did those ratings?

2 A (DeWan) We did it within the office. As I have
3 said in the past, I was the one that arrived at
4 the final determination, but it was based upon
5 input by other people in the office.

6 Q And that was -- was that the same as the rating
7 panel that was you and Ms. Kimball and David?

8 A (DeWan) David Truesdell.

9 Q Truesdell.

10 A (DeWan) That's correct.

11 Q Okay.

12 A (DeWan) A lot of the evaluation is, you know,
13 starts when you're in the field, and you're
14 looking around, and you're aware of the land
15 forms, the vegetation, and the water bodies.
16 So, we take detailed notes, we take -- that's
17 why we take so many photographs. So, when we
18 start, you know, filling out these forms, we
19 have a good body of information in front of us.
20 It's not just based on upon a single snapshot.

21 Q Okay. Do you feel as though a view is, under
22 this rating system, a view is penalized if it
23 doesn't have a water body?

24 A (DeWan) Well, water in the landscape, from all

[WITNESS PANEL: DeWan|Kimball]

1 the research we've done, is always an
2 indication of additional scenic quality. And,
3 you know, some of the work that we were made
4 aware of back in the 1970s stated that, you
5 know, water bodies is an indicator.

6 Now, does the landscape get "penalized"?
7 I don't know if that's the correct word to use.
8 But, you know, landscape is -- we like to think
9 that a landscape is made up of four basic
10 elements: There's land forms; there is water
11 forms; there's vegetation; and there's cultural
12 modifications. And, if the land -- if the
13 water bodies are not there, well, that's just
14 an area that they don't gain points, in terms
15 of the overall evaluation. But the fact that
16 it's not there doesn't necessarily mean that
17 you're not going to arrive at a high level of
18 evaluation.

19 Q Okay.

20 A (DeWan) Water bodies is a way to get five
21 points.

22 Q Right. And, in a mountainous area, you may
23 have a gorgeous scenic -- my concern is, a
24 gorgeous scenic view would get one rating, and

[WITNESS PANEL: DeWan|Kimball]

1 then the other view, that has a swamp in the
2 foreground, that's got some water, will get
3 another five points. And it's really, you
4 know, not that much different, but --

5 A (DeWan) I think the bottom line, though, is
6 that both of them would end up with a score of,
7 you know, "high", let's say.

8 Q And, then, you use these numerical ratings to
9 decide the high, medium, or low quality --
10 score for their scenic quality, correct?

11 A (DeWan) That's correct.

12 Q How did you decide the breaks for the high,
13 medium, low? I mean, the scale goes from zero
14 to 19 or more. How did you decide that zero to
15 11 would be "low", 12 to 18 "medium", and 19 or
16 more "high"?

17 A (DeWan) These are pretty much the same breaks
18 that we saw in the Bureau of Land Management
19 breakout.

20 Q Pretty much or exactly?

21 A (DeWan) I don't recall. I think it's
22 consistent with the other work we've done in
23 similar situations.

24 I must say, the other thing that we do,

[WITNESS PANEL: DeWan|Kimball]

1 once we arrive at a score, you know, we look at
2 it and say "is this really that high?" Or, "is
3 it really just a medium?" And, so, we have the
4 ability to make certain adjustments within it.

5 Q And did you do that here?

6 A (DeWan) I think there were a few places where
7 we may have done that. I couldn't answer your
8 question exactly.

9 Q Okay.

10 A (DeWan) But that's the way we have approached
11 this.

12 MR. IACOPINO: Ms. Kimball, were you
13 about to check if it was based exactly on the
14 BLM standards? Or, it looked like you were
15 about to check that. So, I wanted to --

16 WITNESS KIMBALL: Yes. I was
17 thinking to myself "do I have the BLM standards
18 in front of me?" And I don't believe that I
19 do, unless Mr. DeWan does?

20 WITNESS DeWAN: Not in front of me
21 right now.

22 WITNESS KIMBALL: No. I don't think
23 I have it.

24 BY MS. WEATHERSBY:

[WITNESS PANEL: DeWan|Kimball]

1 Q And these assessments for the scenic qualities,
2 those were all done at key observation points?

3 A (DeWan) No. The key observation points are
4 those specific places that we identify. There
5 are many evaluations that we did that did not
6 result in a photosimulation. Is that -- maybe
7 I'm confused between the term "key observation
8 point" and a place where we did the
9 photosimulations from.

10 Q This is concerning your assessment of the
11 scenic qualities.

12 A (DeWan) Yes.

13 Q And you two had the advantage of going out and
14 seeing it, but David looked at the
15 photosimulations as I recall, is that correct?

16 A (DeWan) Well, he also did a lot of the
17 fieldwork also. And, so, --

18 Q So, I just want to know that those photos or
19 the places that you relied on for your visual
20 image of the resource were the best, the most
21 scenic locations of that resource?

22 A (DeWan) I think that they probably qualify for
23 what we understand to be the meaning of the
24 "key observation point", yes.

[WITNESS PANEL: DeWan|Kimball]

1 Q Okay. So, then you took those cultural values
2 and the scenic quality results, and everything
3 that had a "high" moved on, everything that had
4 at least two "mediums" moved on, and, in the
5 end, you got a scenic significance rating,
6 correct?

7 A (DeWan) That's correct.

8 Q And you are now down to, I think, 70 sites in
9 your original VIA. How many were added at
10 this -- how many more were added in your
11 supplemental VIA at this stage? Were there
12 any?

13 A (Kimball) I believe in February there was an
14 additional 99 sites that were added. Right.
15 And, then, in the end, the analysis was
16 conducted for seven.

17 Q So, seven, seven new sites?

18 A (Kimball) There were seven new sites that
19 received individual visual impact assessments.

20 Q Okay. And that was the next step then, right,
21 the potential visual impact analysis? So, each
22 of the sites got their -- an individual
23 assessment?

24 A (DeWan) That's correct.

[WITNESS PANEL: DeWan|Kimball]

1 Q Okay. And that consisted of the visual effect
2 and the viewer effect?

3 A (DeWan) That's correct.

4 Q And the visual effect is effect of the Project
5 on the scenic resource and the viewer effect is
6 the effect the Project will have on the
7 public's continued use and enjoyment, correct?

8 A (DeWan) That's correct.

9 Q Okay. This is as much a test for me as it is
10 for you, to make sure I understand. And the
11 potential visual impact was -- took a look at
12 that scenic resource as a whole, and not just
13 the most impacted portions of that resource.
14 Is that correct?

15 A (DeWan) No. In many places, take Bear Brook
16 State Park, you know, we did the resource as a
17 whole, though we also looked at four different
18 locations within it where the public would have
19 an opportunity to experience the Project. Some
20 of it fairly close up, some of it at quite a
21 bit -- quite a distance.

22 Q Okay. And that visual effect, that was the
23 rating panel of the two of you and David
24 Truesdell?

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Yes. Primarily, as I've said, this is,
2 you know, based upon my experience, I was the
3 one that was -- I relied upon them as input in
4 that process. So, the evaluation was mine.

5 Q Okay. And, other than a flash of them here
6 last week, I believe, I haven't seen those
7 rating sheets, and I couldn't find them. I
8 don't know if they were produced during a
9 technical session. But, when they were flashed
10 up, and we don't need to pull them up, but my
11 look at them -- a quick look at that time at
12 that time, for the Pemigewasset, David had a
13 score a couple of zeros in it -- zeros in a
14 couple locations.

15 Do you know if that's true? And, if so,
16 why were his scores so different than your
17 scores for that resource?

18 A (Kimball) If there was a zero, it meant that
19 David didn't conduct the analysis for those
20 locations.

21 Q So, then, it would have just been the average
22 of --

23 A (DeWan) The two of us discussing it.

24 Q So, the zero wasn't averaged in?

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) That was not an indication, in fact,
2 it's physically impossible to get a zero, I
3 think.

4 Q Okay. All right. I was concerning myself with
5 zeros. So, David's zero was not averaged in?

6 A (Kimball) Correct.

7 A (DeWan) That's correct.

8 Q Even though a rating sheet may have had his
9 zero on it?

10 A (Kimball) Correct.

11 Q Okay. Could you remind my what Mr. Truesdell's
12 expertise is, as far as visual rating, visual
13 rating analysis?

14 A (DeWan) David's background, he's a licensed
15 landscape architect. He had worked for ten
16 years for Sasaki Associates, a very well known
17 landscape architecture planning firm in
18 Massachusetts, before he decided to move to
19 Maine. And he's been working with us for the
20 last two and a half years.

21 Q Okay. Thank you. And when these ratings were
22 done, did you each do them separately or did
23 you sit around a table together and say "hey,
24 let's give it a 3" or --

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) No, we did them separately. We then
2 discussed them.

3 Q You mean discussed them after they were
4 completed?

5 A (DeWan) After they were completed, yes.

6 Q Thank you?

7 CMSR. BAILEY: Could I ask a
8 follow-up?

9 MS. WEATHERSBY: Yes.

10 BY CMSR. BAILEY:

11 Q Under your cross-examination, didn't somebody
12 point out a few places where David's zeroes
13 were averaged in inadvertently?

14 A (Kimball) They may have been on that
15 spreadsheet, by the nature of I just created an
16 average number for the three put together.

17 Q Uh-huh.

18 A (Kimball) But, when it came to the work that
19 was presented in the report, it didn't
20 necessarily reflect that number. So, it was
21 always up to Mr. DeWan to make the final
22 determination.

23 Q I don't get that. I mean, when you have a
24 number that says high, medium, or low, based on

[WITNESS PANEL: DeWan|Kimball]

1 your scoring criteria, if the number is
2 calculated incorrectly, then you would give it
3 possibly more likely the wrong high, medium, or
4 low rating, wouldn't you?

5 A (Kimball) That may have been the case within
6 the spreadsheet. But what's present in the
7 report was a reflection of Mr. DeWan's analysis
8 of the ratings. So, what the average came out
9 to doesn't always equate to what's in the
10 report.

11 Q So, are you saying that, if the analysis
12 produced a number of 15, you could have rated
13 it as high or low?

14 A (DeWan) When we saw the number that was there,
15 the numerical value that was based upon an
16 average of our three determinations, I would
17 then, as the principal author, would look at
18 that and say "that equates to, you know, a
19 medium", let's say. And, you know, based upon
20 my experience having been there, and experience
21 working in this field, you know, I would have
22 to make a judgment whether or not that really
23 is a true determination of the effect that it
24 will have. So, there are a few places where I

[WITNESS PANEL: DeWan|Kimball]

1 adjusted it higher or lower.

2 Q So, then, it didn't really matter what the
3 other two people thought?

4 A (DeWan) Oh, not at all. I relied very strongly
5 on the observation power of these other two
6 licensed professionals, who went with us, for
7 the most part, on these field trips. I,
8 obviously, have a lot more experience in this,
9 but I really value their opinion. These are
10 people who are trained as landscape architects.
11 You know, they -- our stock and trade are
12 looking at aesthetics, and how people react to
13 aesthetics changes in the landscape.

14 Q Okay. So, did you go through every one of the
15 77 possible scenic resource scores, and look at
16 them by the number that was produced, whether
17 the zero was averaged in or not, and analyze in
18 your own mind whether it should be high, medium
19 or low?

20 A (DeWan) Yes.

21 Q Every one?

22 A (DeWan) Yes.

23 CMSR. BAILEY: Okay. Thank you.

24 MR. WAY: Just a quick question on

1 that.

2 BY MR. WAY:

3 Q So, that was a thing that was puzzling to me on
4 the rating sheet is how -- what was its
5 utility, and, in the end, you just made a
6 decision. You said you made changes -- you
7 made some changes, Mr. DeWan, based upon what
8 you saw. Those changes, did they focus upon
9 those instances where the ratings were skewed
10 because of two versus three reviewers?

11 A (DeWan) No. I think that I evaluated -- I
12 evaluated all 70 or 77 of them, and I made that
13 determination on every one of those. Whether
14 or not the final evaluation, based upon the
15 numbers, is really a reflection of how we saw
16 the change.

17 Q All right. And we saw on the rating sheet, I
18 think there was two instances where, as we just
19 talked about, where you averaged in three, and
20 only two reviewers. Is it only two instances
21 for the entire review process? Or are there
22 more? Or have you gone back and looked at
23 that?

24 A (Kimball) We haven't gone back to look at those

[WITNESS PANEL: DeWan|Kimball]

1 rating panels.

2 Q Is that something you could do?

3 A (Kimball) Sure.

4 A (DeWan) We have that data.

5 MR. WAY: Thank you.

6 MS. WEATHERSBY: A couple more
7 questions concerning the rating panel.

8 BY MS. WEATHERSBY:

9 Q First, are the rating sheets part of the record
10 somewhere, do you know?

11 A (Kimball) I don't believe so. I know they were
12 provided in discovery, but I don't believe they
13 were submitted as part of the record.

14 MR. IACOPINO: Do we know if they're
15 part of any of the exhibits that have actually
16 been formally tendered to the Committee?

17 MR. NEEDLEMAN: I don't believe
18 they're part of any of our exhibits. I can't
19 tell whether other parties made them part of
20 theirs.

21 MR. IACOPINO: Counsel?

22 UNIDENTIFIED SPEAKER: I don't
23 believe they're part of our exhibits either.

24 *[Court reporter interruption.]*

[WITNESS PANEL: DeWan|Kimball]

1 MR. ASLIN: I don't believe that
2 there were any rating sheets in the Counsel for
3 the Public exhibits either.

4 MR. IACOPINO: Does anybody else in
5 the room believe that there are -- the rating
6 sheets have actually been entered into the
7 record?

8 MS. CRANE: It is my --

9 CHAIRMAN HONIGBERG: That's Ms.
10 Crane.

11 MS. CRANE: Sorry. Ms. Crane. It is
12 my personal belief that there may be a few that
13 some intervenors picked out and contributed to
14 their exhibits. I'm afraid I can't recall
15 which intervenor it was.

16 MR. IACOPINO: Thank you.

17 BY MS. WEATHERSBY:

18 Q Is it typical in the industry to use three
19 raters, three people to do these rating forms?

20 A (DeWan) I don't think there's any rules.
21 There's no protocol that says "use raters" or
22 "don't use raters". We very rarely use rating
23 panels. That's just the way we have been doing
24 our work over these years. I know that, when

[WITNESS PANEL: DeWan|Kimball]

1 Counsel for the Public does peer -- Counsel for
2 the Public's professional, Dr. Palmer, does
3 peer review work for our wind power projects,
4 it's pretty much his determination as to
5 whether or not we provided accurate
6 information. He goes about reviewing all the
7 work we do and pretty much duplicates the work
8 that we've done.

9 Q Okay. So, that's just sort of a different way
10 of verifying the information, but one way that
11 you used was using the rating panel. And I'm
12 just wondering, when rating panels are used,
13 are they typically three persons?

14 A (DeWan) Again, I don't know if there's a
15 "typical".

16 Q Okay.

17 A (DeWan) I know that some offices that I've seen
18 typically will use three. I know -- I think I
19 heard T.J. Boyle Associates may have used five
20 or six people. I know that the National Park
21 Service has just come out with guidelines that
22 talks about using multiple people. They don't
23 call them "rating panels", but they -- has a
24 somewhat similar process.

[WITNESS PANEL: DeWan|Kimball]

1 Q And you --

2 A (DeWan) Three -- excuse me. Three, when they
3 are used, seems to be a fairly typical number.
4 But I don't think there's any absolutes.

5 Q Okay. And is it typical that the reviewers are
6 all employees of the company doing the
7 assessment or is there typically a independent
8 reviewer?

9 A (DeWan) Well, I know that, if the Company
10 that's doing the work is a fairly small
11 company, you know, they very often will bring
12 in other qualified people to participate in the
13 rating process. And I know, again, the
14 National Park Service, they ask that raters are
15 representative from a variety of different
16 viewpoints, not just within the National Park
17 Service.

18 Q And, so, when your office has done rating
19 panels, are they typically all employees of
20 your company?

21 A (DeWan) Typically, people within our office,
22 yes.

23 Q I'm just -- I'm recalling as well, from
24 Mr. Truesdell's, and I don't have the reports,

[WITNESS PANEL: DeWan|Kimball]

1 obviously, but one that did come up, and I
2 remembered his score being very different, I'm
3 not talking about a zero, but I remember it was
4 like a 25 or something, and I can't refer you
5 to exactly what I'm speaking of. But I
6 remember in a couple instances, or at least one
7 instance, Mr. Truesdell's scores were very
8 different than yours and Ms. Kimball's. Am I
9 remembering correctly?

10 A (DeWan) I do remember, again, I can't put my
11 fingers on which one it was, where he came out
12 with an outlier score. And that seemed to be a
13 cause for questioning. Those are the sort of
14 instances we would say -- we would talk among
15 ourselves, and we didn't want to change his
16 evaluation, but that was part of the reason
17 that we went back and had discussions. You
18 know, "why did you view it this way?" And, you
19 know, we didn't argue, but we said "okay,
20 that's good information to know why you saw it
21 that way." But, you know, we all may have had
22 a different number. And, so, that was taken
23 into consideration, but it certainly wasn't
24 part of an average. You know, we know that

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[WITNESS PANEL: DeWan|Kimball]

1 there are different ways of looking at
2 different things.

3 Q So, if one of your raters had a score that was,
4 you know, fairly different than the other two,
5 it wasn't necessarily, regardless of the score,
6 it wasn't necessarily a strict average and you
7 went with it. It was averaged, and then you
8 came around and discussed. And, then, am I
9 correct that you then, Mr. DeWan, made sort of
10 the ultimate decision of what the appropriate
11 score would be?

12 A (DeWan) That is correct. We saw those as data
13 points.

14 Q All right. Okay. So, moving on to scale
15 contrast, I'm curious, for most of the
16 categories of rating, there was a scale of 1 --
17 zero, 1, 2, or 3. But, for scale contrast, the
18 assigned values could be zero, 4, 8, and 12.
19 And I'm wondering why those were four times
20 more important?

21 A (DeWan) Okay. You're probably looking at the
22 Visual Effects Rating Form on our Page M-14,
23 where we looked at "Landscape Compatibility",
24 "Scale", and "Spacial Dominance". And, so, we

[WITNESS PANEL: DeWan|Kimball]

1 broke "Landscape Compatibility" down into
2 "Color", "Form", "Line", and "Texture". And
3 the numbers that we assign there is a way of
4 arriving at a determination of what the
5 contrast would be for each of those four
6 elements. And, so, we decided to use the zero,
7 because, in some instances, for example,
8 texture, once you get beyond a certain
9 distance, you cannot tell whether or not -- you
10 can't tell the texture of a particular element.

11 Q Well, my question concerning -- it is
12 concerning this Visual Effect Rating Form.
13 And, in each of the categories for Landscape
14 Capability, Spatial Dominance, you could have a
15 score of zero, 1, 2, or 3. But, for Scale
16 Contrast, you could have a score of 12, 8, or
17 4, or zero. And I'm wondering why those are
18 four times more important?

19 A (DeWan) Oh. I'm sorry. I misunderstood. Yes.
20 The Landscape Capability, of course, equals 12,
21 if you add up all the individual components. I
22 think that's what we've tried to do for both
23 Landscape Capability, Scale Contrast, and
24 Spatial Dominance, to have the totals for those

[WITNESS PANEL: DeWan|Kimball]

1 three major categories end up at 12.

2 Q Okay. And is the way this is broken down, so
3 that Landscape Capability, Scale Contrast, and
4 Spatial Dominance are equally scored, is that
5 standard? Or where does that come from?

6 A (DeWan) Well, this chart actually comes from a
7 publication that Mr. Palmer co-authored quite a
8 few year ago. It was one of the earlier --
9 earliest textbooks on visual impact assessment.
10 And it was also then repeated when we did some
11 work for the Maine Department of Transportation
12 for what was called the "Chapter 315
13 Regulation", which helps the DEP evaluate
14 scenic impacts. We took that chart and teased
15 out definitions to help people understand the
16 differences in color, form, line, texture, and
17 so forth. So, the descriptions that we have
18 for each one of those categories is a way of
19 reviewing what we're looking at and as a guide
20 to assign a numerical value.

21 Q Okay. Can you tell me the difference between
22 "scale contrast" and "spatial dominance"? They
23 seem to be very similar concepts dealing
24 with --

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) They are. They are. And it is a
2 subtle -- let me read the definition, if I
3 might.

4 Q Well, I can read it. What are your words?

5 A (DeWan) "Scale contrast" talks about the
6 relative size of a particular project.
7 "Spatial dominance" talks about how large it
8 appears relative to other things in the
9 landscape. I realize that there are perhaps
10 some subtleties there. But it gets -- "spatial
11 dominance" involves concepts such as whether or
12 not it's perceived as dominant or prominent.
13 It looks at things like the distance you are
14 from a facility. It asks the question about
15 what we call the "horizontal field of view",
16 "how much of the landscape is it going to
17 occupy?"

18 It also takes into account the possible
19 interference with existing views. Whether or
20 not the object that is being seen, that's being
21 added, is going to interfere with a more
22 striking part of the landscape behind it.

23 Q Do you feel as though, in your analysis, the
24 scale contrast is overweighted?

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[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) I don't believe so. Again, this is
2 based upon the experience that we've had over
3 the years when we've used this chart. And this
4 is typical of the analysis that we've used. It
5 certainly was the way we did the work for MPRP.
6 And it's been used, I think successfully, not
7 just by ourselves, but anybody that's made an
8 application before the Maine DEP.

9 Q All right. And, then, staying on this, this
10 form here -- I just lost it. The rating --
11 Visual Rating Form, every scenic resource that
12 had survived to this point got scores for each
13 of these categories, and then it was assigned a
14 total visual effect rating.

15 And my question concerns the breakdown of
16 those, the scoring. A resource could be --
17 have a total score of between 1 and 36. And,
18 yet, your categories of whether something is
19 low, medium, or high are uneven scores. A
20 "low" has more than -- or, almost half of the
21 potential scores, 1 to 16; and then "medium" is
22 17 to 26; and 27 to 36 is "high". So, could
23 you tell me how those score divisions were
24 arrived at?

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[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Our primary goal in doing this is
2 trying to determine what is the cut-off point.
3 What is the "high"? And, you know, the number
4 that we assigned, I think it was a 27, was
5 based upon the work that we had seen in the
6 past from Dr. Palmer, that had been published
7 as part of the DEP. And we felt that that was
8 a reasonable number, a reasonable cut-off point
9 to use to help make that determination of what
10 is going to be considered a "high" scenic
11 resource. And, after all, it's part of the
12 evaluation to identify places where there may
13 be a high resource.

14 Q So, this isn't deciding whether it's a scenic
15 resource. So, this is kind of the bottom line
16 here, whether the Project causes this
17 fundamental change to the scenic resource. And
18 your "high" category, you know, is only 9
19 points, whereas your "low" category is 16
20 points. So, is this rating sheet typical for
21 the industry? And, if so, are these the score
22 categories that are used?

23 A (DeWan) Well, the reason we use the high,
24 medium, and low, because that's what the

[WITNESS PANEL: DeWan|Kimball]

1 requirement was in the rules. I know that,
2 when we looked at the example that's used in
3 Maine, they broke it down a little bit more
4 finely. But, in this particular case, we had
5 to make that determination, you know, how do
6 you break this down to arrive at the three
7 categories, high, medium, or low.

8 Q And why did you decide on -- why is a "high" 27
9 to 36?

10 A (DeWan) We felt that that was the cut-off point
11 that was already established, again, as a
12 severe rating, for at least in the Maine
13 example, that was equivalent to what might be
14 considered "high" in our evaluation, based upon
15 our understanding of the rules in this
16 situation.

17 Q Okay.

18 A (DeWan) Again, going back at the way we arrived
19 at it, looking at the chart that we referred to
20 a moment ago, that gives the criteria. And let
21 me just go -- I won't go through the whole
22 thing. But we felt that, looking at the way
23 that you accumulated points, and describing the
24 compatibility, the amount of contrast in the

[WITNESS PANEL: DeWan|Kimball]

1 landscape, how it appears in terms of relative
2 to the -- the scale relative to other elements
3 in the landscape, and it's spatial dominance,
4 the number of points, the 27, to us, seemed
5 like a reasonable place to break the division.

6 Q Okay. Let's move on then. After that analysis
7 was done, you then looked at the viewer effect,
8 the effect the Project would have on the
9 public's use and enjoyment, correct?

10 A (DeWan) That's correct.

11 Q And I think we've already had some discussions
12 with Mr. Way and others concerning surveys and
13 research and all of that. So, I'm not going to
14 get into that anymore. When you were asked
15 earlier how you -- I'm paraphrasing, but how
16 you determined the nature and duration of the
17 typical user's experience, you stated something
18 to the effect that the typical user would be
19 someone who actually uses the resource. But
20 you didn't go any systematic investigation into
21 the actual users of the resource, but you
22 relied on your professional judgment and
23 studies you've seen.

24 Am I paraphrasing you correctly?

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Well, with the exception of actually
2 going there and seeing how it was used, what
3 sort of facilities were being provided, what
4 sort of evidence there was of heavy use or
5 light use or no use at all.

6 Q Sure.

7 A (DeWan) For example, standing on the dam at
8 Franklin Falls, you know, we saw people
9 continuously going by, on foot, on bicycle, on
10 tour buses. We felt, you know, that's a place
11 that gets a lot of use. You know, going to
12 Franklin -- to the Forest -- I'm sorry, Forest
13 Lake State Park, we saw a very large parking
14 lot. Obviously, that was there for a reason.
15 And, so, those indications give us a relative
16 number. You know, we can't tell you exactly
17 how many, but to determine whether or not there
18 was a high, medium, or low number of use.

19 Q I'm just going to skip ahead a little bit.
20 Then, you went to the subarea analysis, and you
21 concluded "no adverse impacts". And all of
22 this -- am I correct that all the scenic
23 resources are rated "low" to "low medium" --
24 well, actually, I think it was "low", "low

1 medium", or "medium" --

2 [Court reporter interruption.]

3 BY MS. WEATHERSBY:

4 Q "Low", "low medium", or "medium" in your final
5 analysis. There were no "medium highs" or
6 "highs"?

7 A (DeWan) That's correct, the overall impacts.

8 MS. WEATHERSBY: Okay. I have maybe
9 five minutes. Do you want me to finish up?

10 Okay.

11 BY MS. WEATHERSBY:

12 Q I'm a little confused how mitigation worked
13 into this. Did that go -- how you considered
14 your mitigation techniques, did that go into
15 the visual impact assessment at the final
16 stage? Is that something that's yet to be
17 determined? Where did your lead to mitigation
18 measures work into your analysis?

19 A (DeWan) Well, for each one of the resource
20 sites that we visited, we considered what was
21 done, and we wrote a description under our
22 overall visual impact assessment. And I think
23 at that point we take into consideration what
24 was done.

[WITNESS PANEL: DeWan|Kimball]

1 You know, for example, the use of
2 weathering steel monopoles. And we saw some
3 examples the other day of the views from Nash
4 Stream State Forest -- State Forest at elevated
5 viewpoints. We knew that that was a major
6 mitigation measure. We considered that in
7 writing our overall conclusion. We knew that
8 if there were another type of structure that
9 were there, the galvanized steel lattice work
10 structure, would have had a different effect.
11 So, we felt that that mitigation measure was
12 appropriate there, and that was how that got
13 factored in.

14 Q So, mitigation wasn't sort of a separate
15 numerical component. Mitigation was -- you
16 assumed that the mitigation was in place in
17 your visual analysis, and that's what the
18 ratings were all based on. So, it was an
19 integral assumption. Am I correct? Is that a
20 correct understanding?

21 A (DeWan) I think that's a really good way of
22 looking at it, yes.

23 MS. WEATHERSBY: Okay. I think I'm
24 going to stop there. Thank you very much.

[WITNESS PANEL: DeWan|Kimball]

1 CHAIRMAN HONIGBERG: All right.

2 We're going to take a ten-minute break.

3 *(Recess taken at 10:58 a.m.*

4 *and the hearing resumed at*

5 *11:15 a.m)*

6 CHAIRMAN HONIGBERG: Looks like we're
7 ready to go.

8 Mr. Oldenburg, I understand you have
9 a follow-up to some of Ms. Weathersby's
10 questions.

11 MR. OLDENBURG: Thank you, Mr.
12 Chairman.

13 BY MR. OLDENBURG:

14 Q Sort of going on the line of what Ms.
15 Weathersby said about the process that you
16 followed, you're one of the few panels that
17 doesn't have like an outside agency reviewing
18 your work. So, the construction panel, the DOT
19 is reviewing their work; the environmental
20 panel has DES and the EPA; and, you know, the
21 cultural and history has SHPO and all these
22 others.

23 So, you have the SEC rules, correct?

24 There's not really a guideline for how to do

[WITNESS PANEL: DeWan|Kimball]

1 this process.

2 A (DeWan) That is our starting point.

3 Q Okay. So, you have to fill up -- you had to
4 basically create the process and procedure to
5 meet those rules, based upon industry
6 standards?

7 A (DeWan) Well, in many places, we had to
8 interpret, because there weren't clear
9 definitions about what we mean by certain terms
10 that were used. So, yes, we used, I won't call
11 it "industry standards", because there really
12 aren't any standards, *per se*, but we use
13 professional practice. How we've done it, what
14 other professionals have done over the years.
15 What seems to be, you know, how other
16 professionals might evaluate a resource in this
17 particular situation.

18 Q So, you led right into my question. The core
19 of my question is, you had to interpret the
20 rules. Was there any part of the rules that
21 you just like "I don't know what they're
22 talking about" or "how do I interpret this?"?
23 Were there any part of those that were, you
24 know, were lacking?

[WITNESS PANEL: DeWan|Kimball]

1 Like I'll give you a specific example.
2 When I asked my questions about the
3 construction, I went to the rules and said "do
4 they have to review construction for visual
5 impact?" And it doesn't really state that,
6 which I don't know if I expected it to be
7 there. I sort of did. But was there anything
8 like that that you thought were missing from
9 the rules that you should have looked at?

10 A (DeWan) How long do you want to spend here
11 today? There were a lot of places. Certainly,
12 this issue of, you know, what constitutes
13 "public access"? And, you know, we still have
14 outstanding questions.

15 Someone talked before about the Fair
16 Grounds. Is that considered to be a place of
17 high scenic significance, because a lot of
18 people come? Well, again, our way of looking
19 at it is that that's a place of local scenic
20 significance, it may draw a lot of people for
21 three or four days at one period of the time,
22 it's an event that draws people from across the
23 area, but that doesn't make the resource itself
24 any more scenic.

[WITNESS PANEL: DeWan|Kimball]

1 Q And from your -- oh, I'm sorry.

2 A (DeWan) Then, if you go down the whole listing
3 of scenic resources, and, you know, there's
4 some places -- some places it's very clear
5 what's meant by it. There's other places that
6 I think there's a lot of interpretation.

7 Q Okay. And, so, I gather from that, in reading
8 your testimony or your supplemental testimony
9 of the differences and the concerns you had
10 with like the Boyle report was, those different
11 interpretations is how you -- there's a big
12 disparity in the numbers of resources, I
13 imagine, correct?

14 A (DeWan) That was one of the things that led us
15 to that conclusion. You know, our reading of
16 the paragraph that talks about scenic resources
17 led us to believe that what we should be
18 evaluating and concentrating on those places
19 that are of high scenic significance.

20 Now, not that we disregard the other
21 places, but we felt that, you know, those
22 places that are iconic, that are places that
23 attract people, because of their value from a
24 cultural and scenic standpoint, are the ones

[WITNESS PANEL: DeWan|Kimball]

1 perhaps that are most vulnerable, but, at the
2 same time, most critical in our evaluation.

3 MR. OLDENBURG: All right. Thank
4 you. That's all I have.

5 CHAIRMAN HONIGBERG: Mr. Wright.

6 DIR. WRIGHT: Good morning, folks.
7 Welcome back to New Hampshire.

8 I'm an engineer. I can't help but
9 ask questions about modeling. It's inherent
10 with what I do professionally. So, I'm used to
11 the concept of modeling. And I want to
12 understand the models that you used just a
13 little bit better. And I'll try not to be
14 really repetitive here.

15 BY DIR. WRIGHT:

16 Q For the viewshed analysis, you used ESRI
17 ArcMap, correct/

18 A (Kimball) Correct. That was the software.

19 Q Okay. And, then, for the 3-D modeling, you
20 used Google Earth Pro and another ESRI product?

21 A (Kimball) ArcScene.

22 Q ArcScene. Now, in the 3-D modeling, are those
23 two models used in conjunction with each other
24 or do different scenarios require a different

[WITNESS PANEL: DeWan|Kimball]

1 model?

2 A (Kimball) The difference between Google Earth
3 and ArcScene you mean?

4 Q Yes. Yes.

5 A (Kimball) We would use ArcScene, for example,
6 when we looked the Sahegenet Falls area
7 yesterday, or on Friday, where the terrain in
8 Google Earth might not be as clear at river
9 crossings or at bridge abutments, the terrain
10 can do sort of funky things on the edge
11 conditions. So, we would go to the ArcScene
12 data, because it would come out slightly
13 differently, slightly more accurately, to take
14 a look at certain spots.

15 Where, if you're on top of a mountaintop,
16 and you're relying on much larger scale terrain
17 for your alignment, mountains in the distance,
18 that fine grain accuracy is not as important to
19 those viewpoints. So, it's sort of dependent
20 on the viewpoint and what we needed to look at.

21 Q Okay. So, there's some judgment on your part
22 that goes into deciding which model you use?

23 A (Kimball) Right. And a lot of times we would
24 use both.

[WITNESS PANEL: DeWan|Kimball]

1 Q Oh.

2 A (Kimball) Just to take a look at it.

3 Q Okay.

4 A (Kimball) Yes. Just a matter of jumping back
5 and forth between the programs.

6 Q Okay. And these are all tools that you have
7 used in the past? These isn't the first time
8 you've used these tools?

9 A (Kimball) Correct.

10 Q Okay. And does the old saying "quality data"
11 -- "junk in/junk out". I'm assuming there's
12 inputs that go into all these models?

13 A (Kimball) Yes.

14 Q And who does the QA/QC of that input data?

15 A (Kimball) Well, the data within the ArcScene
16 program is this Intermap data that we've been
17 describing.

18 Q Okay.

19 A (Kimball) And, when it comes to using Google
20 Earth, these are situations where we would
21 construct things in the landscape. So, if
22 there's a treeline, for example, we're relying
23 on the aerial photograph to shows us where
24 those trees are going to be located, or, if

[WITNESS PANEL: DeWan|Kimball]

1 there's a building that might block the view,
2 we're relying on the aerial photograph to show
3 us where that exact building is and then we'll
4 extrude it up.

5 As far as QA/QC goes, I think within our
6 office, taking a look at the -- what is being
7 used for the alignment for the different
8 photosimulations, I might have done the work,
9 and then showed it to Terry or somebody else in
10 our office to sort of double check that those
11 features that we're using to get accurate
12 alignments makes sense and are on point.

13 Q And -- go ahead.

14 A (DeWan) The other thing that we have to keep in
15 mind, this concept of visibility. And
16 Mr. Oldenburg asked before about things that we
17 had some questions about. This whole question
18 about "what is visible?" You know, the
19 computer will show that a structure may be
20 visible at a distance of ten miles, which
21 technically is the case. But, if you're out
22 there, you can't see anything of that size
23 beyond a distance of, say, three to five miles.
24 And we saw this in Christine Lake. You may

[WITNESS PANEL: DeWan|Kimball]

1 recall that we did a supplemental viewshed
2 analysis. And we found that -- excuse me --
3 there was a portion of Christine Lake that
4 showed visibility. So, we went out on a boat,
5 and we circled around, we took photographs;
6 didn't see anything. It wasn't until after we
7 went back and examined the photographs and
8 enlarged them were we able to see that, on one
9 particular viewpoint, you were able to see some
10 existing structures. And that's the sort of
11 trigger that caused the computer to say "oh,
12 yeah, it's going to be visible in that
13 location."

14 So, at a distance of ten miles, there's
15 almost no way that you're going to be able to
16 see these things. At a distance of five miles,
17 I believe that Dr. Palmer referred to them as
18 "possible smudges" in the landscape. It's
19 really that the foreground and immediate
20 midground is the area we're most concerned
21 about.

22 Q Okay. I'm glad you brought up Christine Lake,
23 because I wanted to talk about -- a little bit
24 about the cross-sectional modeling that you did

[WITNESS PANEL: DeWan|Kimball]

1 there.

2 A (DeWan) Yes.

3 Q Now, as I read your report, there were three
4 focal points or site points within the lake, is
5 that correct, that you chose to do?

6 A (Kimball) There are three cross-sections that
7 were done as a representative sample.

8 Q Okay. Now, I looked up on the Fish & Game
9 website, and Christine Lake is about just under
10 a 200-acre lake. Is there a rule of thumb?
11 How do you know if three is the right number to
12 do on a lake of that size? What's the rule of
13 thumb? How many focal points do you need to
14 make sure you're getting a good representation
15 of that resource?

16 A (Kimball) Well, Terry might answer the question
17 for that. But, as far as those three sections
18 are concerned, those three sections don't
19 represent the three viewpoints that we used.
20 They were splices that were taken at three
21 points over the lake to proposed structures.
22 So, it wasn't the view particularly from those
23 points. It was demonstrating that consistently
24 across the lake the vegetation is high enough

[WITNESS PANEL: DeWan|Kimball]

1 so that you're not going to have a view over
2 the terrain and the vegetation in place.

3 So, to suggest that those three points
4 were the only locations that we looked at, is
5 not an accurate depiction of the work.

6 Q Okay. Thank you. That's helpful to understand
7 that.

8 A (DeWan) Yes. We looked at a lot of
9 cross-sections there. We also looked at the
10 viewshed map.

11 Q Yes. Okay. The trees that you use in the
12 models, you mentioned I believe you used LIDAR
13 data to come up with the tree heights. And I
14 assume you use that actual data in these
15 models?

16 A (Kimball) For the visibility analysis.

17 Q Okay. Now, in your report, you also talk about
18 a "40-foot tree wall". Under what scenario are
19 you using the LIDAR data and what scenario are
20 you using the 40-foot tree wall data?

21 A (Kimball) So, an example would be -- so, we're
22 using the LIDAR data when we're conducting our
23 visibility assessment. So, the LIDAR data is
24 what's getting put into the ESRI software to

[WITNESS PANEL: DeWan|Kimball]

1 produce the potential visibility from the
2 landscape. The tree wall situation would be,
3 let's take a photosimulation, for example, at
4 Dummer Pond, where we have us standing at a
5 particular point in the landscape within the
6 3-D model, and we need to align our photograph
7 to the landscape in the model. So, if we're
8 using Google Earth to do our alignment, the
9 terrain is in place, so we can see what the
10 structures look like on the terrain. But we
11 need to also represent what the vegetation may
12 look like for our alignment. So, if we -- how
13 we conduct our photosimulations is we have our
14 3-D model, and we have our photograph, and
15 we're looking to align those two. And we're
16 aligning those at various points. Sometimes
17 we're able to align an existing structure to
18 the model. And that's great, because we can
19 see right where those fit in. Sometimes it's
20 distant mountaintops, sometimes it's buildings,
21 shorelines. So, there's -- we're always
22 looking for the maximum number of alignment
23 points to ensure that that snap between the 3-D
24 model and the photograph are as accurate as

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1 possible.

2 One of those vertical or horizontal
3 alignment points are trees. And, so, we would
4 assume a 40-foot tree height and align the top
5 of the tree -- the 40-foot treeline to the top
6 of the model.

7 Q Is it --

8 A (Kimball) Does that make sense?

9 Q It does.

10 A (Kimball) Okay.

11 Q Believe it or not.

12 A (DeWan) Is your question "Why do we use 40
13 feet?"

14 Q Well, I'm kind of curious. The 40-foot, I
15 mean, I recognize, for a mature forest, 40-foot
16 is probably a relatively low height. So, --

17 A (DeWan) It's a conservative average number.

18 Q Okay.

19 A (DeWan) And that's -- others use the term
20 "industry standard", that's what we have
21 typically been using over the last several
22 years, as a way to represent the average tree
23 height, knowing that --

24 *[Court reporter interruption.]*

[WITNESS PANEL: DeWan|Kimball]

1 WITNESS DeWAN: I'm sorry. I didn't
2 read my sign here.

3 **CONTINUED BY THE WITNESS:**

4 A (DeWan) -- over the last several years, that
5 takes into account the variations in actual
6 tree heights in the forest.

7 BY DIR. WRIGHT:

8 Q Is there ever a situation where 40-foot would
9 be an overestimate of the actual tree height in
10 that particular situation?

11 A (Kimball) I can think of one circumstance that
12 we used significantly less, and that was from
13 Coleman State Park and Little Diamond Pond. We
14 have the data to represent what those tree
15 heights are on the top of Sugar Hill, and right
16 around the area where the conductor -- the
17 Project is going to be visible. And we could
18 see that the average tree height in that area
19 was only eight feet. And, if you looked, it
20 was because it had been recently been cut over.
21 So, you look at the aerial photograph showing
22 the new tree growth, and you look at the data,
23 the aligned. So, when we extruded walls in the
24 3-D model to represent the vegetation in that

[WITNESS PANEL: DeWan|Kimball]

1 particular area, we dropped it down
2 significantly so that it was less.

3 Q Okay. So, where there were real-life
4 situations where you knew it was less than
5 forty feet, that was one particular situation?

6 A (Kimball) Right.

7 Q How many other situations were like that?

8 A (Kimball) That's the only one that's really
9 jumping out in my mind.

10 Q And, again, that represents conditions as of
11 today, not -- I mean, somebody could go in, you
12 just described a clear-cut, and somebody could
13 go in and do a clear-cut tomorrow?

14 A (Kimball) Right. And the data is not, you
15 know, the data that we're working off of isn't
16 representative of what it looks like in 2017 or
17 2015, when we did the work. It's also relying
18 on data that is maybe a few years old. So,
19 we're trying to make it as accurate as possible
20 within the confines of the program and the
21 datasets that we have.

22 Q Okay. In your cross-sectional diagrams, and
23 this was mentioned earlier, and it's noted on
24 your chart, that you "exaggerated the Y scale".

[WITNESS PANEL: DeWan|Kimball]

1 Why do you do that? I'm trying to understand
2 why you would do that?

3 A (Kimball) So, if we were to represent that
4 cross-section in its true -- with its true
5 vertical exaggeration, it would either be so
6 big that it would go off of the page, or it
7 would be so small that those variations that
8 you can see in the cross-section would be
9 shrunken down significantly.

10 So, let's just say that it was a
11 cross-section over a mile. And your tree
12 height is 40 feet. You are not going to see,
13 in print, what 40 feet looks like in comparison
14 to a mile. So, it's very standard practice in
15 our profession to condense the section, so that
16 you can provide an accurate depiction of what
17 it looks like. It's all relative. So, as it
18 gets -- as the vertical gets --

19 Q I can understand what you're describing. You,
20 by doing that though, I think I know the answer
21 to this, if you did do it on a foot-to-foot
22 scale on both the X and Y axis, --

23 A (DeWan) Yes.

24 Q -- it wouldn't change the outcome of your

[WITNESS PANEL: DeWan|Kimball]

1 analysis?

2 A (DeWan) Absolutely. Right.

3 Q Okay.

4 A (Johnson) No difference.

5 Q But, by doing it the way you do do it, you are
6 changing the angle of the view line.

7 A (Kimball) The angle of --

8 Q It looks like it's a much steeper view line.

9 A (Kimball) Right. The angle of the view line
10 does change.

11 A (DeWan) Yes. Yes.

12 A (Kimball) But the visibility, the effect of
13 that is no difference. It would, if that
14 section across Christine Lake, if it's over the
15 course of a mile, you wouldn't see anything
16 material in the section if it were.

17 Q Okay. All right. Thank you for explaining
18 that. I couldn't quite understand why you
19 would want to do that.

20 A couple of times the term "*de minimus*
21 change" has been thrown around in these
22 proceedings. And, to you, Mr. DeWan, what is a
23 "*de minimus* change"?

24 A (DeWan) Again, I'll go back to my experience

[WITNESS PANEL: DeWan|Kimball]

1 with MPRP, a somewhat similar project. There
2 were many situations, after the Project got
3 approved, where, you know, a series of
4 structures had to be either relocated a few
5 feet, let's say five to ten feet this way, or
6 some of the structures, after the final
7 engineering, had to be heightened by, say,
8 three or four feet.

9 What was the absolute number? We went
10 back and did a lot of reevaluation. I think
11 there were six, if I recall, additional
12 submittals after the final project was -- after
13 the Project was approved, where we had to go
14 back and reevaluate it because of changes that
15 were made. What was the cut-off point between
16 what was considered to be *de minimus* or not? I
17 think that was a determination that was made by
18 the -- by Dawn Hallowell, who was the Project
19 Manager for our DEP. She needed some
20 information, because she felt that the effect
21 or the change may have been large enough to
22 have perhaps created a difference in our
23 initial evaluation. And is there an actual
24 number? I don't know.

[WITNESS PANEL: DeWan|Kimball]

1 Q It seems like, and I'll use for an example a
2 three to five change in structure height. It
3 seems to me a lot of factors would go into
4 whether that would matter or not. If the line
5 was two miles away from where I am, three to
6 five foot seems to be something lost on the
7 horizon.

8 A (DeWan) Yes.

9 Q But, if you're at a quarter mile away, three to
10 five foot or a slight change in location could
11 seem to have a much bigger impact on the
12 visibility analysis. Is that correct?

13 A (DeWan) That may be the case. Again, it has to
14 be judged upon an evaluation of what the
15 resources are, the level of concern, how much
16 of the structure is currently seen, and whether
17 or not we're going from, you know, five feet
18 which is currently visible, to one that where
19 it's now ten feet currently visible, in other
20 words, a 100 percent increase in visibility, as
21 opposed going from 60 feet to 65 feet, which is
22 going to be, you know, relatively *de minimus*.

23 Q So, if there are final changes, design changes,
24 will you go back and take a look at them or not

[WITNESS PANEL: DeWan|Kimball]

1 at this point?

2 A (DeWan) If it's requested by Eversource to go
3 back, yes, we will do that. I can't say at
4 this point, though, what would constitute a
5 trigger point for making that reevaluation.

6 Q Okay. In drawing your conclusions, you
7 considered the impact of the Project as a
8 whole. And you -- where you determined there
9 were visual impacts, your findings were based
10 on that none of those visual impacts were rated
11 as "high" under your methodology. Is that an
12 accurate --

13 A (DeWan) That is correct, yes.

14 Q If, and this is a hypothetical, if there was
15 one high impact at a high scenic resource,
16 would that be unreasonable in your opinion?

17 A (DeWan) I guess the answer to that is it
18 depends on what the impact would be, whether or
19 not there were mitigation measures that could
20 be applied to minimize that "high" rating. It
21 would have to do with the sensitivity of the
22 resource, number of people that looked at it, a
23 variety of factors.

24 Q So, what if there are five high impacts at five

[WITNESS PANEL: DeWan|Kimball]

1 medium sites?

2 A (DeWan) Again, --

3 Q On these hypotheticals? I'm trying to
4 understand where you get from reasonable to
5 unreasonable, in your mind? I mean,
6 ultimately, we, as a panel, need to decide
7 that.

8 A (DeWan) Absolutely. And, you know, in making
9 that determination, we looked at the criteria,
10 301.14. In making that determination, there
11 are seven different evaluation steps that we
12 are directed to look at, which are also the
13 rules for making a finding of an unreasonable
14 adverse effect.

15 DIR. WRIGHT: Okay. I think I'm all
16 set.

17 CHAIRMAN HONIGBERG: Commissioner
18 Bailey.

19 CMSR. BAILEY: Thank you, Mr.
20 Chairman. It's still morning. Good morning.

21 WITNESS KIMBALL: Hi.

22 WITNESS DeWAN: Good morning.

23 BY CMSR. BAILEY:

24 Q Mr. DeWan, in response to some

[WITNESS PANEL: DeWan|Kimball]

1 cross-examination, you said that you "had a
2 good understanding of what the public thinks
3 the view impact will be." Do you remember
4 that?

5 A (DeWan) I think that may have been a response
6 when somebody asked us "how do we hear what the
7 public had to do say, relative to the public
8 testimony that we have heard and the letters
9 that were written and so forth?"

10 Q Right. And you said you "had a good
11 understanding of it". And, so, my question is
12 what that understanding was based on?

13 A (DeWan) It's based upon, you know, being
14 present at a dozen or so public hearings,
15 hearing people come to the microphone and talk
16 over a three or four hour period of time. By
17 looking at the documentation that had been
18 submitted to the record. Looking at websites
19 that had been created that talk about the
20 likely effect. I think those are the basic
21 things that we've looked at.

22 Q And what was your conclusion about all those
23 things? What do you think the public thinks of
24 this?

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) I would say, in general, that the
2 public has a negative impression about what
3 this may do relative to aesthetics.

4 Q Pretty strong negative impression?

5 A (DeWan) I would say it's pretty strong. I
6 think that's -- I don't want to put a numerical
7 value on that.

8 Q Okay. No.

9 A (DeWan) But, yes.

10 Q Okay. So, how did you take that into account
11 in your analysis?

12 A (DeWan) We took into account by factoring that
13 in when we did our fieldwork, for example.

14 Q But you didn't talk to anybody when you did
15 your fieldwork?

16 A (DeWan) We've testified to that. In fact, we
17 did not. So, you know, we heard people say,
18 you know, "it's going to be highly visible
19 throughout Coos County" or "in the Lakes
20 district", for example. So, when we heard
21 those sort of comments, you know, that was a
22 signal to us "wow, these are" -- as every
23 place, "is a very special place". And, so,
24 when we went looking at places like that, you

[WITNESS PANEL: DeWan|Kimball]

1 know, we not just did look -- looked at the
2 line itself, but we tried to get a sense of the
3 overall landscape patterns in places that had
4 been brought up when we heard people testify.

5 Q Okay. Have you ever been in a canoe?

6 A (DeWan) More than once, yes.

7 Q I wrote this down, because I've been in a
8 canoe, and I couldn't believe you said it. But
9 "somebody canoeing the river would be looking
10 straight ahead." Is that what you do when you
11 canoe?

12 A (DeWan) I don't know if that was the exact
13 words I used. I think I said something to the
14 effect that their views are going to be within
15 a certain horizontal field of view. But,
16 clearly, when people are canoeing, depending
17 upon the type of water they're in, you know,
18 they're either going to be looking straight
19 ahead, because they're avoiding rocks and
20 ripples, or they may be, you know, looking
21 around like that *[indicating]*.

22 Q Well, like in quiet water canoeing on rivers?

23 A (DeWan) Yes.

24 Q Would you agree, I mean, do you look at the

[WITNESS PANEL: DeWan|Kimball]

1 edges, to see birds and tree formations, that
2 kind of thing?

3 A (DeWan) Absolutely.

4 Q Okay.

5 A (DeWan) You know, your experience is the result
6 of the contrast that you see in the landscape.

7 Q Okay. Did you review the photosimulations that
8 T.J. Boyle did?

9 A (DeWan) Yes, we did.

10 Q And did you notice any that were -- that stood
11 out as substantially different than yours?

12 A (DeWan) I'm trying to remember which ones,
13 because I know a lot of the ones that they used
14 in their work were actually -- that I
15 referenced in their work were actually our
16 photosimulations. But they did some that
17 were -- that had some differences.

18 Q But not big differences, would you say?

19 A (Kimball) Do you mean ones from the same
20 vantage point?

21 Q Or, if they took it from a slightly different
22 vantage point, but in the same general area?
23 Do you think that your Visual Impact Assessment
24 would have been different if you used their

[WITNESS PANEL: DeWan|Kimball]

1 photosimulations?

2 A (DeWan) I don't believe so.

3 Q Okay. Can you tell me about how many projects
4 that you've provided expert testimony on visual
5 impact?

6 A (DeWan) When you say "expert testimony", do you
7 mean before bodies like this or to produce a
8 final Visual Impact Assessment?

9 Q Well, when would you produce a final Visual
10 Impact Assessment, if not before a body like
11 this? Why would you do that?

12 A (DeWan) A lot of the times we do these -- well,
13 for example, MPRP, that was not reviewed by the
14 Board of Environmental Protection. We -- it
15 surprised us, we did not have to go through
16 that body, which is somewhat equivalent to the
17 Site Evaluation Committee. We produced it for
18 the Department of Environmental Protection.
19 So, it was reviewed at a department level.

20 Q Without any public input or formal process, is
21 that what you're saying?

22 A (DeWan) Well, again, I don't want to get too
23 deeply into it. But, in MPRP's case, we went
24 through something like 80 or 90 different

[WITNESS PANEL: DeWan|Kimball]

1 communities. And a few of those, the
2 individual towns had a say as to whether or not
3 this was an acceptable project or not. So, we
4 did appear before several individual
5 communities on the effects of that project on
6 that community.

7 Q And, in MPRP, who was your client?

8 A (DeWan) Central Maine Power Company.

9 Q Okay. So, how many would you say you've had to
10 support through cross-examination?

11 A (DeWan) Probably a dozen or so over the last
12 thirty years or so.

13 Q Okay. And, in any of those dozen, did you ever
14 conclude that there was an unreasonable impact?

15 A (DeWan) We, on one occasion, and this did not
16 go before -- well, let me explain the
17 situation. We did a project for a large
18 shipbuilder in Maine, and they are proposing a
19 floating dry dock. And we determined that the
20 presence of this new facility was going to
21 block the view from an historic district in one
22 of our major urban areas. And we felt that
23 this really would have been considered
24 unreasonable by the Department of Environmental

[WITNESS PANEL: DeWan|Kimball]

1 Protection. And, as a result of that, you
2 know, we did certain things to mitigate the
3 loss of this particular view.

4 Q And, in that case, you were working for the
5 shipbuilder?

6 A (DeWan) We were. The project was ultimately
7 built, and a park was built then to provide a
8 new viewpoint for the people in that community,
9 to compensate for the loss of the view that was
10 created by the floating dry dock.

11 Q Okay. Did you -- have you ever worked for a
12 client who was opposed to a project, because of
13 visual impact?

14 A (DeWan) Oh, many times.

15 Q Can you give me an example?

16 A (DeWan) Probably the best example -- well,
17 there's been a few of them. One that we did in
18 New York State several years ago. There was a
19 proposal to put a coal-fired co-generation -- a
20 coal-fired cement plant, rather, in a very
21 scenic part of the Hudson River Valley. And we
22 were working for an environmental organization
23 called "Scenic Hudson". And we assembled a
24 team of specialists that looked at the

[WITNESS PANEL: DeWan|Kimball]

1 situation. And we worked on it for about three
2 years. Ultimately, the project was denied,
3 partially on the basis of the effect that it
4 may have on the -- on the cultural and scenic
5 values of that particular community.

6 Q And, in advocating that position, did you use a
7 similar analysis as you have here?

8 A (DeWan) Somewhat similar, in that we did
9 extensive fieldwork. We did viewshed modeling,
10 largely that was provided by the applicant. We
11 didn't have to repeat it. We did a number of
12 things that led us -- that led us to draw our
13 conclusions. We did extensive photosimulations
14 to show what it would look like from various
15 locations. We testified before the New York
16 Department of State.

17 Q Did you -- did you do a numerical analysis like
18 you have, that you went through Ms. Weathersby
19 with?

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

21 Q Okay.

22 MR. WAY: A quick follow-up please.

23 BY MR. WAY:

24 Q Did you use surveys?

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Do you mean "intercept surveys"?

2 Q Yes.

3 A (DeWan) No, we did not. I'm sorry, let me take
4 that back. There was one particular point
5 where we wanted to determine the effect on --

6 *[Court reporter interruption.]*

7 **CONTINUED BY THE WITNESS:**

8 A There was a -- at one point we decided to look
9 at the effect on Olana, which is the home of
10 Frederic Church. And I believe we may have
11 used surveys at that point. I know we
12 discussed it. I think that we did.

13 MR. WAY: Thank you.

14 BY CMSR. BAILEY:

15 Q If you had found that there was an adverse
16 impact on a high scenic resource in this case,
17 would you have told us how it should be
18 mitigated or would you -- or would your
19 conclusion have been something else?

20 A (DeWan) It's hard to say, given the
21 hypothetical. I think that, if we had found
22 that, we would have talked with our client, and
23 then worked on additional mitigation -- on
24 mitigation measures or additional mitigation

[WITNESS PANEL: DeWan|Kimball]

1 measures to see what could be done.

2 CMSR. BAILEY: Okay. Thank you.

3 CHAIRMAN HONIGBERG: Mr. Iacopino.

4 MR. IACOPINO: Thank you.

5 BY MR. IACOPINO:

6 Q I want to ask you questions about the whole
7 bare-earth controversy. I know you spent a lot
8 of time in your supplemental testimony
9 explaining your position on it. But I want to
10 draw your attention to our Rule 301.05(b)(1).
11 Which basically says that "The visual impact
12 assessment shall contain the following
13 components: Number (1) A description and map
14 depicting the locations of the proposed
15 facilities and all associated buildings", I'll
16 skip a few words, "that would be visible from
17 any scenic resources, based on both bare ground
18 conditions using topographic screening only and
19 with consideration of screening by vegetation
20 or other factors." Am I correct to understand
21 that you read that rule to include both
22 topographic screening and vegetative screening
23 and acted accordingly?

24 A (Kimball) We read that rule as the product that

[WITNESS PANEL: DeWan|Kimball]

1 we were required to provide as a map of the
2 proposed facility and all of its components
3 that would be visible based on those
4 conditions. So, to meet that rule, it would be
5 providing a map that could potentially --
6 involve components that could potentially be
7 visible based on both of those conditions.

8 Q Okay.

9 A (Kimball) Which we have done, in fact, we've
10 shown the whole project, irregardless of
11 whether or not the viewshed maps --

12 Q Okay. So, the map that you're talking about,
13 are those the maps that were filed on April
14 17th, the visibility maps that were based on
15 bare-earth?

16 A (Kimball) I believe that the maps submitted in
17 October of 2015, that showed the Project
18 located within each town, showed all project
19 components that would be visible. We supplied
20 the bare-earth viewshed map in February of
21 2017, as sort of an informational piece.

22 Q Actually, you filed it in response to the
23 criticisms from Counsel for the Public's
24 experts I thought, if I remember correctly. It

[WITNESS PANEL: DeWan|Kimball]

1 was actually April, I think. But, getting back
2 to the map that you're saying comports with
3 this rule, which map in your VIA is that?

4 A (Kimball) Within each of the towns, we show the
5 Project substations, we show all the components
6 tied to the Project at a town scale.

7 Q And is that based on "bare ground conditions
8 using topographic screening only"?

9 A (Kimball) Yes. It's a map depicting all
10 locations of the proposed facility and
11 associated components, regardless of whether or
12 not they're visible in bare-earth viewshed.

13 Q Okay. And, then, the other question I had, and
14 I don't know, this is just a question about
15 your discipline. Is there ever a situation
16 where a visual impact assessment includes
17 consideration of weather patterns and things
18 like that? In other words, there may be areas
19 in the country where, you know, ten miles is --
20 may be visible on many days, and there may be
21 other areas in the country where a ten-mile
22 visibility is rarely ever achieved. Is there
23 ever -- are these assessments ever done with
24 those sorts of weather considerations in mind?

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) Yes, they are. One of the reasons,
2 again, that the ten-mile number is inserted in
3 here that may apply to this situation is that
4 that's based upon a standard -- not a standard,
5 but studies have been done that look at
6 visibility of things like wind turbines and
7 transmission structures that have been done in
8 the western part of the United States. Robert
9 Sullivan is a landscape architect and
10 researcher at the Argonne National Laboratory,
11 in Illinois, has written extensively about this
12 phenomenon. And, you know, we can show you
13 photographs, in some situations, where the
14 weather patterns and the clarity of the air is
15 such that you can make out structures at that
16 distance.

17 But that has not been the case in our
18 experience, and I think that Counsel for the
19 Public's expert's experience also. We don't
20 see that happening around here.

21 Q And, when you say "around here", you mean New
22 England?

23 A (DeWan) I should say -- clarify that to be New
24 England, yes. Where we have hilly and

[WITNESS PANEL: DeWan|Kimball]

1 mountainous landscapes that are generally fully
2 vegetated, with a lot of atmospheric
3 disturbance that will cause light patterns to
4 diffract when you see things at a distance.

5 Q So, I guess then you would consider our rule
6 requiring a radius of ten miles for a new
7 transmission structure, if you're increasing
8 the heights, to be conservative?

9 A (DeWan) I won't characterize it as one way or
10 the other. I know that ten miles is a very
11 adequate number for wind power projects. You
12 know, the ones that we're dealing with these
13 days are 600 feet in height. And that's a much
14 different element than the structures that
15 we're dealing with for this Project. But this
16 is, as we understand it, sort of a
17 one-size-fit-all regulation.

18 Q Well, actually, the rule breaks it down. For
19 wind energy systems, it does have a ten mile
20 radius, but also for longer transmission lines
21 that have increased height or a widened
22 right-of-way, --

23 A (DeWan) Right.

24 Q -- they also require the ten miles.

[WITNESS PANEL: DeWan|Kimball]

1 A (DeWan) That's correct.

2 Q And in a rural area.

3 A (DeWan) That's correct.

4 Q Which is most of this Project is -- requires
5 that ten-mile visibility --

6 A (DeWan) Yes.

7 Q -- in that assessment?

8 A (DeWan) Yes.

9 Q Okay. So, you wouldn't characterize it as
10 "conservative" or --

11 A (DeWan) I would say it's very conservative, if
12 you're looking -- but, again, excuse me, we
13 haven't seen any situations where the Project
14 would cause a high level of impact at those
15 distances.

16 Q And how does it compare with other -- and
17 you've done some work in Maine, I guess, and
18 probably Vermont, if you do a lot of wind
19 projects. How does it compare with other
20 states' visibility assessments?

21 A (DeWan) Maine has an eight-mile requirement.
22 That was a rule that was done back in 1998,
23 when the average turbine was about 300 feet in
24 height. And I know there's been some

[WITNESS PANEL: DeWan|Kimball]

1 discussion about possibly going back and
2 revisiting that.

3 Q Okay. What about anywhere else in New England
4 that you're aware of what the rules require?

5 A (DeWan) I don't know of any other requirements
6 for transmission lines. I know that other
7 states that we've worked in have other numbers
8 for looking at wind power projects.

9 MR. IACOPINO: All right. Thank you.

10 CHAIRMAN HONIGBERG: I have no
11 questions that haven't already been asked.

12 Does anyone on the Committee have
13 anything further? Ms. Weathersby.

14 MS. WEATHERSBY: Thank you. Just a
15 real quick one line of questioning I thought of
16 while sitting here that I don't think anyone
17 else had addressed.

18 BY MS. WEATHERSBY:

19 Q And that's nighttime lighting. Am I correct
20 that the only towers that will be lit at night
21 are those near the Concord Airport?

22 A (DeWan) That's correct.

23 Q Okay. And are those lights constantly red?
24 Are they blinking? What is the type of

[WITNESS PANEL: DeWan|Kimball]

1 lighting there?

2 A (Kimball) I'll have to take a look at our
3 report.

4 A (DeWan) I thought that they were -- well,
5 they're similar to the lights that are out
6 there right now. There's 15 structures that
7 are currently lit. I believe we're adding 31
8 additional structures at the request of the
9 FAA.

10 BY MR. WAY:

11 Q Is that 15 Eversource structures or 15 other
12 structures?

13 A (DeWan) I don't know who owns the structures
14 right now. They're transmission structures in
15 the general vicinity of where the new ones are
16 going to be --

17 Q But transmission structures?

18 A (DeWan) Yes.

19 Q Right.

20 A (Kimball) And I don't have noted in our report
21 whether they're flashing or whether they are
22 solid red.

23 BY MS. WEATHERSBY:

24 Q And are they -- do you know if they are

[WITNESS PANEL: DeWan|Kimball]

1 radar-activated or if they're constantly on,
2 either the solid or flashing?

3 A (DeWan) I believe they would be constantly on,
4 given the location relative to the airport,
5 where you're going to be expecting a continuous
6 flow of air traffic.

7 Q Okay. So, you know of no application that the
8 Applicant submitted with the FCA to make them
9 radar-activated? You don't think that's --
10 that's not in the works?

11 A (DeWan) Not that I know of. Yes.

12 MS. WEATHERSBY: Okay. Thank you.
13 That's all I have.

14 MR. IACOPINO: Mr. Needleman, we've
15 had a request from the Committee. If you could
16 please submit as an exhibit the -- I think
17 there are 79, I may be wrong on the number,
18 rating sheets that were used on the points that
19 were eventually assessed by the panel.

20 MR. NEEDLEMAN: Yes.

21 MR. IACOPINO: Thanks.

22 MR. NEEDLEMAN: Yes. We'll provide
23 those.

24 CHAIRMAN HONIGBERG: Mr. Needleman,

[WITNESS PANEL: DeWan|Kimball]

1 you have redirect for the panel?

2 MR. NEEDLEMAN: Yes. Thank you.

3 **REDIRECT EXAMINATION**

4 BY MR. NEEDLEMAN:

5 Q Mr. DeWan and Ms. Kimball, a few minutes ago
6 Ms. Weathersby asked you about the visual
7 effects charts, and the instances, Mr. DeWan,
8 where you may have made adjustments to the
9 conclusions of the rating panel. Of the 77
10 visual effects determinations that were made,
11 how many of those did you make some adjustment
12 to?

13 A (Kimball) There were nine that came out as a
14 slightly different rating than what the rating
15 charts indicated.

16 Q And, of those nine, were there any
17 circumstances where you made an adjustment from
18 a "high" rating to a "medium" rating?

19 A (Kimball) No. All of the changes would be
20 between medium or low.

21 Q And what was the breakdown? How many went from
22 medium to low and how many went from low to
23 medium?

24 A (Kimball) Of the nine, seven of them went from

[WITNESS PANEL: DeWan|Kimball]

1 medium to low, and two of them went from low to
2 medium.

3 Q I think Ms. Weathersby was also asking at one
4 point about the rating charts and the
5 breakpoints that were used with respect to the
6 chart, that I think you said was based on the
7 one that is used in Maine. Do you recall that?

8 A (DeWan) I do.

9 Q And I think the questions revolved around how
10 those breakpoints were selected. And I wanted
11 you to clarify. You had said at one point you
12 thought they were "reasonable". But are those
13 breakpoints that you imported from those charts
14 that others selected or are those breakpoints
15 in terms of those numbers that you selected?

16 A (DeWan) Those breakpoints were really
17 established by Dr. Palmer and Rick Smardon and
18 John Felleman were the authors of the book that
19 I referred to before. So, in effect, those
20 have become sort of a standard in our
21 profession looking at visual impacts.

22 Q Moving on to some other questions, there's been
23 a lot of discussion about how you interpreted
24 scenic resources in this case. Most of those

[WITNESS PANEL: DeWan|Kimball]

1 have now been put to rest by Committee
2 questions. There is one place or two I wanted
3 to go back to.

4 There were a number of occasions,
5 including when Ms. Crane was asking you
6 questions, where there was a discussion about
7 whether your analysis occurred "from a scenic
8 resource" as opposed to "of a scenic resource".
9 For example, if one were standing on a public
10 road, looking at a private historic resource
11 that had no public access, with the
12 transmission line located behind it, it sounded
13 like the question was "did you evaluate that?"
14 And my understanding was, according to your
15 testimony, that you didn't.

16 At one point, Ms. Kimball, you volunteered
17 to elaborate for Ms. Crane, and she didn't
18 accept that. So, I want to go back and I want
19 to ask you to elaborate now on why, when you
20 did your work, you focused on views from scenic
21 resources.

22 A (Kimball) Sure. There are a number of places
23 in the rules that ask us to look at it "from
24 the scenic resource". And I'm just going to

1 pull up the rules here.

2 Q Actually, let me put an exhibit up, which is
3 just a compilation that we worked on with you
4 to prepare that shows some of these locations.

5 MR. NEEDLEMAN: I'm not going to call
6 this an exhibit. It's just illustrative. It's
7 just the rules.

8 BY MR. NEEDLEMAN:

9 Q But is this helpful to you?

10 A (Kimball) Yes. It is helpful.

11 Q All right. Could you go through that quickly.

12 A (Kimball) So, the first one at the top of the
13 page is a definition of the "area of potential
14 visual impact". And, so, we're to determine
15 from which the -- "the geographic area from
16 which the proposed facility would be visible".

17 Jumping down further, the "key observation
18 point", it is "from which the facility would be
19 visible", those areas "that receive regular
20 public use" from within the scenic resource.

21 Moving down into 301.05(b)(1), the map
22 that we provided showed the proposed facility,
23 and those items that are required to be
24 provided in the map are those that are visible

[WITNESS PANEL: DeWan|Kimball]

1 "from scenic resources", not "looking towards
2 scenic resources".

3 And I believe there are additional
4 sections. Here we go. So, "an identification
5 of all scenic resources within the area of
6 potential visual impact and a description of
7 those scenic resources from which the proposed
8 facility would be visible." So, again, it's
9 "from" those scenic resources.

10 Moving down into (6)c --

11 Q Let me --

12 A (Kimball) Oh.

13 Q Let me just stop you.

14 A (Kimball) Sure.

15 Q If those are illustrative of the point, I don't
16 think we need to go through it all.

17 A (Kimball) Okay.

18 Q Is it fair to say that there are other
19 references in the rule that you also relied
20 upon to do your work with respect to this
21 issue?

22 A (Kimball) Yes. There are a number of locations
23 where this comes up.

24 Q There has been a question here about whether or

[WITNESS PANEL: DeWan|Kimball]

1 not you properly excluded current use
2 properties here when you did your work from the
3 definition of "scenic resource", and I want to
4 go back to that. The definition, and if we
5 have it, if we could put it up, it's 102.45(d)
6 We've seen it several times. But it talks
7 about resources to which the public has a legal
8 right of access that are "recreational trails,
9 parks, or areas established, protected, or
10 maintained in whole or in part with public
11 funds". And I believe you testified that it
12 was your view that current use resources were
13 not covered by this, in particular you were
14 focused on the portion about "established,
15 protected, or maintained with public funds".
16 Do you recall that?

17 A (Kimball) That's correct.

18 Q And, when you were being examined by
19 Ms. Fillmore, she put a chart up, which I would
20 like to revisit. I actually thought it was
21 helpful for these purposes. And I want to ask
22 you about that.

23 So, this was actually a hypothetical that
24 she asked you about. And, in Ms. Fillmore's

[WITNESS PANEL: DeWan|Kimball]

1 hypothetical, she started off positing that
2 there was a town that needed to raise a certain
3 amount of money, and so they taxed the land in
4 town at a certain level to raise the money they
5 needed to raise. Do you recall that?

6 A (Kimball) Yes.

7 Q And, then, she altered her hypothetical, so
8 that, if there were properties in town that
9 were subject to the current use law, they would
10 pay less in taxes. So, consequently, other
11 properties in town would presumably pay more in
12 taxes. Do you recall that?

13 A (Kimball) That's correct.

14 Q So, in either circumstance, again, is it
15 correct, based on your understanding, that this
16 hypothetical town would raise the same amount
17 of money in either circumstance?

18 A (Kimball) Yes. They achieved the \$100,000 in
19 the same way.

20 Q So, if they're raising the same amount of money
21 in either circumstance, is it your
22 understanding that the other taxpayers in town
23 end up paying more in tax so that the current
24 use taxpayers would pay less in tax?

[WITNESS PANEL: DeWan|Kimball]

1 A (Kimball) Yes.

2 Q And, in light of that understanding, how does
3 that relate to your understanding of the SEC's
4 rule about "established, protected, or
5 maintained with public funds"?

6 A (Kimball) It's clear that there are no public
7 funds that are being used to establish or
8 protect those properties. It's money coming
9 from other private property owners.

10 Q Did this hypothetical reinforce your
11 conclusion?

12 A (Kimball) I think it did.

13 Q When Ms. Pacik was examining you, she asked
14 about the Contoocook River and about White
15 Park. And I want to start with the Contoocook
16 River. She pointed out that, in your
17 assessment of this resource, you missed the
18 fact that it had been a designated river, do
19 you recall that?

20 A (Kimball) Yes.

21 Q And that meant that you gave it a low cultural
22 value, rather than a medium cultural value. Is
23 that right?

24 A (Kimball) That's correct.

[WITNESS PANEL: DeWan|Kimball]

1 Q Despite that initial error, during the course
2 of your work here, I think you've explained
3 that you did go back and review all of the
4 resources that you had initially designated as
5 low cultural value, is that correct?

6 A (Kimball) Correct. That was submitted in April
7 of 2017.

8 Q So, I want to pull that up. It's Applicants'
9 Exhibit 93. And why did you go back? What was
10 it that caused you to go back, despite the fact
11 that you screened these resources out, and look
12 at them again and provide some level of
13 evaluation?

14 A (DeWan) I think out of an abundance of caution,
15 to make sure that these resources that had been
16 rated as "low" didn't have any potential for a
17 high visual impact. You know, looking at the
18 Contoocook River, I know that we've been there
19 in person. We know that the area that had been
20 identified as "potential visibility" was around
21 one of the dams on the river, which is not a
22 place that the public are even allowed to be.
23 It's a danger situation. Most of the rest of
24 the embankment, which is where one would -- one

[WITNESS PANEL: DeWan|Kimball]

1 would be, or on the river, is heavily forested
2 or built up in certain areas. So, the end
3 result is that, when you're on the river,
4 you're not going to be able to see anything
5 beyond the immediate foreground. You're
6 certainly not going to be able to see a series
7 of structures at a distance of two miles.

8 Q So, even though you didn't properly categorize
9 the Contoocook River initially, and now
10 understanding that it should have been
11 characterized as a "medium" value, does that
12 affect the conclusions that you drew in this
13 table here?

14 A (DeWan) No. We still feel it has minimum
15 potential for adverse effect at this distance.

16 Q White Park is also on this table. And Ms.
17 Pacik pointed out that you did not correctly
18 identify that as a designated historic
19 resource, is that right?

20 A (DeWan) That is correct.

21 Q And, so, consequently, you assigned a "low
22 cultural value", rather than a "medium cultural
23 value", is that right?

24 A (DeWan) That is correct.

[WITNESS PANEL: DeWan|Kimball]

1 Q So, again, looking at this table, same
2 question. You did go back during the course of
3 your work and analyze White Park anyway. What
4 did you find, and in light of now knowing that
5 it should have been a medium value, does that
6 change your conclusion?

7 A (DeWan) It certainly did not change our
8 conclusion. We also know there is the two-mile
9 limitation that's found in the -- in the rules,
10 which applies here. We also know that, at that
11 distance of we say 2.9 miles, the structures
12 would be minimally visible, and seen in the
13 context of trees, buildings, light poles, and
14 everything else that would affect a person's
15 perception of the surrounding landscape.

16 Q Earlier today you were asked as well about the
17 Deerfield Fair Grounds, which you had also
18 originally included as "low cultural value".
19 Was that also revisited as part of the work
20 that we just saw on that table?

21 A (DeWan) Yes, we did.

22 Q When Ms. Pacik was questioning you, she also
23 asked you about Loudon Road, and I wanted to go
24 back to that for a minute. When you did your

[WITNESS PANEL: DeWan|Kimball]

1 work, you didn't consider Loudon Road to be a
2 scenic resource under the SEC rules?

3 A (DeWan) That is correct.

4 Q Ms. Pacik showed you the viewpoint assessment
5 conclusion of Loudon Road that was contained in
6 the Final Environmental Impact Statement. Do
7 you remember that?

8 A (DeWan) Yes.

9 Q Now, is it correct that, in addition to it
10 being evaluated in the Final Environmental
11 Impact Statement, there was a Technical Report
12 that also accompanied that Final Environmental
13 Impact Statement, which contained information
14 on resources, including Loudon Road?

15 A (DeWan) That's correct.

16 Q And what I'd like to do then, we've made that
17 Technical Report an exhibit already, it's
18 Applicants' Exhibit 205. And what I'd like to
19 do is pull that up, in particular, Page 118 of
20 that Technical Report. And that Technical
21 Report also characterizes Loudon Road, does it
22 not?

23 A (DeWan) It certainly seems to capture it, yes.

24 Q And can you read the yellow highlighting that

[WITNESS PANEL: DeWan|Kimball]

1 is the characterization of Loudon Road in that
2 report?

3 A (DeWan) "The existing visual character is of
4 low quality, without any special scenery
5 interest or intrinsic character."

6 Q Do you agree with that statement?

7 A (DeWan) I do.

8 Q Now, with respect to the broader Environmental
9 Impact Statement, Ms. Pacik and others, I think
10 including Mr. Judge, showed you various
11 sections of the Final EIS around Concord. Do
12 you remember that?

13 A (DeWan) I do.

14 Q And, in the Final EIS, T.J. Boyle's visual
15 analysis looked at a wide range of specific
16 viewpoints like Loudon Road, is that correct?

17 A (DeWan) That is correct.

18 Q And then it reached an overall conclusion about
19 visual impacts across three geographic areas,
20 is that right?

21 A (DeWan) That's right. North, central and
22 south.

23 Q Okay. And Concord was in the "southern" area,
24 as they designated it in the Final EIS, is that

1 correct?

2 A (DeWan) That's my understanding, yes.

3 Q So, I want to call up Applicants' Exhibit 205,
4 the page from the Final EIS that shows the
5 conclusion that T.J. Boyle reached with respect
6 to the southern area.

7 MR. NEEDLEMAN: And what I would ask,
8 Dawn, if you could highlight the "average
9 scenic impact".

10 BY MR. NEEDLEMAN:

11 Q And can you explain, Mr. DeWan, your
12 understanding of this portion that's been
13 highlighted?

14 A (DeWan) I will try. They did a analysis of the
15 existing conditions. They, on a scale of 1 to
16 5, they rated, for the southern section, the
17 average scenic impact from the existing line to
18 be "1.47", which, on their scale, was a rating
19 of "very low to low". With the proposed
20 conditions that are currently before the
21 Committee, as Alternative (7) under the FEIS,
22 the change in -- the net change from existing
23 conditions was a "0.3", which means that the
24 overall or the average scenic impact went from

[WITNESS PANEL: DeWan|Kimball]

1 1.47 to 1.76. By their definition, the
2 determination of the average scenic impact
3 would remain at "very low to low".

4 Q Moving away from that, just a couple of more
5 questions. When Mr. Baker was questioning you,
6 he asked about the process that was used to
7 create all of the documents here, which you've
8 put out publicly and in front of the Committee.
9 Do you remember that?

10 A (DeWan) Yes.

11 Q And Mr. Baker asked you, during the course of
12 the development of your report, testimony, and
13 other documents, whether you received comments
14 from the Applicant and from the Applicants'
15 legal team. Do you remember that?

16 A (DeWan) Yes.

17 Q What did you -- he didn't follow up on that,
18 and I wanted to follow up. When you received
19 comments, what did you do with them?

20 A (DeWan) We reviewed them. We discussed them.
21 Many of the comments were, you know, based upon
22 typographical errors or, you know, changes to
23 the wording. But they never affected our
24 determination of scenic impact.

[WITNESS PANEL: DeWan|Kimball]

1 Q Did you receive comments or questions about
2 substantive portions of your report?

3 A (DeWan) We certainly didn't act on any changes
4 as a result of the comments. You know, when
5 you say "substantive", you know, they reviewed
6 the entire document.

7 Q Well, let me ask it this way. Did you adopt
8 every single comment you received?

9 A (DeWan) Those that pertained to grammatical
10 changes, certainly we did.

11 Q Again, though, did you adopt every comment you
12 received?

13 A (DeWan) I would say no.

14 Q Okay. Were you required to adopt any comments
15 that you disagreed with?

16 A (DeWan) No.

17 Q So, is the total body of work that you've now
18 created and presented to the public and the
19 Committee your work and yours alone?

20 A (DeWan) Yes, it is.

21 Q And one final set of questions. When Mr. Judge
22 was questioning you, he implied that, at the
23 time he was asking you his questions, you
24 didn't have up-to-date data about structure

[WITNESS PANEL: DeWan|Kimball]

1 locations and dimensions at McKenna's Purchase.
2 And, so, as a consequence, your view sims might
3 not be accurate. Do you recall that?

4 A (DeWan) I recall that comment.

5 Q And you were fairly insistent that you believed
6 at that time that you had up-to-date data. Why
7 is that?

8 A (Kimball) The engineers have been very
9 consistent in communicating with us when there
10 was a change to a structure height or location.

11 Q And, after Mr. Judge questioned you, did you
12 actually have a chance to talk to the engineers
13 about this issue?

14 A (Kimball) We did.

15 Q And what did you learn about the status of the
16 structure data around McKenna's that you relied
17 on to create your visual impact -- your view
18 sims?

19 A (Kimball) That it remains unchanged since the
20 construction of that photosimulation.

21 MR. NEEDLEMAN: Okay. Thank you.
22 Nothing further.

23 CHAIRMAN HONIGBERG: All right. I
24 think that ends the questioning of this panel.

[WITNESS PANEL: DeWan|Kimball]

1 We'll take our lunch break, and be
2 back at 1:30. Commissioner Bailey and I have
3 some business to do back at the Public
4 Utilities Commission.

5 When we come back, we'll be hearing
6 from Mr. Varney, correct?

7 MR. NEEDLEMAN: Yes.

8 CHAIRMAN HONIGBERG: All right. So,
9 we are adjourned until 1:30.

10 (Lunch recess taken at 12:16
11 p.m. and concludes the **Day 35**
12 **Morning Session**. The hearing
13 continues under separate cover
14 in the transcript noted as
15 **Day 35 Afternoon Session ONLY**.)
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{SEC 2015-06}[Day 35/Morning Session ONLY]{09-18-17}

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C E R T I F I C A T E

I, **Steven. E. Patnaude**, a Licensed Shorthand Court Reporter, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Steven E. Patnaude, LCR
Licensed Court Reporter
N.H. LCR No. 52
(RSA 310-A:173)

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