1	STATE OF NEW HAMPSHIRE			
2	SITE EVALUATION COMMITTEE			
3	Garata what 06 0017 0 00			
4	September 26, 2017 - 9:00 a.m. DAY 40 49 Donovan Street Morning Session ONLY			
5	Concord, New Hampshire			
6	{Electronically filed with SEC on 10-10-17}			
7	TN DEL. GEG DOCKEE NO. 2015 OC			
8	IN RE: SEC DOCKET NO. 2015-06  Joint Application of Northern			
9	Pass Transmission, LLC, and Public Service Company of New Hampshire d/h/s Everseurse			
10	New Hampshire d/b/a Eversource Energy for a Certificate			
11	of Site and Facility. (Hearing on the merits)			
12	PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:			
13	Chrmn. Martin P. Honigberg Public Utilities Comm. (Presiding as Presiding Officer)			
14				
15	<pre>Cmsr. Kathryn M. Bailey</pre>			
16	Economic Affairs			
17	William Oldenburg, Designee Dept. of Transportation Patricia Weathersby Public Member			
18				
19	ALSO PRESENT FOR THE SEC:			
20	Michael J. Iacopino, Esq., Counsel for SEC			
21	(Brennan, Caron, Lenehan & Iacopino)			
22	Pamela G. Monroe, SEC Administrator			
23	(No Appearances Taken)			
2 4	COURT REPORTER: Steven E. Patnaude, LCR No. 052			

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## PROCEEDING 1 CHAIRMAN HONIGBERG: Good morning, 2 3 everyone. Welcome to Day 40 of the Northern Pass hearings. We are resuming the questioning 4 5 of Mr. Varney with questions from the Subcommittee. And I believe Mr. Oldenburg is 6 7 going to start us off. MR. OLDENBURG: Good morning, Mr. 8 9 morning. 10 WITNESS VARNEY: Good -- whoops. 11 Sorry. Good morning. 12 MR. OLDENBURG: Just for point of reference, my name is Bill Oldenburg. I'm from 13 14 the Department of Transportation. And I won't 15 sway too far from that, from that sort of 16 wheelhouse, if you will. A lot of my questions 17 are related to orderly development and dealing 18 with state plans, etcetera. 19 BY MR. OLDENBURG: 20 And, so, the first thing I did was I looked at 21 the rules. And, so, what I did is on the

screen you'll see the rules, as I understand it, for the Application. So, this is what was in the Application. And I understand it's sort

22

23

24

5

1 of split into land use, the economy, and various subsections of that. And, then -- so, 2 3 I blew it up a little bit so you can -- I could see it. And, then, there's the criteria which 4 5 have to rate it, and it's all lumped together. So, if we go back into, say, the economy, 6 7 and there are six subsections of the economy, and you found one of those to have an -- what's 8 9 the exact term -- an "undue", an "adverse 10 effect", whatever, but not the other five. How 11 do you -- I mean, you basically said there 12 would be no adverse effect to the economy. 13 So, how do you -- how would rectify or how 14 do you -- how do you rectify it, if there might 15 be one that would have an adverse effect and 16 the others didn't? Did you lump them together 17 or average them, you know, when you looked at 18 it like that? 19 I reviewed each of the items. There are 20 two for land use and six for economy. And, then, I believe two more shown on the screen 21 for employment. 22 23 Uh-huh.

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And I found that, in looking at each of those,

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6

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1
         that they would not unduly interfere with the
 2
         orderly development of the region.
 3
         So, you took each one individually, and then
    Q
         the conclusion was is that, as a whole, they
 4
 5
         wouldn't adversely affect it?
 6
               Correct. And I recited that near the end
         Yes.
 7
         of my prefiled testimony.
         Okay. So, in your report, this is sort of the
 8
    Q
9
         same type of question, in your report, this is
10
         the Table of Contents for Chapter 4, Prevailing
11
         Land Uses. And you list 11 land uses there, or
         actually 10 land uses, and then sort of a
12
         conclusion at the bottom.
13
14
              A lot of the communities along the area
15
         have multiple -- multiple of these land uses.
16
         So, one community can have a forest, an
17
         agriculture, a residential --
18
                         [Court reporter interruption.]
19
                   MR. OLDENBURG:
                                    Sorry.
20
    BY MR. OLDENBURG:
21
         -- a forest, agriculture, residential,
22
         commercial, probably all have transportation
23
         and utilities and recreation. So, as you took
24
         each one individually for a community, how did
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[WITNESS: Varney]

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you weigh one against the other in your review? So, if you found that there might be an impact to, say, recreation in one community, did that weigh more or equally with the rest of them? I reviewed each one. And, again, the review was to identify the uses that were along the line, to answer the question "if this Project is constructed, will it prevent or unduly interfere with the continued use that is already in existence?" And that was -- that was the thought process in evaluating each one. To look at that use, and to think about how the lands are used. And whether or not that proposed use would unduly interfere with orderly development of the region, and whether or not, from a land use perspective, to evaluate those uses. And what I found in the review was that it

And what I found in the review was that it would not have any significant impact on any of these land uses. And that is described or summarized in the report. And, of course, there's a detailed description of the land uses along the route, not only for the Project as a whole, but went far beyond the requirements to

```
1
         detail land uses in each of the communities
 2
         along the route.
 3
         Okay. So, in your prefiled testimony, the
    Q
         slide you see, you conducted a review of local,
 4
         regional, and state and federal long range
 5
 6
         plans.
 7
    Α
         Yes.
 8
         And, then, this is just a slide of the plans
9
         that you -- most of the plans that you reviewed
10
         in Section 5.6. And, when I looked at these,
11
         and I didn't go into each one individually, but
12
         you have experience in state government and
13
         with regional planning commissions. All plans
14
         are not created equal. Is that a fair
15
         statement?
16
    Α
         Yes.
17
         Some plans are useful, more useful than others?
18
    Α
         Yes.
19
    Q
         Okay. Some plans are required and done because
20
         they're required?
21
         (Nodding in the affirmative).
22
         So, the first one that struck me was "New
23
         Hampshire State Development Plan", Number 1,
24
         from 2000.
```

[WITNESS: Varney]

```
1
    Α
         Yes.
 2
         Is that plan still relevant? I just -- that
    Q
 3
         plan was created eight gubernatorial election
 4
         ago, eight legislative sessions ago, eight
 5
         executive council sessions ago. It's about the
 6
         development of the state. And how much of it
 7
         is still relevant, I guess, from your review?
         I don't know, but it was, for a very long time
 8
    Α
9
         in New Hampshire, it was the only statewide
10
         development plan in existence. And, so, I
11
         thought it better to include it than to
12
         arbitrarily exclude it from consideration.
13
         Okay. And Number 3 and 4, Number 3 is the "New
14
         Hampshire 10-year State Energy Strategy" from
15
         2014, and Number 4 is the "New Hampshire Energy
16
         Plan" from 2002. The Energy Strategy from
17
         2000, does that supercede the Energy Plan or do
18
         they go in concert or --
19
         That wasn't clear to me. So, I, again with an
    Α
20
         abundance of caution, I included both documents
21
         and summarized them.
22
         Okay. Do you know how many of these plans are
23
         required by state law?
24
         I don't recall. It wouldn't be that difficult
```

10

```
1
         to determine that. But some may be federal
         requirements, maybe federally funded, to be
 2
 3
         eligible for future funding, for example.
 4
         Others are directed by the Legislature.
 5
         Uh-huh.
 6
         Some may be programs that the agency wants them
 7
         to -- wants to use a plan to help them guide
         future needs and think long range about their
 8
9
         issues. So, there are multiple reasons for the
10
         plans. There's probably no single reason. And
11
         many of them are -- make sense. In many cases,
12
         there are significant investments of federal or
13
         state dollars, or management of and stewardship
14
         of resources. And these plans help address
15
         that as well.
16
    Q
         Okay. And that was sort of what I was just
17
         going to get to, is some of these are required
18
         by state law, because the Legislature passed a
19
         law saying "you shall report on this" or "you
         have to create a report". Some are required
20
21
         by -- to be updated routinely. And some, like
22
         you say, require a federal reporting, because
23
         we get -- the state gets federal money for this
24
         program and you have to report. So, that makes
```

1 sense to me in why they're there.

One I'd like to sort of -- let me go back. And one is -- number 19 on the list is the State Bicycle and Pedestrian Plan. I know this one a little bit. So, I wanted to pick on it a little bit.

Sure. Α

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So, in your report -- actually, no. Let me --I got ahead of myself. So, let me go back.

So, this is a question I had, I couldn't make sense of this part of the report. In Table 2, you talk about the scenic and cultural byways designation. And some of the work that's been done by the North Country Scenic Byway Council and some management plans that were done, and some designations that may change. And the second part of this is an excerpt that, in 2015, the North Country Council adopted a corridor management plan for various trails and redesignated them.

So, this is Table 2 that that paragraph talked about. And it lists the different byways and the total byway length and the Project crossings. And could you explain -- I

## [WITNESS: Varney]

```
1
         quess I don't understand the table on the
         "Project Crossings". What does that mean?
 2
 3
    Α
         Yes. It indicates locations where the Project
         may -- the existing right-of-way or the
 4
 5
         undergrounding or new right-of-way may cross
         the state designated scenic byway. And it
 6
 7
         includes information about whether that
         crossing is an overhead crossing or an
 8
         underground crossing of the roadway.
9
10
         Okay. So, the River Heritage Trail, and we
    Q
11
         heard about this from another panel, the River
12
         Heritage Trail is -- basically, covers the
13
         entire underground route. So, it starts on
14
         Route 18, and 116, and goes down 112 to U.S. 3.
         So, it says "one crossing along a segment of",
15
16
         and I didn't know if that meant one aerial
17
         crossing? Or, I mean, it's under the entire
18
         trail, so --
19
         Yes. Yes. And, again, if it says
20
         "underground", it's an underground segment.
21
         it's "OH", it's an overhead segment at the
22
         crossing.
23
         Okay. So, the next table was Table 3, which
24
         showed that the byway designation was changed,
```

1 and that the River Heritage Trail has no crossings. That's "no aerial crossings" or --2 3 I'm trying to figure out what the table is 4 telling us. 5 Yes. Yes. And the table was revised. You 6 showed language about the updates of the state 7 designations. 8 Yes. Q 9 And, so, there were proposed changes in the 10 designations. They were then submitted to the 11 New Hampshire DOT and the Scenic Byways 12 Council -- Advisory Council. 13 Uh-huh. 14 And, then, they can either approve or deny the 15 designation proposals all or in part. They can 16 also de-designate some areas. For example,

And, then, they can either approve or deny the designation proposals all or in part. They can also de-designate some areas. For example, Canterbury Shaker Village Scenic Byway was eliminated. It was de-designated. And, then, the route itself may change. And there were some changes made to these routes based on the final determination by New Hampshire DOT.

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And we submitted an update to the table, which was an update in Appendix 41 that was part of my supplemental testimony. And, so,

1 for the River Heritage Trail, it's underground 2 throughout that entire area. There are no 3 overhead crossings of the River Heritage Trail. 4 So, I thought the difference between the two Q 5 tables, Table 2 shows Route 302 in Bethlehem, 6 which I guess you could say has a crossing, 7 because that's where the transition station is. And the difference in Table 3 is Route 302 in 8 9 Bethlehem is no longer designated, and so that 10 crossing went away. That was my assumption. 11 So, is that correct? 12 The table -- the table now reads, for the River 13 Heritage Trail, that it includes -- there's 14 Route 302 in Bethlehem, 18/116 in Franconia, 15 116 in Easton, 112 and 3 in Woodstock, Route 3 16 in Thornton, Route 3 in Campton, and Route 3 in 17 Plymouth. And it's all underground, and is 18 shown on the New Hampshire DOT website of 19 scenic and cultural byways. 20 Okay. All right. So, let me move on and go 21 back to some of my preclude, which was under 22 the statewide plans, the Statewide Bike and 23 Pedestrian Plan. And your sort of write-up on 24 that was that the corridor crosses multiple

[WITNESS: Varney]

1 bicycle routes along the existing roadways. And your conclusion was "the Project would not 2 3 have an adverse impact on the continued use of these bicycle routes, but temporary impacts 4 5 from construction will be minimized by coordinating with the towns and appropriate 6 7 agencies by using best management practices." 8 So, it's that last line that sort of caught my eye. When you say "temporary 9 10 impacts", do you mean temporary impacts to the 11 bike routes will be minimized by coordinating 12 with the towns or is that just a generalized construction statement? 13 14 It's a generalized construction statement. And 15 refers to the fact that most of the bicycle 16 routes that are identified on state and 17 regional planning commission maps are located 18 along existing roadways. 19 Okay. 20 In other words, it's -- you're off to the right 21 of that paved roadway. And, so, to the extent 22 that there may be construction ahead, there 23 needs to be some thought given to pedestrian --

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to bicycles, who may be -- it's not just the

24

[WITNESS: Varney]

1 traveling public and automobiles or trucks, it would be any bicycle activity that may exist on 2 3 that roadway. 4 Okay. So, what I did is I went to the bicycle Q 5 maps that are online. And this is sort of a 6 section of the White Mountain area, which is in 7 the Project area. And what I zoomed in on, and you can see my mouse, is the underground 8 9 project area, see where my mouse is up here at 10 the top? 11 Yes. Α 12 So, that's 302, in Bethlehem. And then this is 13 93, but right next to it is this green line, 14 which shows Route 18, comes down into 15 Franconia, and then the underground route sort 16 of follows where my mouse is going, through 17 Franconia and Easton, to 112, and then along 18 112, into Woodstock, and then down off the 19 bottom of the map. You see that, right? 20 Α Yes. 21 So, I won't belabor the fact by going through 22 the legend. But the green lines on this plan 23 are shown as "recommended bike routes". And 24 these purple dots that are along here represent

[WITNESS: Varney]

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1
         a "bike loop". So, you can see right in the
         middle it says "Loop 202"?
 2
 3
    Α
         Yes.
 4
         And, if you looked at the legend, this star
    Q
 5
         down in downtown Woodstock is the recommended
 6
         starting point. And these arrows signify the
 7
         direction of the loop that they recommend you
         take.
 8
9
         Yes.
    Α
10
         So, if you're a tourist or a recreational
    Q
11
         biker, and you want go this route, they put out
12
         these plans that say "go that way". So, this
13
         is a 39-mile loop. And, if you started, you
14
         wouldn't have a problem until you probably got
15
         the farthest point away in Franconia. And,
16
         then, if you're going down this route, then you
17
         hit construction through there. And,
18
         basically, your entire half of your route home,
19
         back to where your -- assuming your car is your
20
         starting point, is under construction.
21
              The next plan that I show -- the next
22
         excerpt from the Bike Route is that loop. I
23
         mean, they go into detail of showing you a
```

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profile and, you know, the distance, and, you

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Uh-huh.

[WITNESS: Varney]

know, what type of rider you should be. So, they spend a considerable amount of time sort of laying out these loops and everything.

18

So, during construction, the Construction panel, Lynn Farrington specifically, said that "In a construction zone, the road will be limited to one lane." And, in my discussions with them, I sort of threw out some math, and how long it would take them to complete each of the things that they have to do. So, how long -- how many crews that they would have to do to trench? How many crews to do the splice boxes? How many crews do the HDD drilling? Because they said how long it would take at each site. So, we came up, we did the math, and how long it would take given the construction period, and how many crews would be out there at one time? And it was over 20 crews would be in the underground section at one time. So, that meant a construction zone at least every two and a half miles, if they were -- if the construction zone was one foot long.

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So, some of these construction zones are going
to be longer. So, there's going to be a
considerable number of construction zones. Per
se.
```

So, there's this state law that's on the books, I don't know how many people realize it, but it's "The Rules of the Road and Exercising Caution When Approaching Bicycles". I don't know if you've ever seen this. But it basically lays out the distance that a vehicle passing a bicycle has to stay away from, give that bicycle a -- what is the exact wording? --"reasonable and prudent distance". And the law states that, if you're going 30 miles an hour, that you have to give the bicycle at least three feet. So, most of the section isn't 30, it's 40 or, you know, 50 miles an hour. I'll give you the fact that, during construction, maybe the Project will decrease the speed limit to 40. So, if it's 40 miles an hour, you have to give the bicyclist four feet. And you've seen pictures, other people, I didn't put any in here, but you saw pictures of the narrowness of the road. In a lot of cases, the Route

1 16 -- or, I'm sorry, 116 doesn't have shoulders. So, when you're down to one lane, 2 3 you might only have 11 or 12, 13 feet of pavement. So, and sort of to supplement that, 4 5 this is the traffic control plans from the 6 Project that Ms. Farrington described that says 7 "the minimum lane width is going to be 11 feet." So, if there's 11 feet out there, and 8 9 you have to give a bicyclist four feet, to me, 10 that's going to cause a little consternation, 11 maybe. 12 Do you -- is it reasonable to assume that 13 a bicyclist is going to have a less than 14 pleasant time going down that road, with 15 vehicles blocked up behind them? 16 Α Yes. A few thoughts. 17 Okay. Q 18 If I could offer a few thoughts about that? 19 First of all, the Project will need to 20 coordinate with New Hampshire DOT on this 21 There can be outreach efforts made issue.

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anywhere -- any locations where these routes

are advertised or promoted, to indicate that

through the DOT website, for example, or

22

23

24

[WITNESS: Varney]

there -- you know, during the 2018 season, there will be construction on this roadway. It may suggest options for that loop, some of which follows that River Heritage Trail that you were referring to earlier. And there also can be signage on the route itself.

And then the traffic control plan and traffic management plan will need to incorporate this into the plan that's signed off on eventually by DOT. So, DOT will have --will exercise its responsibility in looking at this issue, looking at the state statute, looking at the traffic control plan, to make sure that reasonable steps are taken to ensure public safety along the route, and to let people know about the construction in advance of their trip, if possible. While also perhaps using signage on the route itself to alert people to that fact.

As it relates to a flagger coming up -when you're coming up to a construction site
with flagger, there's a temporary, when traffic
is either going one way or the other at all
times, there's always a lane of traffic that's

[WITNESS: Varney]

open. If a flagger stops the line of traffic, the bicyclist would be stopped along with that line of traffic, and then they would go through the construction site, which is probably -- I can't recall the exact distances. Bill, you may remember. But I think the maximum that they discussed was 1,600 feet perhaps. So, well under a mile, it would be a short distance where they would perhaps be in this line of traffic.

Q Uh-huh.

As you see in more urban areas, where there are lots of bicyclists, in downtown Boston and other suburban areas. Where there's a segment where they would be in that area where they're moving through the construction site slowly and carefully, and then they would be back into a undisturbed segment for a while.

So, those are the kinds of issues, as you know, that the DOT works through with anyone that's planning roadway/right-of-way construction, and one of the many factors that has to be incorporated into the plan.

And, so, it's a good question. And it's,

[WITNESS: Varney]

```
1
         I think, an issue that can be handled
 2
         reasonably, so that there is advance notice and
 3
         there is a safe environment for bicyclists, if
 4
         they choose to be on that stretch of roadway
 5
         during that period of construction.
 6
         So, do you know of any outreach that's happened
 7
         to like the DOT to update those bike maps and
         things? Because I can tell you, the DOT didn't
 8
9
         create those plans. They hired a consultant to
10
         do them. So, changing those plans isn't just
11
         going in and changing them. So, any
12
         outreach --
13
         And I believe many of the -- my understanding
14
         is that many of the regional planning
15
         commissions were very involved with DOT in
16
         producing those plans. So, I would assume that
17
         they will work with them as well.
18
    0
         Uh-huh.
19
         And as well as bicycle organizations.
20
         are many bicycle clubs and groups where there
21
         can be outreach. And, so, again, multiple
22
         avenues for trying to inform the public about
23
         what's taking place, so that there aren't any
24
         surprises, and, secondly, to ensure a safe
```

[WITNESS: Varney]

```
1
         environment for those bicyclists who decide to
         follow that portion of the route.
 2
 3
                   MR. WAY: Mr. Oldenburg?
 4
                   MR. OLDENBURG: Yes.
 5
                   MR. WAY: Could I have a question?
 6
                   MR. OLDENBURG:
                                    Sure.
 7
                   MR. WAY: Good morning, Mr. Varney.
                   WITNESS VARNEY:
                                     Good morning.
 8
9
    BY MR. WAY:
10
         And I'm somewhat new to this as well, and I'm
11
         learning about the DOT role. But it sort of
12
         sounds like this will become DOT's issue, and
13
         not the Project's issue, in terms of outreach
14
         and coordination. What's to prevent this --
15
         that outreach from falling through the cracks?
16
         Because I heard you say "assuming the regional
17
         planning commissions", and you could imagine
18
         assuming one group will do it, assuming that
19
         DOT will do it, unless there's a coordination
20
         at some point, what prevents this from falling
21
         through the cracks?
22
         The traffic management plan and traffic control
23
         plan that's part of that are reviewed and
24
         approved by New Hampshire DOT. And that would
```

[WITNESS: Varney]

```
1
         include all of the steps that will be
         undertaken to deal not only with the bicycle
 2
 3
         issue, but a whole range of issues that are
         typically a consideration with the development
 4
 5
         of one of these plans.
               The DOT will then also be able to ensure
 6
 7
         that they're complying with the DOT conditions,
         and -- that have already been submitted under
 8
         this docket and the details of the plan.
 9
10
         they're not achieving the requirements, then
11
         they will be required to address them.
12
    BY MR. OLDENBURG:
13
         And I think I would add to that, as Chris
14
         inferred from your response that the DOT would
15
         be responsible for some of this, I don't agree.
16
         The Project is going to propose information.
17
    Α
         Correct.
18
    Q
         And the DOT is going to review and approve
19
         that?
20
    Α
         Yes.
21
         All right.
22
         And that's consistent with what I was trying to
23
         say.
```

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24

Yes.

[WITNESS: Varney]

```
1
                   MR. WAY:
                             That's where I was going.
    BY THE WITNESS:
 2
 3
         Which is that the plan is developed by
         consultants for the Project, qualified
 4
 5
         consultants who develop these traffic control
         plans. And then they submit it for review by
 6
 7
         the New Hampshire DOT. And then DOT eventually
         signs off on it. And, then, if there are
 8
9
         issues raised about anything related to that
10
         plan, then it's a responsibility of the
11
         Applicant and the Applicant's consultants and
12
         contractors to resolve it.
13
              But the DOT has the ability to step in and
14
         say "We're not satisfied with this. We've had
15
         a complaint or something. Can we sit down and
         look at this issue? And we want to see it
16
17
         corrected immediately."
                   MR. WAY: Thank you. That answers
18
19
         the concern.
20
                   MR. OLDENBURG: Okay.
21
    BY MR. OLDENBURG:
22
         So, one of the things that you had mentioned
         was a work zone that could be like 1,600 feet.
23
24
         And some of them are going to be controlled by
```

WITNESS: Varney]

1 signals. I think that was the testimony of the 2 Construction panel. That, like some of the HDD 3 drilling, the work zone is long, without a 4 flagger, so, they're going to put up signals. 5 Have you ever seen how a bicycle -- so, if 6 you have a line of traffic at a red light 7 during a construction zone, and that 8 construction zone is 1,600 feet long, have you talked to the Construction panel on how those 9 10 signals would work from a timing standpoint? 11 No. Α 12 Okay. So, let me -- I don't want to put --Q 13 Yes. 14 I don't want to testify. 15 Α Okay. 16 Q I have an issue with doing that. So, would it 17 be reasonable to assume that these signals are

timed? That they figure out how many cars are going to go through, how long it's going to take. And, if it takes two minutes, then they're going to get a green light for, you know, 30 seconds, the cars are going to go, and everything is going to stay red for a minute and a half. And, then, the other side, they're

18

19

20

21

22

23

24

28

```
1
         going to assume that all the cars are cleared
         and then the green light goes for the other
 2
 3
         direction. And it alternates like that.
 4
         There's a lot of assumptions in there. One
 5
         thing that the signals don't know and don't
 6
         take into account is a slow-moving bicycle
 7
         holding up traffic. So, if it takes four
 8
         minutes for that bicycle to get through that
 9
         construction zone, the light could have
10
         changed, and now you have traffic heading
11
         head-on on a one-lane road.
12
              So, those are some of the concerns.
13
         Yes.
14
         I don't know if anybody has talked to you about
15
         how to deal with that, from a bicycle
16
         standpoint?
17
         Well, again, the traffic moving through the
18
         construction area, obviously, will begin to
19
         speed up, there will be a speed limit there.
20
         And my understanding is that the bicyclist
21
         would follow along with that traffic. I would
22
         hope that they would have much more than the
23
         minimum three-foot distances. And my
24
         experience is that they usually are far in
```

[WITNESS: Varney]

excess of that. And that they would then move through a relatively short segment of roadway, and then be back to the pre-existing condition again.

Q Okay.

A I really honestly believe that this is an issue that can be managed well. And with, obviously, with decisions made on flagging and lights, as you know, there are many factors that are taken into account, not only the distance of the segment, but the amount of expected traffic that would be on that roadway.

And, just yesterday, I was at a flagged location on a state highway, Route 28.

Construction has been going the entire year.

Construction started last fall with clearing and site work. It's been going all year. It's still underway. And there were flaggers there. There were about thirty cars in line on a major state roadway. And it was less than a minute wait for those thirty or so cars.

- Q Uh-huh.
- 23 A So, and that I believe would be much, much
  24 heavier traffic than what you would typically

[WITNESS: Varney]

see in this area.

emergency repairs."

Q Okay. All right. I'm going to move onto a different topic. And this was just a follow-up slide that I won't use. Another section of your report, "short-term construction impacts would include closures of recreational resources and disruption of normal recreational activities, and would be limited to the duration of construction, maintenance, and

This is sort of the first time we've -that I remember that we've heard that there
would be "closures of recreational resources".
Can you sort of give more detail on what that
means?

A Yes. It's primarily relating to trailheads.

Where, if the construction is occurring right in the trailhead area, there would -- or, a trail crossing, where there would need to be steps taken. And this is frequently done in the White Mountain National Forest as well, where they would close a small segment of the trail and reroute hikers around the construction area in a safe manner.

```
1
    Q
         Okay. All right. That makes sense.
                                                This next
         slide is -- I've compiled your conclusions from
 2
 3
         a number of the chapters under the land use.
         So, the first one was from forest management,
 4
         where you say "the Project will not have an
 5
 6
         adverse impact on forest management", etcetera.
 7
         The next one, "the Project will not have an
         adverse effect on agricultural uses." "The
 8
 9
         Project will not have an adverse impact on
10
         residential land use." "The Project will not
11
         interfere or have an adverse impact on
12
         conservation lands." And "the Project is
13
         consistent with local and regional plans and
14
         will not have an adverse impact on preventing"
15
         -- or, "on prevailing land uses." So, all
16
         those are very definitive in they "will not
17
         adversely impact".
18
              And, then, when you get down to the
19
         transportation and utility section, there's not
20
         such a definitive conclusion. And it says "the
21
         Applicant will coordinate with towns, other
22
         utilities, and appropriate agencies to ensure
23
         that the construction and operation of the
24
         Project does not have an adverse impact on
```

1

2

3

4

5

6

7

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10

11

12

13

14

15

16

17

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19

20

21

22

23

24

Α

[WITNESS: Varney]

current or future ongoing transportation and utility services and facilities along the right-of-way."

It seems like you've passed the responsibility of ensuring that there's no adverse effect on someone else. And that it's up to them to ensure there's no adverse effect, and that you haven't come to a conclusion whether or not there's an adverse effect? My conclusion is that there would not be a significant impact on those adjacent uses. This primarily refers to the fact that there needs to be coordination with towns on issues like water and sewer, and storm water culverts, or, in the more urban areas, there may be considerations associated with existing gas lines. There are roadways. There are access needs that homeowners and businesses have. And a whole host of issues that local communities are interested in, which oftentimes are addressed through MOUs with those communities.

Examples would be, which was raised by one of the prior questioners, about special events in the community. And those can be included in

[WITNESS: Varney]

16

17

18

19

20

21

22

23

24

Α

1 the MOU, hours of the day, seasons of the year, 2 to, again, with the goal -- with the goal of 3 minimizing any adverse effects on nearby 4 property owners or businesses, or the other 5 utilities that already may be there. But one of the -- I guess my comment to that 6 7 is, we've heard a lot of testimony that there's only been one community that's signed an MOU, 8 9 and many communities have stopped discussing 10 the Project details with the Applicant. And I 11 don't want to call it "uncooperative", but they have stopped communicating. 12 13 So, how do you deal with going into a 14 community that you need to coordinate all that 15

community that you need to coordinate all that with and not getting any communication?

The Project needs to continue their efforts to try to negotiate the MOUs with those, with those communities. And, again, they are typically used to minimize any perceived adverse effects that the local community may see that can be addressed through time of year, time of day, consideration of special events, and other issues of interest or concern to the local municipality.

WITNESS: Varney] 1 Q Okay. 2 MS. BAILEY: Bill, can I ask a 3 follow-up on that? MR. OLDENBURG: 4 Sure. BY CMSR. BAILEY: 5 6 Do you think that it would be reasonable --7 I'm sorry. 8 Sorry, Mr. Varney. It's Kate. Do you think that it would be reasonable for us if we were 9 10 to approve the Project to make a condition of 11 the certificate that, before they begin 12 underground construction in any municipality, that they have an MOU with the Town? 13 14 My -- yes, except for the fact that a community 15 may decide to not negotiate an MOU as a way to 16 try to block the Project. So, I would urge 17 that, if that type of condition is considered, 18 that you think about that scenario. And, aside 19 from that. I think it's a good practice and a 20 reasonable condition. 21 Thank you. MS. BAILEY: 22 MR. WAY: Quick question, Bill, if I 23 might?

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Yes.

MR. OLDENBURG:

24

[WITNESS: Varney]

```
BY MR. WAY:
 1
         So, if that condition wasn't put in place, and
 2
 3
         a community dug their heels in and absolutely
         refused to deal with the Project at any point,
 4
 5
         how does that work for the coordination
 6
         process?
 7
         If the Applicant doesn't or the town?
         Well, if the town doesn't. In other words, the
 8
    Q
9
         community just refuses to sign an MOU, refuses
10
         to cooperate, to coordinate on traffic issues,
         how does that work? How does that affect the
11
12
         Project?
13
         I think it's a lost opportunity by the
14
         community. And I believe that the Applicant
15
         would continue to try to negotiate an MOU with
16
         them, and will also be trying -- will try to
17
         work with local businesses and property owners
18
         along the route as well.
19
                   MR. WAY:
                              Thank you.
20
                   MR. OLDENBURG: Okay. I guess it's
21
         back to me.
22
    BY MR. OLDENBURG:
23
         So, out of your report also there's a statement
24
         that "the Project is consistent with the goals
```

[WITNESS: Varney]

```
1
         and strategies of local, regional, and state
         plans, and will not interfere with their
 2
 3
         implementation." That's correct?
 4
    Α
         Yes.
 5
         So, I wanted to talk about a state plan, a
 6
         state plan I know probably better than most.
 7
         But, first, before I go into that, this is a
         cover of the Utility Accommodation Manual that
 8
         we've heard a lot of testimony about,
 9
10
         exceptions to this manual and that. Do you
11
         know what this manual is for?
12
              So, let me -- if I were to tell you that,
13
         because a utility can be in the state
14
         right-of-way by federal law, that each state is
15
         required by federal law to have a manual and
16
         policies and procedures governing the utility's
17
         occupancy of that right-of-way.
18
         Yes. That's my understanding.
19
         This is the manual, okay. Do you know what it
    Q
20
         means when a "utility is in the state's
21
         right-of-way by sufferance"?
22
    Α
         No.
23
         Okay. So, on the top of this slide is the
24
         definition out of that Utility Accommodation
```

for what "sufferance" means. "For the purposes

herein, the term is meant to indicate that a

utility has no real property interest in the

right-of-way, fee or easement, and merely uses

5 and occupies the public right-of-way subject to

6 the terms and conditions of this manual and

7 state law." You see that?

- 8 A Yes.
- 9 Q And the second part of this slide is the terms
- or the conditions in which sufferance is
- determined. So, in number 1(a), "does the
- 12 utility have a valid right-of-way either by
- easement or fee?" Can you tell me whether
- Northern Pass has an easement or fee
- right-of-way in the underground section?
- 16 A This was not the scope of my --
- 17 Q Okay.
- 18 A -- my review and analysis. It's not within the
- 19 scope.
- 20 Q Okay.
- 21 A Sorry.
- 22 Q So, I would infer that they do not, and are not
- 23 trying to acquire a fee or easement, you know,
- or an easement from the state. So that (b) is

38

```
1
         also they "don't have any easement rights".
              So, I draw your attention to number 2.
 2
 3
         "When the utility facility is occupying the
 4
         state's right-of-way by sufferance, common law
 5
         places the obligation of costs associated with
         the installation, alterations, relocations,
 6
 7
         and/or protections on the utility owner."
              So, basically, just like a utility pole,
 8
9
         or anything else, if it's in the right-of-way
10
         by sufferance, and the DOT has a project, and
11
         requires that utility to be moved, the utility
12
         has to move, correct? And it's at their own
13
                There's no cost to the state for that
14
         relocation?
15
    Α
         Yes.
16
    Q
         Reading that, you could understand --
17
         Yes.
               And my understanding is that the
18
         Applicant has reviewed this and has a clear
19
         understanding of their obligations.
20
         Okay. So, do you know what the -- and we've
21
         heard it, so do you know what the cost, the
22
         total cost of the Northern Pass Project is?
23
         Like we've heard "$1.5 billion". Does that
```

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sound right from what you've heard?

24

[WITNESS: Varney]

```
1
    Α
         Yes, I can't recall off the top of my head.
 2
    Q
         Okay.
3
                   MR. OLDENBURG: 1.6 billion? 1.6
 4
         billion, okay. What's a few hundred million
 5
         between friends.
    BY MR. OLDENBURG:
 6
 7
         So, do you know what that cost would be per
 8
         foot?
9
    Α
         No.
10
         So, I did the math. The lawyers do math and
    Q
11
         everybody chuckles. And the engineer does the
12
         math and everybody rolls their eyes. I'm so
13
         sorry.
14
              So, let's assume that everything is equal.
15
         That the overhead line costs the same as the
16
         underground line of the HDD, it's all equal.
17
         So, $1.6 billion divided by 192 miles, is it?
         Works out to be 100 -- or, $1,500 per foot,
18
19
         just for grins.
20
              Now, if they had to relocate, if they had
21
         to move a portion, would it be reasonable to
22
         assume they're not going to relocate ten feet,
23
         just because -- that it's reasonable to assume
24
         that they would go for the underground sections
```

[WITNESS: Varney]

```
1
         like the splice vault -- splice box, a splice
               And I don't know, but just assume that
 2
         box?
 3
         that would be the case that --
 4
         Yes, I'm not sure.
    Α
 5
    Q
         Okay.
 6
         I think that that might be a good question for
 7
         the construction panel when they return.
         So, I should have probably started, this is
 8
    Q
9
         going to be the longest set-up question in the
10
         history of the SEC probably. But it's going to
11
         take me a while to get there, but I swear I'm
12
         going to get there.
13
              So, just for grins, say that if, for some
14
         reason, a section of the line had to be
15
         replaced, that it would be from splice box to
16
         splice box, and that, in previous testimony,
17
         that's been about 2,000 feet between splice
18
         boxes. So, if you did the math, 2,000 feet
19
         times $1,500 dollars a foot, would place a
20
         relocation cost of at least $3 million. That's
21
         based upon what the construction cost is.
22
         it's a big dollar amount if they were to
23
         replace, had to move a section of this line,
24
                 That's not -- it's not like you're
         right?
```

[WITNESS: Varney]

```
1
         moving a distribution line, it's big money.
 2
    Α
         (Nodding in the affirmative).
 3
         So, let's assume, for the reason of the
    Q
 4
         question is, that it's going to cost 2 million,
 5
         3 million, $5 million to relocate a section of
 6
         line five years after it's in place. If the
 7
         DOT came about and said "I have to put a stop
         sign on this road and the line's in the way."
 8
         Is it reasonable to assume that Northern Pass
9
10
         is going to move their line for the
11
         installation of that stop sign?
12
         I don't know.
    Α
13
         I wouldn't think so, right?
14
    Α
         Yes.
15
         They're not going to move a $3 million line for
16
         a $500 sign, I wouldn't imagine. They might
17
         gripe about that?
         I'm sure it would -- first of all, hopefully
18
19
         many of these questions would be addressed up
20
         front in the engineering, design, and review in
21
         partnership with New Hampshire DOT. And there
22
         usually are options to solve a problem. And,
23
         so, I -- but this wasn't within the scope of
24
         my -- of my review.
```

[WITNESS: Varney]

```
1
    Q
         But orderly -- what my questions will
         eventually get to is the orderly development
 2
 3
         and the cost, the future cost of the line to
         the state and to the citizens.
 4
 5
         And there may be more -- if there were a need
 6
         to relocate something, there would be more
 7
         construction jobs associated with that as well.
         Right. So, you don't know whether or not they
 8
    Q
9
         would relocate the line for a stop sign. So,
10
         if they had to redo say the signal pole in
11
         downtown Woodstock and move it, and the line
12
         was in the way, that might be questionable,
13
         too. You have a $100,000 signal pole and
14
         you're going to replace a $3 million Northern
15
         Pass line, I don't know if that makes sense
16
         either. So, the idea is probably the State
17
         would have to move that pole to a different
18
         location to avoid the line. Does that sound
19
         reasonable?
20
         I think the existence of any utility lines is a
21
         factor to be considered with any project along
22
         the route.
23
         Okay. So, if it gets more complicated than
24
         this, say there's a bridge that has to be
```

[WITNESS: Varney]

```
1
         rebuilt, and the line is under the existing
 2
         bridge, and could that be a reasonable
 3
         justification for having to move the line?
         Again, I don't know. It would force me to
 4
    Α
 5
         speculate, and I can't do that.
 6
         Okay. So, one of the plans that you reviewed
    Q
 7
         was Number 7, the "New Hampshire Ten-Year
         Transportation Improvement Plan". This is the
 8
9
         cover of the current plan, it's actually two
10
         years older than the one you reviewed, because
         at the time the 2015 to 2024 Plan was enacted.
11
12
         They're currently working on the 2019-2028
13
         Plan, because this is, as the plan shows, this
14
         is a required plan by state law, it's approved
15
         by the Legislature, signed into law by the
16
         Governor, and is required to be updated every
17
         two years. So, when you reviewed the Ten-Year
18
         Plan, you probably saw something like this.
         This is the very first project in it. And it's
19
20
         basically a listing of all projects,
         construction projects and construction programs
21
         that the DOT does, correct?
22
23
               And I was involved in the ten-year
    Α
         Yes.
24
         planning process when I was in regional
```

1 planning --Excellent. 2 Q 3 Α -- as well. 4 Excellent. So, each of these, let me just sort Q 5 of summarize, so, each of these, this project is in Allenstown, as it says. It's on Route 6 7 28. And it's a bridge rehabilitation project. It shows sort of an initial scope of what that 8 9 project will entail, because it's not going to 10 be designed -- started a design, so we really 11 don't know what it is, but the bridge, as it 12 shows, is on the Red List. So, the bridge has 13 issues. So, something is going to be done on 14 that bridge. 15 Also shown on here is the estimated 16 engineering costs, any potential right-of-way 17 costs, and then a construction cost. So, 18 there's a budget associated with this. So, is 19 this -- this is typical of what you saw when 20 you reviewed the plan for each project, 21 correct? 22 Yes. 23 So, one of the things that the plan is required

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for is to be transparent, so people know what

24

[WITNESS: Varney]

```
1
         projects are being done. And the other thing
         is to estimate funding needs. Correct?
 2
 3
    Α
         Correct.
 4
         Okay. So, you've been in state government.
    Q
         The bucket of money is not limitless, and that
 5
 6
         the ten-year plan is also a budgeting tool.
 7
         So, the DOT gets a certain amount of money from
         federal gas tax, from state gas tax, from other
 8
 9
         sources, and that is limited. So, the number
10
         of projects that we do is limited by the number
11
         of dollars we get, correct? That's basically
12
         how all state government works.
13
         Yes. And I would note that the ten-year plan
14
         is -- has some changes every two years as well.
15
         Correct.
    Q
16
         And, so, there may be projects in the ten-year
17
         plan in the outer years that drop off the plan.
18
         There may be others added. And I reviewed the
19
         plan, reviewed projects that were located in
20
         project communities, and took note of them. I,
21
         when considering them, felt that they -- the
22
         Project would not interfere with their
23
         implementation, with the obvious understanding
24
         that, for any areas where the Project is in the
```

[WITNESS: Varney]

1 vicinity of these projects, there will need to be consideration and coordination, and some 2 3 forward thinking on the part of the DOT that has these projects in its plan, and, on the 4 5 part of the Applicant, in its consideration of 6 its project, as it may or may not relate to 7 that, projects in that plan. All right. So, you've reviewed the roadway 8 Q 9 projects that are in the underground section 10 and the bridge projects that are in the plan in 11 the underground section? 12 I believe I went beyond that. I think I 13 reviewed every project that was in a project 14 community. Every project in the ten-year plan 15 that was included in a host community, even if 16 it wasn't along the proposed route. 17 So, on your screen now is a section of a plan 18 that was part of the Application. This plan 19 shows an HDD drilling site under the

So, on your screen now is a section of a plan that was part of the Application. This plan shows an HDD drilling site under the Connecticut River at the Clarksville/Pittsburg town line. So, you see where the directional drilling goes underneath the river, and, on the accompanying sheet, it would come out the other side. It goes under the river. Can you see

20

21

22

23

24

## [WITNESS: Varney]

```
1
         the bridge in this plan?
                                    It's not shown.
 2
    Α
         Yes, I don't see it.
 3
         So, there's no foundation for the bridge either
    Q
         shown, correct?
 4
 5
         (No verbal response).
 6
         So, you can't tell from this plan whether or
 7
         not that HDD drilling actually hits or impacts
         or is close to the foundations of the existing
 8
9
         bridge?
10
         No.
    Α
11
         From the information we have?
12
         Yes. right. I assume that will be addressed in
13
         the final design.
14
         I just asked this, because these are the latest
15
         plans and the only plans that we've seen.
16
    Α
         Okay.
17
         And they don't show it. So, when Ms. Widell
18
         was up, she had this Historic Resource
19
         Assessment Form for this bridge. And this is a
20
         copy of that assessment. And I would just
21
         point out that, right in the center right here,
22
         it states that "the bridge was built in 1931."
23
         Do you know what the average life of a bridge
```

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is in New Hampshire?

24

[WITNESS: Varney]

```
1
    Α
         No.
 2
         Do you know what the life expectancy of the
    Q
3
         Northern Pass line is anticipated to be? How
         long it will be functioning?
 4
 5
         A very long time.
 6
         So, if we said "50 years", would that be a
    Q
 7
         reasonable assumption to say --
 8
    Α
         Yes.
         -- "at least 50 years"?
9
10
         Yes.
    Α
11
         So, the odds are pretty good that this bridge,
12
         something will have to be done with this bridge
13
         in the next 50 years, because that would place
14
         it at over 120 years old. I will just tell you
15
         that there's not many 120 year-old bridges
16
         still in service in New Hampshire.
17
    Α
         Right.
18
    Q
         So, this slide just shows some of the
19
         components of a bridge. And I really wanted to
20
         talk about the ones that are underneath that
         you don't see, like the pier, the foundations,
21
22
         and the abutments. So, it's a typical bridge.
23
    Α
         Yes.
24
         The components of a typical bridge that you
```

[WITNESS: Varney]

don't see. And when a designer designs a bridge, there's different options. You had talked about that. There's different options available to avoid impacts to the line.

I know you might not have firsthand knowledge of this, but would it be fair to assume that all these designs cost different?

That there would be a different cost involved?

A Yes.

- And that, when a designer, unlike what people think, is the first thing that they do is design for safety, and then cost-effectiveness.

  They don't want to spend more money than they have to to build a design. So that they would pick a foundation design that is the most cost-effective. Does that make sense?
- 17 A Most of the time, yes.
- 18 Q Okay.
- 19 A I've seen instances in which there were other
  20 considerations. But, yes. That is one of the
  21 overriding factors.
  - Q So, what if the most cost-efficient design couldn't be used because it would impact the underground transmission line, and it cost more

[WITNESS: Varney]

1 money?

A And this is an example of an issue that the New Hampshire DOT will be looking at with the Applicant. And this would be part of the review, and would be a consideration as they reviewed this.

The DOT knows the status of the bridge.

They know when they are likely to need to replace it. And I'm sure that they will be -- I would be very surprised if they did not -- and disappointed if they did not consider the replacement of the bridge as they were discussing this crossing technique with the Applicant.

- Q Well, I guess one of the -- one of the questions I would have is this bridge was built in 1930. What do you think the records are, from 1930, of how that bridge was constructed? How deep the piles went into the ground? Does that information even exist?
- A Yes.
- Q That's some of the questions. So, we won't -we won't know them all, I would assume, but -so, with this HDD drilling, and let me go back

## [WITNESS: Varney]

1 to the picture, that's the assumed location of 2 where they would like to place it. And you've 3 testified that you know a little bit about what 4 the construction technique is. And they say they can "steer" this drill bit. So, it will 5 6 be close to this location. If you hit a rock, 7 it might go astray, do this, that. So, typically, this would be shown as a proximate 8 location? 9 10 Correct. Α 11 So, the design in the future would have to 12 assume a location that may not be exactly 13 known, correct? 14 Yes. Again, that would be a consideration in 15 the final design. 16 Q Okay. So, that's one bridge. So, what I did 17 is this is a summary of all the bridges that 18 are in the underground section in the Town of 19 Campton. You can see up here where it says 20 "Town of Campton", correct? 21 Α Yes. 22 And, basically, I tried my best to compile all 23 the bridges in the underground section by town. 24 And what I'd point out is the red circles off

[WITNESS: Varney]

```
1
         to the side. That represents, you'll see up in
         the top, the "year built" and "rebuilt". So,
 2
 3
         you'll see all three bridges that you're going
 4
         to go over or under with the line, in Campton,
 5
         were built in 1927, 1935, 1934. So, that's
 6
         comparable to the Clarksville-Pittsburg bridge?
 7
         Yes. And these are all crossings of --
    Α
 8
         Water?
    Q
         -- of brooks.
9
10
         Right. So, it's the same --
    Q
11
         Not a major river, but a brook.
12
         The same type of issue, though. You're going
13
         to have the same type of construction, same
14
         concerns with the line being in the way. So,
15
         we go into Easton. And there is a dozen or so
16
         bridges. And you'll see that five of them are
17
         older than 1950. That's what I circled. They
18
         had to be older than 1950. That places them at
19
         almost 70 years old. Again, life expectancy of
20
         the project, 50 years. That's 120 years before
21
         the -- we assume that the Project won't be a
22
         concern anymore, but it might be.
23
              And, in Franconia and Plymouth, you see in
24
         Franconia, there's six bridges.
                                          Three of them
```

[WITNESS: Varney]

are older than that. And, in Plymouth, there's three bridges, and there's one, the truss bridge in front of The Common Man. Sugar Hill has one bridge.

In Thornton, none of the bridges are older than that. And, then, in Woodstock, one of the things I would point out is, I'm not sure what happened in Woodstock, but they had a massive rebuilding project, because almost all their bridges were rebuilt in the '80s or '90s. So, that only leaves one bridge.

So, the long and the short of that is, there's 39 bridges, about, in the underground section, and 14 of them are 70 years old or older. So, within the life of the Project, that same issue of avoiding the line, additional cost incurred, potentially cost incurred to avoid the line due to design changes, and that is a real potential, correct? Yes. Again, you're speaking to the need for the Project to continue its discussions with New Hampshire DOT on the final design of the Project, and try to incorporate any issues like this, and consider these issues, as you look

[WITNESS: Varney]

```
1
         forward.
                   And I have every confidence that the
         staff at New Hampshire DOT that are involved
 2
 3
         with crossings of brooks and streams, and, in a
         few cases, rivers, that they will coordinate
 4
 5
         with the Project engineers and come up with a
 6
         solution that leaves as many options as
 7
         possible going forward, and tries to ensure
         that long range planning is taken into account
 8
9
         as the Project construction is carried out.
10
         But the further you go into the future, that
    Q
11
         crystal ball gets a little fuzzy, doesn't it?
12
         Yes, it does. But, again, I think this is a
13
         question for the Construction panel, because I
14
         haven't been involved in their ongoing,
15
         frequent work sessions with the DOT.
16
    Q
         So, I won't belabor that point. But, since you
17
         left as DES Commissioner, there's been new
18
         stream crossing rules implemented by DES.
19
    Α
         Yes.
20
         So, some of these culverts, if we replace those
21
         culverts, would now be bridges. So, some of
22
         these bridges that are shown as a certain size
23
         today, no one knows in the future how long, how
24
         deep, what size those bridges will be.
                                                  So,
```

[WITNESS: Varney]

```
1 anticipating that is difficult.
```

A (Nodding in the affirmative).

constructed?

- Isn't there a risk also by the contractor that
  that risk will be passed on in a higher bid
  price to the DOT, when those bridges are
- 7 A I don't know. I think that's a good question 8 for the Construction panel.
- All right. Because I would just point out 9 10 that, I don't know if you saw this in the news, 11 but this is an article from CNN about the power 12 outage in the Outer Banks, in North Carolina. 13 And that was a bridge contractor who put a 14 bridge pile through an underground transmission 15 line. I don't know if the contractor of the 16 state understood the risk. But I'm sure they do now, wouldn't you agree? 17
- 18 A Yes.

2

6

19 Q This is a picture of I-93 -- or, 393, in
20 Concord, over Portsmouth Street. I think
21 you've heard a couple questions about this.
22 And one of the things that was stated is "the
23 DOT is requiring the Northern Pass to use extra
24 tall towers in this area." "165 feet" was

## [WITNESS: Varney]

```
1
         mentioned. Do you know why the DOT would
 2
         require that?
 3
    Α
         I haven't spoken with them directly about it.
         I believe I heard some reference to use of --
 4
 5
         potential use of cranes at some point in the
 6
         future. Again, thinking long range, thinking
 7
         ahead, to try to address those long range
         questions now, in the final design of the
 8
9
         Project.
10
         Correct. So, at some point in the future,
11
         those bridges will have to be maybe replaced,
12
         rehabilitated, maybe widened. And the way you
13
         do that, to put the steel in place, is you use
14
         cranes. And, if those towers aren't tall
15
         enough, you won't be able to use cranes,
16
         correct?
17
         Again, I haven't looked at that, that issue
18
         from the standpoint of construction. But, yes.
19
         My understanding is that use of cranes may, in
20
         some instances, require higher -- taller
21
         structures or higher conductors to provide
22
         clearances.
23
         So, if they don't use cranes, they use some
24
         other technique, the reason why they use cranes
```

[WITNESS: Varney]

```
1
         is it's the most cost-effective method of
 2
         lifting the steel. So, if they don't, it's
 3
         going to cost the state more money to widen,
 4
         rehabilitate, or replace this bridge, correct?
 5
    Α
         Uh-huh.
 6
         Because of the lines overhead --
    Q
 7
         Potentially, yes.
    Α
         All right. So, I guess the whole point of this
 8
    Q
9
         line of questioning, as I said, the longest
10
         lead-up to questions is, --
11
         That's okay.
12
         -- so, there's 14 bridges, there's this bridge,
13
         these towers, there's going to be an additional
14
         cost just because the line exists for future
15
         construction. Wouldn't you agree?
16
    Α
         I don't know that. There are -- my
17
         understanding is that there are ongoing
18
         discussions between the Project engineers and
         the New Hampshire DOT. They're considering
19
20
         various options. And I am not aware of any
21
         final decisions with respect to that crossing.
22
         All right. So, I guess my question was more in
23
         general, that the sheer presence of the line,
24
         and the need to avoid impacts to the line in
```

the future, because the cost to relocate is so high, that that cost is going to be borne by others. So, in the case of the DOT, if it costs you \$100,000 more to avoid the line, that \$100,000 is passed on to the citizens, and \$100,000 isn't spent somewhere else in the state.

If, say, the Profile School, up in

Franconia, wanted to add a turn lane, and the

line was in the way, are they going to have to

spend more money to do an alternative design to

avoid the line, costing the citizens more

money, you know, to avoid the line, instead of

relocating it?

And, you know, I've just -- I guess that's my question is, just the sheer presence of the line, and the avoidance of having to make it relocate, do some of these things, it's going to cost the citizens of the state and the communities, potentially, money?

With respect to the DOT, the Project has an ongoing dialogue with the DOT to work through these issues, and take them into account in the final design. And in working with local

[WITNESS: Varney]

property owners and local communities, to try
to identify any potential issues, and have some
advance planning.

But, at the same time, there are rights to build the Project, staying within the existing corridor is a sound land use practice. And, if there is some need to address a specific segment, and there's a better solution, I'm sure everyone would want to seriously consider that — that solution to a specific site problem.

Q Uh-huh.

Part of think that we can anticipate every potential future use in New Hampshire. The New Hampshire DOT's roads, that they maintain and restore and at times expand, are affected by private property use throughout the State of New Hampshire. Increased traffic, increased truck activity, increased uses affect their future costs and affect -- and may, in some instances, raise questions in the future that DOT hadn't considered when it improved a section of roadway.

{SEC 2015-06} [Day 40/Morning Session ONLY] {09-26-17}

So, it's very hard to speculate about all

1 of those issues. And the best that we can do 2 is to make sure that there is an ongoing 3 dialogue between the Applicant and the DOT, to 4 try to reasonably foresee any future issues, 5 and to factor those, that information that we 6 know about, or is likely to occur at some point 7 in the future, into the -- into the final design and into the final decision that DOT is 8 9 making on the Project. 10 Okay. So, I say this with a wink and a grin. Q 11 It's been testified by, I think, Mr. Quinlan 12 and Mr. Bowes about, if a business potentially 13 loses money due to the Project, that they could 14 ask for reimbursement. Does that apply to 15 State agencies as well? 16 Α I do know that the Project certainly 17 understands its responsibilities with respect 18 to the Project and with respect to the New 19 Hampshire DOT. There's also, as you know, a ForwardNH Fund, which is \$20 million per year, 20 21 but am I -- is it 20 million or -- it's 10 22 million. 23 Yes, that's --24 I'm sorry, I'm correcting myself. It's \$10

[WITNESS: Varney]

million per year for twenty years. And, so -and, in addition to that, obviously, we have
sixteen miles of transmission lines that
already exist in this state. And I have rarely
heard of them as being a significant problem
with respect to state DOT.

- Q Okay. I'm going to move on and talk about some of the master plan discussions that you had.
- A Sure.

And this is going to be really brief. And I think this was Counsel for the Public's exhibit, where you discussed, and these are your notes from the City of Franklin, your planning meeting notes, and the discussion of the Master Plan.

Did you, when you talked about the Master
Plan, one thing I noticed, and I have a series
of them, I'm not going to go through them just
to save time, is, when you talked to these
communities about their master plans,
basically, this one says "updates to the Master
Plan were put on hold." But there was no
identification of how old the plan was, and
what updates have been made or completed since

[WITNESS: Varney]

the initial plan. So, and it seemed to be a reoccurring theme with the notes. You mentioned the master plan, but there was no, in a couple of them, let me just scroll through.

This one, Deerfield was one where you did. So, there's a 2008 Master Plan, and then it talked about changes or implementations that have occurred as a result of the Master Plan.

But I didn't get that with all of them.

And did you ask those questions? So, you

asked -- and it says what the current Master

Plan is and whether it's current, but what was

done?

A Yes. I reviewed each adopted master plan, legally adopted master plan, in each community, in detail, and prepared a summary of that plan, with its goals and objectives and recommendations.

During the meetings with the planners, we asked if there were any updates to the plans that were anticipated in the near future that we needed to track or be aware of. And we learned that there were some in the works. And in the supplemental testimony that I provided,

there was an update to some of the plans that were in the process of being updated. In some cases, they would update a single chapter, and in other cases there may be an effort to revise the entire plan in a one or two-year period.

So, we identified the existing plans that were adopted. We asked for information about any plans that may be -- may be in the process of being updated, what was being updated, and then tracked those communities on their website, and updated our document as any new information, pertinent information became available.

Q Okay. So, you tracked what the current approved plan is, and then changes that might affect land use in subsequent years, even if it wasn't rewritten. So, if you had a 2008 master plan, and they rezoned an area in 2010, you knew about that. If they, say, added to the school in 2012, you knew about that. And, so, all these things that would affect land use -
A If there were items that were included in the master plan, we would be aware of it. But we tracked the master plan, because they are --

1 while most of them would stay the same, there 2 may be some that were being updated, and the 3 same with zoning ordinances. So, we produced a working draft. And the reason it was called a 4 5 "working draft" is because they're subject to 6 updates over time. 7 Okay. So, if you used the current plan, how 8 did you -- I guess I just want to make sure 9 that you captured the changes, whether or not 10 they're in the master plan, because the master 11 plan is a vision, correct? 12 Yes. Α 13 And it says "Boy, it would be nice to promote 14 commercial development if we put in a water 15 line", and that might have been the wish in 16 2008. But what if it was put in in 2010, did 17 you ask those questions and track that? 18 Because, potentially, that water line would then induce -- could induce a change in land 19 20 use, correct? 21 When we -- when we met in these meetings, 22 we included maps of the Project route, and 23 asked if there were any anticipated -- any 24 significant anticipated changes along the route

[WITNESS: Varney]

```
1
         in the near future. I recall, for the
         Merrimack Valley Reliability Project, for
 2
 3
         example, there was an area in Pelham that
 4
         was -- they were hoping to develop for
 5
         industrial use.
 6
         Uh-huh.
 7
    Α
         And, so, we factored that into the
 8
         consideration in our review of the project.
9
         So, there was an effort made to not only review
10
         the legally adopted plans, but to also keep
11
         track of changes that were occurring in any
12
         communities along the route, and to
13
         periodically update our information. And it's
14
         addressed in the supplemental prefiled
15
         testimony.
16
                    MR. OLDENBURG: Okay. I'm good.
17
         That's all the questions I have.
18
                    CHAIRMAN HONIGBERG: Who has a
19
         short --
                    DIR. WRIGHT:
20
                                  I do.
21
                    CHAIRMAN HONIGBERG: Mr. Wright.
22
                    DIR. WRIGHT: Good morning, Mr.
23
         Varney.
24
                    WITNESS VARNEY:
                                     Good morning.
```

[WITNESS: Varney]

```
1
                   DIR. WRIGHT:
                                  Craig Wright, with
 2
         Department of Environmental Services.
    BY DIR. WRIGHT:
 3
         I wanted to just start off with a very broad
 4
    Q
 5
         question. In reaching your conclusions, you
 6
         reviewed and considered the testimony and
 7
         findings of Mr. Chalmers, Dr. Shapiro, Ms.
 8
         Frayer, and Mr. Nichols. Is that accurate?
9
    Α
         Yes.
10
         If we subsequently find or disagree with the
    Q
11
         findings in any one of those reports, how does
12
         that impact your findings?
13
         It would depend on the nature of the change,
14
         and whether or not that change was a
15
         substantial change, and would suggest that it
16
         was no longer using -- using taxes as an
17
         example, there are substantial tax benefits
18
         associated with the Project. If that went up
19
         or down to a certain degree, there would still
20
         likely be substantial amount of local property
21
         taxes associated with the Project.
22
         Okay.
23
         And it wouldn't affect the decision.
24
                I guess I'm just kind of considering the
         Okay.
```

[WITNESS: Varney]

```
old three-legged stool analogy.
```

2 A Right.

11

17

18

19

- 3 Q If one of those legs is removed, does the
  4 entire stool fall down?
- 5 A Understood. And I reviewed the prefiled
  6 testimony, reports, supplemental testimony,
  7 supplemental reports, if provided, throughout
  8 this process. And I felt that they were -9 they were high-quality reports, and were a
  10 sound basis for my conclusions in their areas
- 12 Q Did you also read the reports filed by the
  13 experts for Counsel for the Public in those
  14 general areas as well?
- 15 A Yes, I did. Not recently, but back when they
  16 were first filed, yes.
  - Q Okay. In your prefiled testimony, you noted that "the operation of the line will not place any new demands on local or regional services".
- What do you mean by "local or regional
- 21 services" in that statement?

of expertise.

- 22 A A transmission line provides, obviously, it
- provides substantial benefits to the community
- in the form of local property taxes and jobs,

[WITNESS: Varney]

energy, all the things that have been mentioned. And, with respect to costs in the community, for public services, there — if you consider it in comparison to other forms of development, for example, a subdivision could be allowed in a residential zone in a community, they may place additional burdens on the community, for education of students in the school system, for police and fire protection, and a whole range of other issues, even perhaps a need for a road-widening due to increased traffic.

So, in considering the use that's proposed under this Project, within an existing corridor, there is a substantial increase in taxable property to the community, but very few demands for services that would be associated with that use.

You mentioned three of them that I wanted to cover, police, fire, and emergency services.

We know that there's going to be a new converter station in Franklin, a significantly expanded substation in Deerfield. Will those communities require any special training, in

1 terms of responding to emergency situations at 2 those facilities? 3 Α I'm not aware of any. But I would say that, if there was any training, that they would, 4 5 obviously, provide it. But I don't know the 6 answer. 7 Okay. Would the Applicant help cover the costs 8 of that special training, if it were needed? I'm sure they would. 9 10 Okay. What about during construction? Will Q 11 there be a need for police at construction 12 sites along the way? I can admit, I've lived 13

there be a need for police at construction
sites along the way? I can admit, I've lived
in New Hampshire my entire life, and I'm never
quite sure, when I come to a construction zone,
whether it's just going to be a flagger, or
whether there's going to be a state trooper or
a local officer there or not. Would that be
covered by, if those costs were incurred by a
city or town, would that be covered by the
Applicant?

14

15

16

17

18

19

20

21

22

23

24

A I believe, if they were associated with the Project, yes.

Q Okay. A number of times you've mentioned the use of the existing right-of-way, and I believe

[WITNESS: Varney]

1 something like over 80 percent of this Project 2 will be in an existing right-of-way. I know 3 one of the municipal attorneys went down this road the other -- last week with you at this 4 5 point, but I did want to follow up on that a 6 little bit. 7 Would you agree that this Project results in significant changes within the existing 8 9 right-of-way? 10 No. Α 11 You don't? You don't feel that relocating an 12 existing 115 line, raising the height of that 13 line, putting in a new line with even taller 14 structures, replacing wooden H-frame with 15 either monopoles or lattice towers is not a 16 significant change? 17 To the extent that it's already a transmission 18 corridor, there would be an incremental 19 increase in structure heights, just as there 20 was in the Merrimack Valley Project. And, so, 21 there would be very limited change. The uses 22 is the same. And there would be more

{SEC 2015-06} [Day 40/Morning Session ONLY] {09-26-17}

structures. And there would be some

incremental increase in the height of

23

24

1 structures within the corridor.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Okay.

Q Is there an intensity impact to the development of the utility corridor? I mean, are you suggesting that we can continue to develop within the utility corridor and never have an impact, either on land use or on orderly development around the corridor?

71

The intent is to try to use these corridors Α efficiently, and to -- and to minimize effects on the environment and on the land uses along the route. And, by staying within a corridor, you, in a general sense, you are helping to minimize impacts in the community. You're not -- you're not introducing a new corridor in an area where an existing corridor already exists. If we were to be sitting here today, and suggesting that we're going to create a new corridor through one of the southern communities in the -- along the route, the first question would be "Why didn't you locate this within the existing corridor, so you're not introducing a new use in an area where it doesn't currently exist?"

{SEC 2015-06} [Day 40/Morning Session ONLY] {09-26-17}

I'm just, again, I'm just trying to

think of, --1 2 Α Sure. 3 -- do you get to a point where you reach the point where you do start to impact either land 4 5 use -- could you somehow restrict further 6 development, further residential development 7 along the corridor, by clearing buffer zones or things along those lines? 8 The Project is only clearing within their 9 10 existing right-of-way. And the residential 11 uses that are along the right-of-way may want 12 to retain buffer on their land, with the 13 knowledge that that's -- there's an existing 14 easement in place. And, so, they would -- I can't see any instances of where a transmission 15 16 line has prevented residential development. Ιn 17 fact, in my review of several transmission 18 projects, I've seen many expensive homes 19 constructed in proximity to existing 20 transmission corridors. 21 Okay. I'll shift gears a little bit and talk a 22 little bit about the new right-of-way up in the 23 northern part of the state. And Attorney

{SEC 2015-06} [Day 40/Morning Session ONLY] {09-26-17}

Reimers raised this issue last week also, and

24

```
1
         that's potential impacts to remote trout ponds.
 2
         I'm just curious, is that something that you
 3
         considered in looking at your analysis and
 4
         potential impacts on those types of resources?
 5
         Yes. We did. And, in the written description
 6
         that wasn't fully presented in that
 7
         cross-examination, we described uses that are
         along that corridor. And we also pointed out
 8
9
         where there were potential crossings of ATV
10
         trails and snowmobile trails in those areas.
11
         And it was referenced in Nathan Pond, but what
12
         wasn't mentioned is the Nathan Pond "Ride the
13
         Wilds ATV Trail", and that's the name of it.
14
         And there's extensive ATV use in these areas,
15
         along with snowmobile use. And the line is
16
         located -- the line does cross some of these
17
         trails, but I don't see any adverse effect on
18
         fishermen who are in these ponds that are
19
         stocked by Fish & Game, and in areas that have
20
         ATV trail use during one part of the season and
         snowmobile use in the other part of the season.
21
22
         Focusing in a little bit on the remote trout
23
         ponds. I understand Fish & Game operates
24
         something like 48 -- or, they stock 48 of these
```

[WITNESS: Varney]

```
1
         ponds.
                 What type of setting do you think Fish
         & Game is shooting for in managing these things
 2
 3
         as remote?
 4
         I think they extend from the Lake Sunapee area,
    Α
 5
         all the way to Pittsburg. They tend to be
 6
         locations that would support a remote stout --
 7
         a trout stocking program. And I'm very
         familiar with them, because New Hampshire
 8
 9
         DOT -- I'm sorry, New Hampshire DES sometimes
10
         accompanied them when they were conducting
11
         their stockings, and DES was collecting water
12
         quality samples for these remote ponds that
13
         were being affected by acid rain and regional
14
         air pollution.
15
              So, I did consider their existence, along
16
         with all of the forestry uses and recreational
17
         -- other recreational uses in that sparsely
18
         populated area.
19
         In Mr. DeWan's report, he identified in
20
         Millsfield, and I just quickly picked up on
21
         these two ponds, Long Pond and --
22
                         [Court reporter interruption.]
23
    BY DIR. WRIGHT:
24
         -- Long Pond and Bragg Pond. And, in
```

[WITNESS: Varney]

1 Mr. DeWan's report, he identifies those resources as being 0.4 and 0.6 miles away from 2 3 the transmission line. And, in his April 2017 Supplemental Report, he notes that the lines 4 5 would be visible from those two particular 6 ponds. Is that something that you considered 7 in your analysis? Yes. 8 Α Do you -- has there been any discussions with 9 10 Fish & Game, if those lines were visible, would 11 they no longer be considered "remote"? 12 I don't believe that the designation of Fish & 13 Game's pond for trout stocking is a directive 14 on how private property owners use their land. 15 It relates to the use of the waters there. 16 And, as you said, and as in this report, the 17 Normandeau Report, Bragg Pond is about 1,760 18 feet west of the right-of-way. It's a 19 considerable distance away, with a lot of 20 mature vegetation, and in an area where there's 21 extensive -- extensive snowmobile and ATV trail 22 use. So, the judgment was made that this was 23 not a -- would not prevent fishermen from 24 continuing to fish that pond should Fish & Game

[WITNESS: Varney]

```
continue to stock it.
 1
              And the use and enjoyment issue was
 2
 3
         considered by Mr. DeWan within the context of
         the SEC rules and requirements.
 4
 5
                    DIR. WRIGHT: Okay. I think I'm all
 6
         set.
 7
                    CHAIRMAN HONIGBERG: All right. Why
         don't we take a ten-minute break.
 8
                         (Recess taken at 10:42 a.m.
 9
10
                         and the hearing resumed at
11
                         10:54 a.m.)
12
                    CHAIRMAN HONIGBERG: Commissioner
13
         Bailey.
14
                    CMSR. BAILEY: Thank you. Good
15
         morning, Mr. Varney.
16
                   WITNESS VARNEY: Good morning.
17
    BY CMSR. BAILEY:
18
    Q
         So, your analysis basically looked at the
19
         requirements of 301.09, right?
20
    Α
         Yes.
21
         And you focused on land use, because the other
22
         factors were primarily considered by other
23
         witnesses, right?
24
         Yes.
    Α
```

### [WITNESS: Varney]

```
1
    Q
         Who focused on the views of municipal and
 2
         regional planning commissions and municipal
 3
         governing bodies regarding the proposed
         facilities, that you did that, if they were
 4
 5
         expressed in writing?
 6
         Yes, from the standpoint of land use and
 7
         orderly development.
 8
         Right.
    Q
9
    Α
         Yes.
10
         I'm talking about orderly development.
11
         Yes. Yes.
12
         Okay. Did you include views that were
13
         expressed in writing in testimony from any
14
         municipal witnesses?
               I reviewed any that appeared to be
15
    Α
         Yes.
16
         related to orderly development.
17
         Well, what do you think municipal views about
    Q
18
         orderly development would say? Would cover?
19
         It would address land use, and whether or not
    Α
20
         the Project is consistent with existing land
21
         uses in the community, and whether or not it
22
         would unduly interfere with land use in the
23
         future. I reviewed the economy of the region,
24
         and employment in the region as well.
                                                 And,
```

then, of course, for your finding, you have the decommissioning plan and the views of municipal and regional planning commissions and local governing bodies.

So, I reviewed all of the information that was on the DOE docket for the Draft EIS, reviewed those comments and issues of concern that were expressed, and any basis for those concerns that they may have provided. In most cases, they did not. They were general opinions about the Project, without any specific reference to a basis for that conclusion.

And I also attended the public informational meetings, some of the open houses, and public hearings, and read transcripts for them as well, prior to finalizing my prefiled testimony.

And, then, with my supplemental testimony that I provided, I also went back and considered other information that related to these topics that had been submitted, especially with respect to the supplemental testimony and/or reports related to employment

[WITNESS: Varney]

```
1
         and the economy.
         And what about the concern for order during
 2
    Q
 3
         construction in the towns?
 4
    Α
         There, obviously, with any construction
 5
         project, there is a temporary impact associated
 6
         with the construction process. And my
 7
         experience is that those issues can be managed
         in such a way as to not cause any undue adverse
 8
         effect.
9
10
         But construction, by nature, is always
11
         temporary, and the rules do require us to
12
         consider orderly development and the views of
13
         the municipalities --
14
         Yes.
15
         -- for construction. So -- or, during
16
         construction. So, you know, one way that I
17
         would think about it would be, you know, is
18
         there a way that we can do this construction to
19
         avoid certain impacts in towns that have
20
         concerns?
         Generally speaking, yes. I agree with that.
21
22
         Or route it a different way?
23
         The projects were required -- the Project was
    Α
24
         required under NEPA to --
```

[WITNESS: Varney]

```
Under what?
 1
    Q
 2
         Under NEPA, under the Draft EIS with the DOE.
    Α
 3
         Okay.
    Q
         And that, in the federal process, they are
 4
    Α
 5
         required to consider a wide range of
 6
         alternatives. Similarly, the U.S. Forest
 7
         Service is required to consider a range of
 8
         alternatives through the White Mountain
 9
         National Forest. And the Department of
10
         Environmental Services is required to consider
11
         alternatives as well. So, there was a long
12
         list of alternatives that were considered.
13
              And, throughout the process, I believe any
14
         applicant before the SEC has been willing to
```

And, throughout the process, I believe any applicant before the SEC has been willing to consider any small -- small deviations, if there's a better solution presented in a specific area that makes sense.

- Q Well, let's take one example. When we were on the site tour in Franconia, they have to do a horizontal directional drill under the Ham Branch River there.
- 22 A Yes.

15

16

17

18

19

20

21

23 Q And it's buried in the road. And your 24 testimony was that these impacts were

[WITNESS: Varney]

```
1
         considered before you knew exactly where it was
         going to be buried?
 2
 3
    Α
         Correct.
         Okay. So, it's in the middle of the road, and
 4
    Q
 5
         they have to open this huge pit, I think it's
 6
         20 feet wide, in the middle of the road. How
 7
         is -- why didn't you, as the orderly
         development person, advise the Applicant that
 8
9
         that's going to really impact that town during
10
         construction?
11
         Because it's a temporary impact that is
12
         associated with construction of the Project.
         And this occurs with culvert work and other
13
14
         significant areas where there may be a need to
15
         manage the traffic in such a way that there may
16
         be a disruption for a certain period of time.
17
         I understand disruption with construction.
    Q
18
         And --
19
    Α
         Right.
20
         And I'm not against that. But I think that
21
         part of orderly development should be thinking
22
         about the greatest impacts. And where there's
23
         so much opposition to this Project from a lot
         of towns, --
24
```

Α

1 A Uh-huh.
2 Q -- some consideration should have been given to

say "how could we make it better?"

- And that's what I believe the Project has been trying to do. They have been trying to reach out to towns to meet with them and work through issues of concern. They have been reaching out to businesses and local property owners along the route asking to meet with them, and indicating their desire to minimize effects in the community and effects on individual business or property owners. And they're, of course, going to be developing a traffic control plan and a traffic management plan in concert with local officials, to try to come up with the best possible solution that will minimize effects on the traveling public and ensure public safety.
- Q I think, in response to a question that
  Mr. Whitley asked you about the New Hampton
  Master Plan, that he pointed out says "any new
  installations of utility lines", may be
  "transmission lines", I don't remember exactly,
  "shall be buried". And your answer was

1 something about "jurisdiction", do you remember 2 that? 3 Α No. Like "it wasn't jurisdictional"? Is it your 4 Q 5 opinion that, if a master plan says that "transmission lines should be buried", and 6 7 that's a plan of the town that we're supposed to consider, that they don't have -- that the 8 9 town doesn't have jurisdiction, but we do? 10 The master plan is a vision for the community. Α 11 It's aspirational. It's not a legally binding 12 document. There are many recommendations in 13 the master plan that may never be implemented. 14 There are many that are. There are sometimes 15 attempts to revise the zoning ordinance at the 16 local level, and sometimes those proposals for 17 amendments are turned down in the community. 18 So, the master plans do not implement 19 regulations. They don't implement or relate to 20 exercising jurisdiction over a project. 21 Wait, say that again. Because that's what I 22 really want to understand your point about

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So, the Site Evaluation Committee clearly

23

24

jurisdiction.

Yes.

[WITNESS: Varney]

1 has jurisdiction over this Project. There is a requirement for the SEC to "consider" the views 2 3 and concerns expressed by local governing bodies and local and regional planning 4 5 commissions. And that's something that the SEC 6 certainly has been doing. 7 So, under our jurisdiction, we should be 8 looking at the master plans to see what the 9 town's plan is for their individual towns, and 10 consider those and decide whether the Project 11 out weighs their plans? 12 A detailed description of each master plan 13 along the Project route, as well as the master 14 plans of abutting communities that are not 15 along the route, has been prepared and 16 submitted on the record. 17 Right. But what do we do about the plans that 18 specifically address transmission lines? 19 That's part of the testimony, which states --Α 20 and reports, which states that, generally 21 speaking, they do not speak to transmission 22 lines. And, when they do mention "transmission 23 lines", it's either mentioned as a fact of land 24 use, such as "there is 0.9 percent of land area

[WITNESS: Varney]

```
1
         in the community is occupied by a transmission
         corridor."
 2
 3
         Yes. But let's use New Hampton --
    Q
 4
    Α
         Sure.
 5
    Q
         -- as an example.
 6
    Α
         Okay.
 7
    Q
         The New Hampton Master Plan says "future
         development of transmission lines have to be
 8
         buried".
9
10
         No. That was for local distribution lines for
    Α
11
         new developments, new subdivisions. Where
12
         there is a new commercial or residential
13
         development.
14
    Q
         Only?
15
         And they ask them to bury them in those
16
         locations.
17
         Only distribution, not transmission?
    Q
         That's my understanding.
18
    Α
         Okay. So, --
19
    Q
20
         But, in any case, this is not within their
21
         jurisdiction as an SEC project. And, so, it's
22
         up to the Site Evaluation Committee to make
23
         those decisions, while considering the views
```

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expressed by communities and while considering

24

```
1
         their master plans and zoning ordinances.
 2
    Q
         Right. So, if we're acting in their stead for
 3
         consideration of this Project as a whole, in
 4
         the benefits to the state, what should we do if
 5
         we find out that the Project is inconsistent
         with the views of certain municipalities?
 6
 7
         That's for the SEC to decide. But, based on
    Α
 8
         the review that was conducted of all of those
 9
         master plans and zoning ordinances, there --
10
         other than the fact that there's a broad
11
         statement made about "protecting rural
12
         character in the community", which is in almost
13
         every town plan in the state, there were not
14
         any specific discussions about transmission
15
         lines, unless it related to the town's trail
16
         system, looking at these as a continuous
17
         vegetated corridor that was frequently used as
18
         part of the town's trail system. And,
         oftentimes, because it's a continuous linear
19
20
         corridor, enabled them to connect other trails
21
         that were not within the right-of-way within
22
         the community. And providing, as the
23
         underlying landowners allow for, other
24
         recreational uses that may be appropriate.
```

[WITNESS: Varney]

```
1
    Q
         So, what about --
 2
    Α
         And, then, in addition, in looking at some
 3
         other transmission projects that were already
 4
         constructed, our findings were that, despite
 5
         the tall structures and the size of the
 6
         Project, there were no -- no significant
 7
         statements in the plan about the existence of
         the transmission line as a challenge, a
 8
 9
         problem, or a significant planning
10
         consideration in the community. And one would
11
         think that, if it was a significant issue in
12
         the community, that the plan that was developed
13
         after the construction of the line would have
14
         raised that as a planning consideration.
15
         Don't you think that towns like Deerfield and
16
         Concord, who seem to have a lot of planning,
17
         very careful planning, are you not persuaded at
18
         all by their arguments, that even though maybe
19
         the words "transmission lines" are not in their
20
         plans, that transmission lines may have an
21
         impact on what they perceive as the orderly
22
         development of their towns?
23
         Again, consideration of their opinions was
24
         certainly taken into account. But the use of
```

WITNESS: Varney]

1 the land for electric transmission line is a 2 sound land use practice, and for many reasons, 3 which are detailed in my testimony and reports. The issues raised in most cases were concerns 4 5 about visual impact, which were addressed by a 6 visual impact expert. 7 Only from scenic resources, not from overall Q 8 planning. 9 Again, I relied on -- that was not --10 Q Okay. 11 I'm not an expert on visual impact. Although, 12 I've certainly thought about it long and hard, 13 during my tenure on the SEC and being involved 14 with various issues. And, in my opinion, there 15 is no significant effect on prevailing land 16 uses along the corridor that could be 17 attributed to a preexisting line or a future 18 line. And it's been thoroughly studied by 19 experts who have looked at property values and 20 the economy and prevailing land uses along the 21 right-of-way. 22 And the conclusion is that it -- following 23 these existing corridors has consistently been 24

considered a sound practice. That's where you

```
1
         want to place the transmission line, and --
         when one exists. And you don't want to
 2
 3
         introduce it into a new area when an existing
 4
         corridor already exists. And properties that
 5
         abut that line today are adjacent to a
         transmission corridor. And, after the Project
 6
 7
         is completed, they will still be adjacent to a
         transmission corridor.
                                  There will be taller
 8
 9
         structures, but the use will remain the same.
10
         And, in the rule that tells us how to evaluate
11
         a finding of undue interference in determining
12
         whether the facility will have -- unduly
13
         interfere with orderly development, the
         Committee shall consider "the views of
14
15
         municipal and regional planning commissions and
16
         municipal governing bodies regarding the
17
         proposed facility".
18
    Α
         Yes.
19
         So, if we have an overwhelming number of
    Q
20
         municipalities who believe that this is
21
         inconsistent with orderly development of their
22
         region, what would you do?
23
         Well, they're speaking for not the entire
    Α
24
         project, --
```

[WITNESS: Varney]

```
Q Right.
```

A -- as I have done, but rather concerns within their community. And what I've always tried to do is to listen to the basis for their concerns, and then to -- and to examine the facts that forms the basis for their opinion.

And, when the -- when I -- and listened carefully in hearings and read testimony carefully to try to identify what those issues of concern are.

They have, in the northern part of the region of the Project, there has been some concern about or perceived concern about tourism and effects of tourism -- effects on tourism. There have been concerns raised at times that they will -- there will be a significant adverse effect on property taxes. And we've had an expert examine that in great detail.

And there have been concerns about visual.

And that's been evaluated, subject to the SEC's rules that speak to this issue of use and enjoyment and visual impact, were covered by an expert in the field.

```
1
              And when the -- and, then, as it relates
 2
         to the economy, it was thoroughly studied by a
 3
         highly qualified economist, highly qualified
         tourism expert, highly qualified tax expert.
 4
 5
         And they all concluded that there was not an
 6
         unreasonable adverse effect in any of those
 7
         areas.
                   CMSR. BAILEY: Okay. Thank you.
 8
                   MR. WAY: Could I just chime in and
9
10
         follow up with a question on that?
11
                   CHAIRMAN HONIGBERG: And you can even
12
         go next, if you'd like.
13
                   MR. WAY: Not sure I was offering
14
         that.
15
    BY MR. WAY:
16
    Q
         So, on that, you know, I would say -- actually,
17
         I'm looking at my list, about 90 percent of my
18
         questions have been answered.
19
              So, I'm getting more towards a broader
20
         perspective of how we're going to handle this.
21
         It seems, you know, when we're taking into
22
         account the views of municipalities, the one
         thing I just heard you say, that they "can't
23
24
         speak on the entire Project". Sometimes that
```

```
1
         seems like a way of discounting the view of the
 2
         municipality. Am I reading that wrong?
 3
    Α
         No. I spent a great deal of time looking at
 4
         each community. Reading and summarizing their
 5
         master plans, reading and summarizing their
         zoning ordinances, trying to stay up to date on
 6
 7
         changes that were occurring. Reading the
         record of statements that were posted on the
 8
         DOE website, statements that were posted on the
9
10
         SEC website. Listening very carefully to
11
         people speaking at open houses and hearings.
12
         And, so, there was a unprecedented amount of
13
         attention, as it relates to orderly
14
         development, considering local views and
15
         concerns.
16
    Q
         And I don't -- and I'm trying to figure out
17
         exactly what my point is, but the Project as a
18
         whole, if you don't consider the Project as a
19
         whole, while you did a lot of work on those
20
         other individual pieces, they're never going to
21
         rise to a level where they'll dismiss or negate
22
         the Project as a whole. And that's the
23
         challenge that I'm having, is that we're having
24
         so much concerns that are giving -- that are
```

[WITNESS: Varney]

coming before us on a more micro level, but they're not looking at the Project as a whole. If we have job losses at a local level, that's one thing. But think of all the jobs we'll get on the whole.

And, so, that's the challenge that I'm having as we talk about all of this. Like, for example, when we were talking with

Mr. Bouthillier -- I hope I didn't butcher his name -- yesterday, and we were talking about the effects of underground construction. And we were talking about the jobs that might be lost, and they were sort of dismissal there.

But, yet, we're referring to all the jobs that will be gained. But, on the local level, we're dismissing those jobs.

And I think even you said, Mr. Varney, that, when we were talking about those 70 plus businesses in the Plymouth area, that it was speculation. And, so, I'm wondering why there's speculation on that side, but, yet, on this side "well, we've got 2,600 jobs"?

It's hard to -- I'm trying to think of what argument you could ever make that would

[WITNESS: Varney]

negate that larger picture?

A Yes. You're correct, in the sense that there have been calculations that have been done on a New England basis, a statewide basis, and there's been tax data on a local level basis about the significant tax benefits. The difficulty in assessing impacts on local businesses is that, as you well know from your work, there are many factors involved in the operation of a business and its profitability, and its success as a business, many, many factors involved.

Fortunately, here, the President of

Eversource indicated in his testimony that

there would be a guarantee against business

loss. And I've seen forms that are typically

used for that type of effort.

But, more importantly, the Project is and has been trying to reach out to these local businesses to engage them, and to understand their needs and to try to minimize impacts.

Louis Karno Company, that very successfully worked with the businesses in downtown Concord, has been in touch with several businesses in

```
1
         the Plymouth area already, for example.
 2
         the effort will be to engage them early and
 3
         often throughout this Project, to address their
         concerns and minimize businesses'...
 4
 5
               When I spoke with him about his efforts,
 6
         he indicated to me that there was not a
 7
         perception of a loss of businesses in downtown
         Concord during that intensive redevelopment in
 8
9
         the downtown area.
10
         In Plymouth?
    Q
11
         No, I'm referring to Concord, --
12
         Oh.
    Q
         -- for his prior work in working with the
13
14
         business community --
15
         Okay.
    Q
16
         -- on the redevelopment of downtown Concord.
17
         They interfaced with the businesses. They were
18
         involved with signage and multimedia efforts to
19
         reach out to the public and to reach out to
         their customer base, and try to help them
20
21
         anyway possible to continue to offer a
22
         successful business. And seeing how successful
23
         that was, Eversource has engaged them to help
24
         them work with the business community in
```

Q

Plymouth, and with any other areas along the undergrounded route, where they can assist in minimizing and avoiding business impacts.

And I think where I'm trying to get to is, like you said, in terms of working with businesses, and doing a lot -- there's a lot of reasons why businesses have a problem. And I think I would disagree with the statement that was made yesterday that "construction would be just an excuse".

I think there is one thing I'd like to convey, maybe get your thoughts on, is that, if I'm a business, and let's say could be the theater in downtown Plymouth, if I'm the landscaper up in Sugar Hill area, and I know my operation. I know the value of my suppliers, I know how my employees are going to get here, and I know all those things. And, then, when I add them up, I know that something is probably not going to work out. I would seem to almost take that to the bank, as much as I would take on the Project side about indirect jobs being created, because, to me, that's just as speculative.

```
1
              Would you agree that the -- I mean, those
         are real concerns that have to be considered at
 2
 3
         an equal level?
 4
    Α
         I'm not sure about them being "at an equal
 5
         level". But I would agree with you that
 6
         involvement in outreach with the business
 7
         community is very important, especially in
         areas where there's a concentration of
 8
         businesses in the underground route. And the
 9
10
         Applicant understands that. They have engaged
11
         a consultant already who has been talking with
12
         businesses. The Project itself sent a letter
13
         out in, I indicated previously, I believe it
14
         was March of 2017, which was a follow-up to
15
         letters that were back in 2015, I believe. And
16
         there have been interactions with businesses,
17
         to the extent that they're willing to talk.
18
         And the Project has made it clear that they
19
         want to talk with them, they want to engage,
20
         and they sincerely want to avoid and minimize
21
         impacts to those businesses, which is a
22
         temporary disruption.
23
              And we have temporary disruption on our
24
         roadways all across the state. And, by having
```

1 them work together in partnership, I feel 2 confident that those impacts can be avoided, or 3 at least minimized, by understanding the 4 business. As you've stated, could be the time 5 of day when their deliveries occur, and the 6 route that they take to make those deliveries, 7 and having adequate access. It can be things like controlling dust and keeping the 8 9 streetscape clean and in an attractive 10 appearance; work hours and times, and 11 considering peak activity that may occur, and 12 trying to avoid that to the extent practicable, 13 are all things that need to happen. 14 I agree that communication is important. But, 15 you know, like I was saying yesterday, the one 16 thing we can't dismiss it isn't -- it is 17 possible, particularly if you're, you know, a 18 bed-and-breakfast on one of these long routes 19 that are having a lot of construction, it is 20 possible that, even if you are a little bit on 21 the edge, that you could lose business to the 22 extent, over that two to three-year period, 23 that you could go out of business. And I have 24 a hard time seeing how you can make up that

```
1
         loss there.
                      But that is a reality, would you
 2
         agree?
 3
    Α
         There's a quarantee against business loss. And
         it's been documented on the record that there
 4
 5
         will be vouchers and efforts made to focus
 6
         construction spending at hotels and restaurants
 7
         in the area, and some of those facilities may
         see an increase in activity during that period
 8
9
         of construction. While keeping in mind that
10
         the Project is moving along, it's not in one
11
         specific location for two years. It's moving
12
         along, and you may have a period of time where,
13
         for a couple of weeks, there may be a project
14
         moving down the street. But, to suggest that
15
         that's going to have a significant adverse
16
         effect on businesses, when looking back at
17
         their year of operation, is wrong.
18
    Q
         So, when I have Polly's Pancake Parlor up in
19
         front of us, and they're giving us numbers,
20
         they're giving us a very good assessment and
21
         what they predict, that you would say that
22
         "that's just a temporary, and you'll get
23
         through it, and Louis Karno will work with
24
         you", or --
```

```
1
    Α
         Well, and keep in mind that Polly's Pancakes is
 2
         not located on the Project route. It's about a
 3
         mile and a half away. And there is activity in
         Franconia, and in an area where people would be
 4
 5
         turning onto that road, there would be some
 6
         temporary work in that location. But that's
 7
         the kind of issue that, with a sound traffic
         control plan, visitors can still get to Polly's
 8
9
         Pancakes a mile and a half from the Project
10
         site and enjoy having a nice breakfast.
11
         And, so, Louis Karno Associates, you feel
    0
12
         really comfortable that they're making a good
13
         outreach? How do you know that? Have they sat
14
         down with you and said "Bob, here's all the
15
         companies that we've sent letters to back in
16
         March, here's the follow-up"? Because you're
17
         absolutely right, is that success here is going
18
         to be based upon whether they can do, in places
19
         like that, like they did in Concord. But, if
20
         they haven't done that outreach, and even --
21
         even legitimately, if people aren't getting
22
         back to them, and that's an answer as well,
23
         but --
24
               The Project has a -- has developed a
         Yes.
```

[WITNESS: Varney]

1 draft outreach plan that is still being fine-tuned, but is a major document that I had 2 3 a chance to look at briefly one day. And I conducted a conference call with Louis Karno 4 5 Company to ask them about their outreach 6 relating to this Project, as well as their 7 experiences and lessons learned associated with Concord and other places where they have been 8 9 engaged. 10 Because that was sort of my sense --11 MR. WAY: One second, Bill. I'll be 12 right with you. 13 BY MR. WAY: 14 That was sort of my sense, is that there was an 15 initial push, maybe an initial second push, and 16 then, according to the hearings that we had, it 17 really -- nothing has really happened much up to this point. And, so, you're saying there's 18 19 a "draft plan" in place. When do you think 20 we'll be able to see that plan? Well, again, I want to -- I think, for the 21 22 record, I think it's important to recognize 23 that there has been a substantial amount of

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outreach with local property owners over the

24

[WITNESS: Varney]

course of the Project. There have been individual meetings with property owners in many locations. Some owners have been eager to engage and discuss things and work through any issues of concern or develop a better and clearer understanding of how it relates to their property. So, that's been ongoing for several years.

In addition, there are outreach staff with Eversource who have been conducting outreach.

There have been letters and meetings that they have had with businesses or property owners along the route. And they are also beefing up their capability by hiring additional consultants to help them with this effort, to ensure that they avoid and minimize impacts to the extent practicable.

- Q And, so, bear with me as I --
- 19 A Sure.

- 20 Q -- beat this horse dead.
- 21 A Okay.
- 22 Q But I just, you know, for my own part, we're
- going to be going up on a site visit in
- 24 Plymouth. If I went to every store along that

### [WITNESS: Varney]

```
1
         front, could I say "Have you been approached by
 2
         Eversource for the Project? What's the level
 3
         of communications?" Do you feel that they
 4
         would say "well, yeah, I got a letter a couple
 5
         weeks ago, they want me to call", or "I haven't
         heard from them", or "I'm engaged"? What level
 6
 7
         of response do you think they might give me?
         They -- it depends who you talk with when
 8
    Α
9
         you're there.
10
         Sure.
    Q
11
         Was it the manager or not?
12
         Let's assume I hit the perfect sweet-spot
    Q
13
         person.
14
         And, so, they would likely -- they would
15
         obviously know whether or not they received a
16
         letter. And they would be able to tell you
17
         whether or not they have conducted an interview
18
         with Louis Karno Company. And I -- they
19
         discussed some of the results of those
20
         discussions with me.
21
         All right. Very good. Just one second.
22
                   MR. OLDENBURG: Chris, could I just
23
         chime in?
24
                   MR. WAY:
                              Oh.
                                   Sorry, Bill.
```

```
1 MR. OLDENBURG: Yes.
```

2 BY MR. OLDENBURG:

- Q I just wanted to ask about the Louis Karno again.
- 5 A Sure. Hi, Bill.
  - Q Because it's come up a couple times in comparison to the Concord. But aren't they like really two totally different projects?

I mean, in Concord, there was an improvement being made. So, Karno could go out to these businesses and say "Hey, we know there's going to be construction. Just bear with it." But they could almost negotiate.

"Parking spaces? Do you need outdoor dining?

Do you want this? Do you want that?" And it was a negotiation effort, really, between, you know, what the end product would be, which was an improvement to the downtown, and the business just having to live through the construction.

Whereas, you know, Northern Pass's best wish is that, when they're done, there's no difference. And, so, what is Karno offering these people?

A They're offering communication with the businesses, understanding their issues, which is a similarity between the two. They both — both locations have concerns about parking and access, and minimizing disruption, and appearance and clean-up at the end of the day, and hours of the day for access, a whole host of similar issues. That the two downtowns are different. The — you're correct in that there was an expectation among the businesses that, when the Project was completed, it would be an attractive and improved downtown area.

And, with respect to this Project, the Applicant has engaged the community to try to work together and partner on improvements in downtown Plymouth, either to avoid the Main Street businesses or to perhaps partner with the Water & Sewer District with -- to replace existing old water and sewer lines at the same time, at potentially significant less cost, and impacting the Main Street only once, instead of twice. They're doing the right things.

They're engaging them and trying to come up with the best solution that works well for

everyone. And that's the goal that everyone has.

They don't want to hear about problems

later due to lack of communication. They want

to have that communication up front, and to

work closely with them, each and every day and

each and every week that the Project is

being -- is within the construction phase.

MR. OLDENBURG: Thank you.

## 10 BY MR. WAY:

Q If you don't have that communication, let's assume that it just doesn't happen, as a matter of fact, let's even assume that the town, we're picking on Plymouth right now, but let's assume that, as I said earlier, the town doesn't want to play ball in any way, shape or form. Do you envision where there could be adverse impacts on the business that could result in job losses, if not addressed? Because I'm assuming, if Louis Karno wants to have traffic avoidance -- or, traffic mitigation plans, there's a recognition that there could be an impact. If you don't have that communication, if there isn't that coordination, could you

# [WITNESS: Varney]

1 have an impact beyond temporary? 2 Α I can't speculate on that. There, again, are 3 so many factors involved in operating a 4 business. And, again, I think that the key for 5 the Committee is to understand that there will 6 be an effort to work -- work with and partner 7 with the businesses along the route, and to avoid and minimize impacts wherever possible. 8 9 This is the same issue that you have with 10 DOT projects that are undertaken in proximity 11 to business -- existing businesses. And it's 12 the same consideration as it relates to 13 replacement of or extension of water or sewer 14 lines, or natural pipelines, in a community. 15 On a completely different topic, and I think Q 16 Mr. Oldenburg raised the issue of the trails, 17 and I think he took, once again, 90 percent of 18 what I was wondering about. But you mentioned 19 that there could be some disruption, some 20 trailheads might be closed or something. And whose responsibility is it for addressing that 21 22 closure? Whose responsibility, you mentioned 23 "signage", who does the signage? If it's a 24 State trail, is the State doing -- because it

[WITNESS: Varney]

```
1
         isn't, I have to imagine, it isn't as easy as
         just saying "well, let's just go over here."
 2
 3
         How is that going to occur?
 4
    Α
         Well, it would be the Applicants'
 5
         responsibility. And they would work with the
         organization that is involved with that trail.
 6
 7
         If it's an ATV crossing, then they're going to
         want to reach out to the State Parks agency,
 8
9
         and they're going to, where they're involved
10
         with ATV and snowmobile use, and they would
11
         reach out to any ATV and snowmobile clubs in
12
         the area who are involved with that stretch of
```

ATV trails or snowmobile trails.

13

14

15

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24

With respect to hiking trails, it would be, again, it could be the White Mountain

National Forest, it could be a State resource, and they would consult with the appropriate parties for a short-duration temporary effect, to ensure public safety.

And when do you think those conversations should occur? Because I think, with the trails, at least the State trails, I don't think that conversation has happened yet. And, so, if there is a major trail that's a tourist

[WITNESS: Varney]

```
1
         destination, that might have to have a
 2
         temporary closure.
 3
    Α
         That would be a good example of a condition for
         the SEC to incorporate into its certificate.
 4
 5
                   MR. WAY:
                              Thank you.
 6
                   CHAIRMAN HONIGBERG: Ms. Weathersby.
 7
                   MS. WEATHERSBY: Good morning, Mr.
 8
         Varney.
                   WITNESS VARNEY: Good morning.
 9
10
                   MS. WEATHERSBY: A couple of
11
         follow-up questions to some of the testimony
12
         this morning, and then I'll launch into my
13
         other questions.
14
    BY MS. WEATHERSBY:
15
         It occurred to me, I think, when you were
16
         speaking with Mr. Oldenburg about the road
17
         construction. I'm wondering if there's going
18
         to be any as-built plans provided to DOT or the
19
         municipalities indicating exactly where the
20
         underground portion is located? Do you know?
         I would assume so. But that would be a
21
22
         question for the Construction panel that will
23
         be returning.
24
         Okay. You agree that would probably be
```

[WITNESS: Varney]

1 something they would be interested in, so they can work their underground utilities, for the 2 3 work, etcetera, around that? 4 Α Correct. And, of course, Eversource would 5 always have copies of them as well, given their 6 responsibilities for the Project being within 7 the right-of-way in the undergrounded areas. The outreach that we've been talking 8 Q Okay. 9 about this morning, and really throughout the 10 last several days, those -- the outreach 11 letters that we talked about from Mr. Karno --12 the Louis Karno Company, those have been sent 13 only to businesses, as I understand it, and not 14 to homeowners along the way, is that correct? 15 Α I believe his responsibility is related to 16 businesses. But there have been many meetings 17 between people representing Eversource and 18 private property owners. 19 Right. I think we've heard some testimony Q 20 that, if a homeowner approaches Eversource, 21 they are willing to work with them, and that's 22 terrific. But we've also heard testimony that 23 a lot of homeowners don't know about exactly 24 where the underground line is going, and now it

[WITNESS: Varney]

may need to be closer to their homes than

originally intended or they perhaps had been

3 told originally by Eversource.

So, I'm wondering, is Eversource planning, do you know, to reach -- to do some kind of mailing to homeowners along the way, to update things, once the road issue is resolved?

A Yes. In fact, the letter that I previously referred to that was sent by the Project, in March of 2017, just a few months ago, was a Project update, and was sent to everyone along the route.

My understanding is that there were some who may have responded, but many who didn't take advantage of the opportunity, didn't call the number, didn't respond to Eversource after receiving the letter.

- Q And will there be any further letters?
- 19 A I am sure there will be, yes.
  - Q In your analysis, you indicated you broke the corridor, the right-of-way corridor, down into the various regions for the purposes of your analysis. How did you define "region"?
  - A Based on the regional planning commissions that

# [WITNESS: Varney]

1 exist along the route. 2 Q And, so, what are the regions that you looked 3 at? What was your --It would be the North Country Council; the 4 Α 5 Lakes Region Planning Commission, where I once 6 worked; the Central New Hampshire Planning 7 Commission; the Southern New Hampshire Planning Commission. 8 So, your analysis broke it down into those four 9 10 regions? 11 Actually, I went beyond that and broke it down 12 by community, in looking at land use and 13 planning and so on. So, I did that for the 14 entire route, and met with each of the regional 15 planning commissions, and developed information 16 on a town-by-town basis along the route. 17 So, when you determined orderly effects --18 effects of orderly development in the region, 19 is it each -- did you look at it as each region 20 or did you look at it for the Project as a 21 whole? 22 Well, typically, with projects before the SEC, 23 they're in an area of the state. This Project,

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being 192 miles, is, obviously, longer than

24

[WITNESS: Varney]

```
1
         most projects, with the possible exception of
         the Portland Natural Gas Transmission and
 2
 3
         Maritimes & Northeast projects. But the -- so,
         we looked at each town, we looked at each
 4
         region, and we looked at the Project as a
 5
 6
         whole.
 7
              The final judgment that was made about
         orderly development of the region was looking
 8
 9
         at the Project as a whole.
10
                    MR. WAY: Can I ask a question?
11
                    MS. WEATHERSBY: Yes.
12
    BY MR. WAY:
13
         Going back to your planning background, if you
14
         had looked at the Project region by region, in
15
         other words, so you're looking at the
16
         municipalities and regional planning
17
         commissions, but, if you look at the benefits
18
         of the Project to that region apples-to-apples,
19
         would you feel you'd have the same findings?
20
    Α
         Yes.
21
                    MR. WAY:
                              Thank you.
22
    BY MS. WEATHERSBY:
23
         And I guess a similar question, if you had
24
         found, hypothetically, that in one region there
```

## [WITNESS: Varney]

```
1
         was an adverse effect, an unreasonable adverse
 2
         effect, but in the other three regions there
 3
         were not, what then would be your final
 4
         analysis?
 5
         It would depend on the nature of that effect
 6
         and the significance of that effect. Was it --
 7
         "would it unduly interfere with the orderly
         development of the region?"
 8
 9
         Okay.
    Q
10
         Is a principal question. And I kept that
11
         question in mind throughout the preparation of
12
         my testimony and reports.
13
         Okay. You've stated that you relied on the
14
         expert analysis of others, Mr. Nichols for
15
         tourism, Ms. Frayer, for your overall
16
         conclusion concerning orderly development of
17
         the region. Their analysis, as I recall it,
18
         was done on a statewide basis. So, on what in
19
         their testimony did you rely on to base your
         conclusions on just the "region", as you're now
20
21
         defining it?
22
         I looked at the issues on a regional basis, not
23
         just the entire state. I tried to look
24
         regionally. I considered views expressed by
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WITNESS: Varney]

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the regional planning commissions, issues of concern that regional planning commissions brought to my attention, issues of concern raised by communities within the region, by any regional groups that may have supported the Project for job creation or energy benefits, or others who express concerns, and looked for the basis for those concerns.

And I found that, in reviewing that, that, while there were many concerns expressed, there was a lack of information that was contrary to the opinions by the experts who testified before you.

- So, say Mr. Nichols, for example, on tourism, he did this analysis on a statewide basis that there would be no unreasonable adverse impact. And, then, you looked at the concerns of towns and cities, like Plymouth, for example, and you just kind of figured out that their concerns affecting their community didn't change your analysis based on what Mr. Nichols said? Yes. I looked at the facts that were presented
  - that substantiated their concerns. And, in many cases, they had an opinion or an

[WITNESS: Varney]

1 assumption of impacts, which weren't supported by the facts, and there was an absence of 2 3 credible information that supported their claims, as it related to effect on tourism or 4 5 effect on property taxes or other related 6 issues. 7 Okay. You've provided the Applicant and you 8 have provided the SEC with summaries concerning 9 municipal views in their master plans, for 10 example. Do you -- was it your interpretation 11 of 301.09 that you were not obligated to 12 provide the SEC with the actual master plans or 13 zoning ordinances? 14 I provided a summary of each one, with a link 15 to the ordinance or the plan itself. And I did 16 that not only with local plans, but also with 17 regional and statewide plans. 18 I think we saw some of that in some of the 19 exhibits that were used by intervenors while I 20 was here on the witness stand. The rules, 301.09, requires you to do this 21 22 analysis for all of the "affected communities". 23 How did you define "affected community"?

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I used an abundance of caution, and, by looking

24

WITNESS: Varney]

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at every community that abutted a host community along the route. So, rather than try to make a judgment as to whether or not that community was, in fact, affected, I covered them anyway. And, in many cases, they were a substantial distance away from the Project route, but I still reviewed their master plans. And it also was helpful with some communities, because they were communities that had the Hydro-Quebec Phase II line within the community, and I was interested to see what they said about the line in their master plans, and found that they, as I said previously, they did not identify the presence of the Hydro-Quebec line as a problem, a challenge, a planning contribution in their plan. So, the master plans are generally silent on the issue of transmission lines. There are

broad statements about rural character and, in some cases, scenic quality. But there are also many other recommendations about property taxes and, you know, funding needs that exist in the community, and many recommendations about renewable energy and promoting renewable

[WITNESS: Varney]

```
1
         energy, and improving air quality and
         supporting efforts to reduce air emissions and
 2
 3
         address climate change and reduce greenhouse
 4
         gases.
 5
         And that was in your report, but my question
 6
         was just how you define "affected community"?
 7
         And it sounds like the answer is "host
         communities and abutting communities". And do
 8
 9
         you feel that your March 2017 Working Draft
10
         Review of Master Plans includes an analysis of
         all affected communities?
11
12
         Yes. If I could add to that?
    Α
13
         Uh-huh.
14
         I reviewed every abutting community, including
15
         some that are outside the state as well. It's
16
         not included in the report, because this is a
17
         State of New Hampshire SEC proceeding. But I
18
         did look at each and every community that
19
         abutted a host community along the route.
20
         it was very thorough and went well beyond what
21
         others have ever done for this review relating
22
         to a project before the SEC.
23
         So, that was concerning master plans.
24
         Concerning the zoning ordinances, I understand
```

#### [WITNESS: Varney]

```
1
         that you perhaps started a zoning ordinance
 2
         summary, but it wasn't complete.
 3
    Α
         Uh-huh.
 4
         Or, do you have a summary of zoning ordinances
    Q
 5
         of the affected communities?
 6
         Yes. In fact, there were references to it in
 7
         some of the exhibits during my testimony here
         this past week. And the -- as you know, the
 8
 9
         statute states that it requires a review of
10
         zoning ordinances in the host communities, but
11
         not the affected communities. So, a detailed
12
         description of the zoning ordinance for each
13
         community was prepared.
14
         And why wasn't that provided to the SEC?
15
         I don't know whether it was provided as part of
16
         discovery. I provided this information to the
17
         Applicant, and was not involved in the
18
         preparation of the Application itself.
19
                   MS. WEATHERSBY: Can that -- I can
20
         tell you that has not been provided to the SEC,
21
         as far as I know. I think perhaps it may have
22
         been provided in discovery.
23
                   But I guess I would like to make a
24
         request that that be provided to the SEC.
```

# [WITNESS: Varney]

1 CHAIRMAN HONIGBERG: Mr. Needleman? MR. NEEDLEMAN: Understood. 2 3 (Record request reserved.) 4 BY MS. WEATHERSBY: 5 So, zoning ordinances are generally -- most 6 towns update them after a town meeting in 7 When was your last review of the zoning March. ordinances of the towns? 8 Initially, it would have been before the --9 10 just prior to the filing of my prefiled 11 testimony and report, which would have been October 2015. And, then, I have tried to keep 12 13 abreast of any significant zoning changes that 14 may have occurred. There's no process for 15 notification. But I noticed, for example, that 16 the Town of Dummer revised their ordinance. 17 Initially, they actually told us over the phone 18 that it had been abolished. But then we later 19 learned that that person in the town office was 20 incorrect, in that they had eliminated the multiple zones in the town, and had a --21 22 somewhat unusual in that it's a single-zone 23 ordinance.

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So, we reviewed zoning ordinances

24

[WITNESS: Varney]

1 thoroughly. We considered them, and tried to stay abreast of any changes. 2 3 I understand how laborious it must be to go Q back each year and check for each town. But, 4 5 given the amount of work that's gone into this 6 Project, that seems like something that would 7 be reasonable to do. But am I understanding correctly that you've made some efforts to do 8 that, but perhaps it's not -- you haven't 9 10 checked back with every town for 2016 and 2017 11 to see if their zoning ordinances have been 12 changed? 13 Yes. And I'm not sure. I assume that we have, 14 but I'm not sure. 15 Okay. Your report contains lots of statements Q 16 and conclusions about how the Northern Pass 17 Transmission Project is consistent with the 18 master plans and the zoning ordinances. But I 19 didn't see much analysis, or really any 20 analysis, as to how the Project would be 21 inconsistent with each town zoning ordinances. 22 Do you feel that it is consistent with the 23 provisions of each town's master plan and 24 zoning ordinance?

[WITNESS: Varney]

A Yes, I do. And, in the report and testimony, we tried to explain that the master plans had broad, inspirational statements, like

"protecting rural character" and the "unique qualities of the town", and things like that.

But they did not directly speak to electric transmission lines, unless it was in reference to the small land area that was occupied by a utility right-of-way, in most cases, it was less than one percent of total land use in the community.

And there were references to use of the right-of-way as an opportunity for trails and improving recreational opportunities for connecting trails and expanding trails within the town.

There was also reference in the Master

Plan or the Open Space Plan for Concord that

referred to place -- recommending a new boat

ramp be located within the right-of-way for the

Hydro-Quebec Phase II line near the Hopkinton

town line on the Contoocook --

So, those are great examples of how you feel it's consistent with the master plans. And my

#### [WITNESS: Varney]

```
1
         question was whether it was inconsistent?
                                                      So,
 2
         your position is that, if master plans said
 3
         "let's preserve our rural character" or "let's
         protect our scenic vistas", that the Project is
 4
 5
         not inconsistent with those provisions of the
 6
         master plan?
 7
         Correct.
    Α
         And, if a master plan said "let's bury our
 8
9
         utilities for every new development", that's
10
         not inconsistent with the Project?
11
             Because they're typically talking about a
         No.
12
         new residential or commercial development
13
         within the community, where they're placing new
14
         streets and new infrastructure or new other
15
         utility lines as well.
16
    Q
         Is Northern Pass Transmission Project a
17
         commercial venture?
18
         It's a commercial venture and it's a utility.
19
    Q
         And I'm guessing most zoning ordinances that
20
         you reviewed had the usual provisions of
21
         breaking towns into residential zones,
22
         commercial zones, industrial zones. And you
23
         feel as though putting the Northern Pass
24
         Transmission Project in an existing corridor,
```

#### [WITNESS: Varney]

```
1
         which may happen to be in a residential zone,
 2
         for example, that would not be inconsistent
 3
         with that town's zoning ordinance?
         That's correct.
 4
    Α
 5
         And likewise, I'm sure they have height
 6
         limitations of 30, 35, 40 feet for structures.
 7
         Putting in a 100-foot pole would not be
         inconsistent with that zoning provision?
 8
 9
         In most cases, you're correct. There are -- in
10
         a typical zoning ordinance, they would
11
         differentiate between "occupied space" and
12
         "unoccupied space", where they allow for
13
         structure heights to be -- to be taller than
14
         for structures where it's occupied space for
15
         business or a residential type of use. And
16
         this is described in that zoning report for
17
         each community.
18
    Q
         So, you feel most zoning ordinances in these
19
         affected communities separate height
20
         restrictions to occupied/unoccupied space?
21
         I would say that that's typical, a typical
22
         provision in a zoning ordinance, based on my
23
         experience and my review of dozens of zoning
24
         ordinances. And, of course, they have
```

[WITNESS: Varney]

```
1
         provisions for cell towers and small wind
 2
         energy systems with height limitations as well.
         And those typically are set at -- some cases it
 3
 4
         could be 150 feet, or 35 feet above treeline as
 5
         the maximum height, and they vary by community.
         But I did review that as well. Those are
 6
 7
         unoccupied structures that are either a
         permitted use or a conditional use or special
 8
         exception in their ordinances.
 9
10
         And towns are required to allow
    Q
11
         telecommunication facilities in their town or
12
         city, aren't they?
13
         Yes. And they frequently try to collocate them
14
         as well.
15
         Right.
    Q
16
         Which is a principle that is different, but not
17
         unlike the collocation of a transmission line
18
         within an existing right-of-way.
19
    Q
         You indicated, generally speaking, that there
20
         were no specific prohibitions or restrictions
         in master plans concerning transmission lines
21
22
         specifically. Do you think the towns should
23
         have foreseen a project like Northern Pass and
24
         addressed it?
                         I mean, --
```

## [WITNESS: Varney]

```
1
    Α
         I can't speculate. I tried to present factual
 2
         information --
 3
         Okay. Fair enough.
    Q
 4
         -- in the report and for the Committee's
    Α
 5
         consideration.
 6
         Fair enough. Have you compiled letters or
    Q
 7
         comments from the municipalities along the
         route, letters, comments submitted to us,
 8
 9
         perhaps submitted directly to Eversource, from
10
         the selectmen, the conservation commissions,
11
         town officials, intervention petitions? Are
12
         all those sort of gathered somewhere that you
13
         reviewed?
14
         If they were related to land use, yes. And I
15
         assembled many of them in notebooks for review.
16
    Q
         And did you do any kind of chart or summary or
17
         somehow organize all of that information?
18
         It's possible, but I would need to go back and
19
         look. But I did try to look at who was
20
         providing comments and the nature of the
21
         concerns that were expressed.
22
         And what is your understanding of the concerns
23
         of the communities as they fall into the land
24
         use and orderly development arena?
```

[WITNESS: Varney]

```
1
    Α
         There were -- they usually had broad comments
         that said "it's not consistent with our master
 2
 3
         plan and it's not considered orderly
         development", without -- and often without
 4
 5
         further explanation. But, in some cases, they
 6
         would cite the goals in the plan relative to
 7
         rural character or scenic quality or tourism
         promotion, things like that. And I certainly
 8
9
         considered them carefully.
10
         At this point in time, do you know how many
    Q
11
         memorandum of understandings are in place with
12
         any municipality along the route?
13
         I'm not sure. I think it's four or five
14
         perhaps. I know they have been sent to all of
15
         the communities, and I'm not sure about the
16
         status of each one. But there seems to be more
17
         interest and more activity in trying to sit
18
         down and iron out agreements. But I believe
19
         four or five have been executed to date.
20
         And do you know which municipalities they're
21
         with?
22
         I believe the Applicant would be able to, it's
23
         a factual matter. I can't remember exactly.
24
         believe Thornton was one of them, perhaps
```

[WITNESS: Varney]

```
1
         Lancaster, and a couple of other communities.
         Make you could check at lunch around and --
 2
    Q
 3
    Α
         Sure. Be happy to.
 4
         -- get back to us.
    Q
 5
                    CHAIRMAN HONIGBERG: Mr. Needleman, I
 6
         assume you're on that?
 7
                    MR. NEEDLEMAN: We will address that.
                    MS. WEATHERSBY: Thank you. I'm all
 8
9
         most done.
10
    BY MS. WEATHERSBY:
11
         Much of your conclusion in your report seems to
12
         be based on, as long as Northern Pass
13
         Transmission Project goes in the existing
14
         utility corridor, it won't interfere with the
15
         existing use, and therefore there's no adverse
16
         impact. Correct?
17
    Α
         Yes.
18
    Q
         Is it your position that the interference then
19
         needs to be a physical interference with that
20
         use? I mean, physically limiting the farming
21
         or limiting access, somehow that actually
22
         physically affects the use in order for there
23
         to be an effect?
24
         No.
    Α
```

[WITNESS: Varney]

Q What other types of interference did you consider?

A I considered abutting property owners, including some who don't own land within the easement area of the right-of-way, and looked very carefully at those uses. And with the knowledge that the Applicant would work with abutters, as they do on other projects, to address buffering or landscaping or other forms of mitigation, that there would not be any impact on the continued use of those properties.

In many cases, there are property owners who purchased their land or purchased their building with the knowledge that this was an existing utility corridor, where there were rights for the utility to use that corridor.

And I have seen many instances of cooperation between the utility and the owners.

But I don't see any significant effect on the continued use of those -- of those properties.

Q So, my question was whether the interference with that use of that property had to be a

#### [WITNESS: Varney]

```
1
         "physical interference", and I'm not sure I
         got -- and you said "no".
 2
 3
         I said -- my response was "no", I don't
    Α
         consider it.
 4
 5
         And I asked you how -- what other types of
 6
         interference did you consider? Did you
 7
         consider visual, noise, enjoyment? What other,
         maybe kind of list them for me?
 8
 9
         Recreational opportunities, --
10
         How would a recreational opportunity be
    Q
11
         affected other than by physically altering the
12
         access or the terrain or --
13
         Well, because so many people use the
14
         right-of-way as trails, you would look at the
15
         continued recreational use of the corridor.
16
         And there may be some temporary impacts during
17
         construction for people that use the trail
18
         system within the right-of-way, as an example.
19
              So, again, I looked at existing land uses
         along the corridor, and considered whether or
20
21
         not those uses would be able to continue after
22
         the Project is completed. And the conclusion
23
         was, yes, they will be.
24
         Okay. Let's just look at recreational use just
```

[WITNESS: Varney]

```
1
         for a second. People enjoy a hiking trail with
 2
         beautiful views. The enjoyment of many hikers,
 3
         once the Project is built, hypothetically, has
 4
         been diminished. Use goes down. Only half as
 5
         many hikers now use that trail.
 6
         Uh-huh.
    Α
 7
         This is a hypothetical, of course. Is that
 8
         land use then affected? They can still hike.
9
         But is -- so, in your analysis, is that land
10
         use affected by the Project?
11
             And I disagree with the hypothetical.
    Α
         No.
12
         experience in looking at it is that, even after
13
         projects are constructed, that, as communities
14
         grow, there's an increase in use. And, if you
15
         were to look, for example, at the Hydro-Quebec
16
         line in West Concord, there are trails in that
17
         area, including portions of the trail that are
18
         within the right-of-way that are advertised and
19
         promoted on the City's website, in Concord, and
20
         on the Town of Hopkinton's website as well.
21
         You indicated that, and we already went over
22
         this, that if the utility -- the transmission
23
         project is in the existing utility corridor,
```

it's not a change of land use, doesn't affect

24

[WITNESS: Varney]

```
1
         orderly development in the area.
                                            But I'm
         trying to understand, and others have hinted
 2
 3
         around at this, and I'm not sure we've nailed
         it down, kind of what the threshold is that
 4
 5
         would tip a utility corridor build-out to
 6
         becoming a change of land use? I mean, is that
 7
         possible?
         It's avoided by use of existing rights-of-way.
 8
    Α
         It's more of a concern if an applicant were
9
10
         proposing to ignore an existing right-of-way
11
         and was placing a new transmission line in an
12
         area that does not currently have one, and
13
         where the uses don't currently have one.
14
         And I understand that. But I'm trying to see
15
         if there's a tipping point. I mean, if there's
16
         a utility corridor, and it's 300, 200 feet
17
         wide, and it was possible, from an engineering
18
         and a safety perspective, to build five
19
         transmission lines down that corridor. Do you
20
         believe that would be an adverse impact?
21
         In most cases, no. And I think the Merrimack
22
         Valley line would be an example of that. In
23
         which the Project was not only approved by the
24
         SEC, but, in the four New Hampshire communities
```

## [WITNESS: Varney]

1 which the Project was located, none of the four were intervenors in that docket. 2 3 And, similarly, if these five transmission Q 4 lines, you know, hypothetical transmission 5 lines in this corridor, and the poles got to 6 be -- towers were 300 feet high. Does that 7 then become a land use -- an adverse impact? Does it, you know, kind of what's the -- I'm 8 9 sorry, go ahead. 10 I believe it would be a question of visual 11 impact, and that was not within the scope of my 12 review. 13 But, as far as orderly development of the area, 14 adverse effect on land use, 300-foot towers 15 would not change your analysis, land use 16 analysis? 17 No, because it's -- you're maintaining the 18 existing land use pattern. 19 And is your answer the same if these towers Q 20 were located ten feet from a residence? Does 21 that change the land use, the effect on land 22 uses in the area? 23 If it's within the corridor within which the Α 24 utility has the right to construct --

[WITNESS: Varney]

1

24

Q

Yes.

```
2 A -- facilities, then they would, obviously, work
```

very closely with that landowner to try to
minimize the impacts.

5 I recall an example for the Merrimack 6 Valley Project where a property owner cut the 7 vegetation up to the edge of the right-of-way to locate a driveway coming into -- for his 8 house. And the -- Eversource worked with that 9 10 property owner to help him relocate his 11 driveway, so that Eversource could pay for 12 landscape improvements to provide that buffer 13 between the driveway and the edge of the 14 right-of-way, the very buffer that that landowner had removed, and that Eversource was 15 16 not responsible for. It was an example -- an 17 impressive example of working with local 18 landowners to try to minimize concerns that an 19 abutting property owner may I have. 20 So, my next hypothetical is, in this utility 21 corridor, whether additional utilities could be 22 added, such as perhaps a cell tower or a wind 23 turbine, all coexisting safely and harmoniously

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within the corridor. Does that -- is that

[WITNESS: Varney]

1 still within does not change the land use? That would not be electric transmission, that 2 Α 3 would be a different type of project. The two examples that you cited would be -- would be 4 5 subject to local review under their zoning 6 bylaws and would not relate to this Project. 7 No. But would, in your opinion, would that 8 affect the land use? I haven't reviewed it. I would need to 9 10 consider that. But my immediate reaction would 11 be that it's a slightly different land use and 12 would need to be carefully reviewed. 13 Okay. My second to last question. In your 14 supplemental testimony, there's a great 15 discussion about the Phase II line, in that how 16 it doesn't -- did not interfere with the 17 orderly development of that area. Do you have 18 an opinion as to whether the development of the 19 area around the Phase II corridor would have 20 been different if there was no Phase II line? I don't know. It's a difficult question to 21 22 answer, due to the many factors involved, and 23 the state of the economy, and expectations of 24 property owners, and the need for growth and

......

1

2

3

4

5

6

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19

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22

23

24

[WITNESS: Varney]

development, and the market for that growth and development. But it was interesting to review, because, as I stated with other communities, they did not talk about the Phase II line as a problem or a challenge or a major planning consideration, other than it was part of their green network for trails. And they considered it a form of open space in the community that linked various areas in the town.

136

And there's been substantial economic development near and within view of that line, as well as other uses, such as agricultural uses that chose to locate adjacent to the line, agricultural, and recreational uses, such as soccer fields, with significant investment of creating additional fields and all-turf, artificial turf fields, and adding lighting, and having a significant amount of activity adjacent to and within the right-of-way itself. And the three towns that you specifically analyzed in the southern region, those towns have all seen really pretty significant growth townwide or citywide, correct? They have zoning that allows for a wide Yes.

[WITNESS: Varney]

range of uses. They also had sophisticated master plans that had been developed well after the construction of the project, and had crossings of parking and transportation routes that were highly visible. So, I was interested to see what had actually occurred there.

You know, we can speculate all we want, but it's also informative to go back and look to see whether there had been any development activity after the fact. And, in this case, there was significant development activity for a wide range of reasons. But there was no indication, based on what we saw, that the project caused them to have limited development options.

MS. WEATHERSBY: Thank you. I have nothing further.

CHAIRMAN HONIGBERG: Commissioner

Bailey has something she wants to follow up on.

BY MS. BAILEY:

Do you remember our conversation about the

Master Plan in New Hampton that I thought said

"transmission lines should be buried", and you
said "no, it was probably just distribution

[WITNESS: Varney]

```
lines"?
 1
         I said I couldn't remember exactly, but, in
 2
    Α
 3
         most cases, towns will say "electric lines".
 4
         And, usually, when you look at that, it relates
 5
         to local lines that would be typically within a
         subdivision, for example, where they require
 6
 7
         the developer to bury the lines for that new
         development.
 8
         Well, I went back to the exhibit that I think
 9
10
         it was Mr. Whitley who he pointed -- that he
11
         pointed to on this particular item that's stuck
12
         in my head. And it was Joint Muni 120.
13
         it's testimony from the Chairman of the
14
         Planning Board in New Hampton.
15
    Α
         Uh-huh.
16
    Q
         And he says, on Page 12, and I -- oh, hang on.
17
         That it's in the Site Plan Review Regulations,
18
         and it states that "Where appropriate,
19
         installation of any new utilities and/or
20
         transmission lines shall be buried
21
         underground", and that -- and those Site Plan
22
         Review Regulations have been in effect since
23
         2005.
24
         Yes.
               I've reviewed them.
```

[WITNESS: Varney]

```
You have?
 1
    Q
 2
         After he made the comment, because I wanted to
    Α
 3
         make sure that those provisions were not in the
 4
         Zoning Ordinance, which was what was required
 5
         by the SEC. And it's not located in the Zoning
 6
         Ordinance. It's located in Site Plan Review,
 7
         which is not required by the SEC.
         But those are the -- if this Project were just
 8
    Q
9
         in the Town of New Hampton, those are the
10
         regulations that the Applicant would have to
11
         meet to get siting in the Town of New Hampton,
12
         right?
         They would be site plan review requirements,
13
14
         they would look to see "Can you bury it within
15
         this area? It's preferred to bury it." And to
16
         make the case as to, if they can't bury it, why
17
         not. And I think that issue has been well
18
         discussed here.
19
         Do you think, though -- why do you think we
20
         shouldn't look at site plan review relations?
21
         There are many town regulations that
22
         potentially could exist. And, in the SEC's
23
         rules, it specifically calls for "reviewing
24
         master plans and zoning ordinances". It does
```

[WITNESS: Varney]

```
1
         not speak to "site plan review" or "subdivision
 2
         regulations" or other regulations that may
 3
         exist.
         What about views that have been expressed in
 4
    Q
 5
         writing? I mean, I thought that we agreed that
 6
         the Site Evaluation Committee is standing in
 7
         place of the towns and looking at the Project
         on a state -- you know, on a statewide basis,
 8
 9
         but we have to consider the views of the towns.
10
         And, if the views of the towns are laid out in
11
         the site plan review regulations, those
12
         individual towns, and they have specific
13
         references to a project like this, only not on
14
         a statewide basis, why should we not consider
15
         that?
16
    Α
         Well, I read the letter, and I considered the
17
         view expressed. I didn't summarize it in the
18
         report because of the SEC requirements. But I
19
         did consider the comment that was made.
```

report because of the SEC requirements. But I did consider the comment that was made. And, of course, they know that they don't have any jurisdiction over regional transmission line projects. And, so, I was of the opinion that it, while it was worth noting, when I heard — when I read his letter that came in, it was a

20

21

22

23

24

# [WITNESS: Varney]

```
1
         regulation that wasn't cited in the SEC rules,
 2
         and it probably was based on projects that are
 3
         subject to their jurisdiction, rather than the
         SEC's jurisdiction.
 4
         But, in his testimony, which we have to
 5
    Q
 6
         consider, --
 7
    Α
         Yes.
 8
         -- he's a municipal planner, --
9
    Α
         Yes.
10
         -- his view is that this does have an undue
11
         impact on orderly development because of this
12
         regulation?
13
         Yes. I understand his view that he expressed
14
         in the letter. He's on the local planning
15
         board, not a professional planner, a former
16
         wetlands permitting person at DES.
17
         What do you mean by "letter"? I'm looking at
    Q
18
         testimony.
19
         I'm sorry. You're correct. I stand corrected.
20
         It was his prefiled testimony that I read.
                   CMSR. BAILEY: Okay. Thank you.
21
22
                   WITNESS VARNEY:
                                     Thank you.
23
                   CHAIRMAN HONIGBERG: Mr. Iacopino, do
24
         you have questions?
```

# [WITNESS: Varney]

1 MR. IACOPINO: Just a couple. BY MR. IACOPINO: 2 3 Mr. Varney, I'm just going to follow up with the issue just raised by Commissioner Bailey. 4 5 I understand your first principle to collocate the line with existing lines in those areas 6 7 where the line already exists. But, when you consider the underground portion of this 8 9 Project, it's really no surprise that the 10 towns' master plans, along the underground 11 portion, would not consider this type of 12 development. Isn't that correct? 13 They're silent on the issue in their plans. 14 And you would expect that, because they're 15 focused, to the extent that they may focus on 16 transmission lines, it's because they are 17 focused on existing transmission lines, which, 18 for the part, historically, in New Hampshire, 19 are above ground? 20 Yes. But, again, the same principle exists, 21 whether it's underground or overhead within an 22 existing corridor. That you're locating the 23 Project in an existing disturbed area within 24 the community, which then helps protect open

[WITNESS: Varney]

```
1
         space elsewhere in the community and does not
 2
         introduce a new route when an existing corridor
 3
         was available.
 4
         Well, understanding that, in the towns where
    Q
 5
         the Project is slated to go underground, there
 6
         may be no reference with respect to
 7
         transmission -- no reason for the Town to have
         a reference to transmission lines. What
 8
 9
         documents do you believe the Site Evaluation
10
         Committee should consider when considering the
11
         municipal views of those towns? Are there
12
         better -- are there better documents than the
13
         master plan for the Committee to consider?
14
              I think, looking at prevailing land uses
15
         along the route and considering the fact that
16
         the Project tried to be consistent with the
17
         Master Plan for the White Mountain National
18
         Forest, which was cited in the Draft Record of
19
         Decision by the Forest Supervisor for the White
20
         Mountain National Forest recently, to locate
21
         within the existing transportation corridor,
22
         and to view that as the best option for the
23
         Project to cross the White Mountain National
24
         Forest, and to avoid an inconsistency --
```

\_\_\_\_[WITNESS: Varney]

```
1
         potential inconsistency with the Management
         Plan for the White Mountain National Forest.
 2
 3
         So, your answer then is we should look at the
    Q
 4
         White Mountain National Forest plan, and not
 5
         any subdivision regulations or zoning
 6
         ordinances of the town, towns like Easton,
 7
         Franconia, Plymouth, where the line will
         actually go underground?
 8
 9
             I am stating that -- that we reviewed the
    Α
10
         master plans and the zoning ordinances within
11
         those communities, if they existed. Some of
12
         the towns don't have zoning ordinances. And
13
         reviewed the Project in the context of those
14
         master plans or zoning ordinances to see if it
         would appear to interfere with the
15
16
         implementation of their goals, objectives, and
17
         recommendations in the plan, and that the --
18
         within the White Mountain National Forest, they
19
         have a master plan that needed to be reviewed.
20
         And, if there was an overhead route through the
21
         Forest, that there may have been an
22
         inconsistency with their plan as well.
23
         was cited in the report also.
24
         Okay. But I guess my question is more of a
```

[WITNESS: Varney]

```
1
         methodological one than what you did or didn't
 2
         do, I guess. My question is, given the fact
 3
         that these towns where the 52 miles where the
 4
         Project will now be run underground in order to
 5
         avoid the White Mountain National Forest, in
         those 52, I think, if we assume that they had
 6
 7
         no reason to believe that there would ever be
         an underground commercial, or whatever you want
 8
 9
         to call the Project, is there some documents
10
         that are commonly found in town government that
11
         the Committee should focus on more than the
12
         master plan?
13
         I'm not aware of any.
14
         Okay. I understand the request of the
15
         Applicant, with respect to the underground
16
         portion of the road, to be that the
17
         Subcommittee delegate to the Department of
18
         Transportation the authority to make a final
19
         decision with respect to the actual location
20
         within the right-of-way, and that this
         exception process that's going on is part of
21
22
         that delegation. Is that what you understand
23
         as well?
24
         I believe so. But I have not been involved in
```

[WITNESS: Varney]

146

1 any of those discussions. 2 Q Okay. Let me ask you this question. 3 Mr. Oldenburg went -- drew on his experience, 4 as an administrator in the Department of 5 Transportation, his vast experience, to point out some of the difficulties that the 6 7 Department of Transportation might have with respect to the underground portion of the 8 9 route. 10 And one of the things that he raised was 11 the fact that there are costs that might be 12 attribute -- that might now be incurred by the 13 State, or maybe a municipality, if you're 14 talking about the eight miles up north, in the 15 future. 16 And do you know if the Applicant is asking 17 the Site Evaluation Committee to also delegate 18 the authority to the Department of Transportation to assess those costs to the 19 20 Applicant in the future? 21 I don't know. But I would not disagree with 22 Bill, in the sense that, if there are future 23 costs within the right-of-way, for the DOT,

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that it would be the responsibility of the

24

# [WITNESS: Varney]

```
1
         Applicant to pay for those costs.
 2
    Q
         Okay. So, from a planning -- from a planning
 3
         perspective, land use planning perspective, at
         least from where you sit, that would be a
 4
 5
         reasonable condition if we could somehow
         fashion that?
 6
 7
         Yes, if it's consistent with the law.
         Okay. And, then, the last question I have is,
 8
9
         on Day 12, there was a request made of
10
         Mr. Bowes. And this is at Page 90, I believe,
11
         of the transcript from that day. He had
12
         mentioned that there is -- there was a -- I
13
         don't think he referred to as a "database", but
14
         a compilation of all of the contacts with the
15
         businesses that the Applicant had. And there
16
         was an indication that he was going to provide
17
         that to the Committee.
18
              Do you know if that has been completed and
19
         provided yet?
20
         I don't know.
    Α
21
                   MR. IACOPINO: Does the Applicant
22
         know?
23
                   MR. NEEDLEMAN: I need to check.
24
                   MR. IACOPINO:
                                   Thank you.
```

[WITNESS: Varney]

```
1
                   MR. NEEDLEMAN:
                                    I'll let you know.
 2
                   MR. IACOPINO: I don't have any other
 3
         questions.
    BY CHAIRMAN HONIGBERG:
 4
 5
         Mr. Varney, almost everything I was going to
 6
         ask you about has been covered. At one point,
 7
         though, you I think referred to something that
 8
         businesses who are harmed by the Project can
         apply for some sort of relief. I don't recall
9
10
         it in your testimony, which I looked at this
11
         morning, and I don't -- I can't tell you
12
         whether it was discussed in your report at all.
13
              Tell me what your understanding of that
14
         program is.
15
         My understanding is that Bill Quinlan testified
16
         that the Project would have two Guarantee
17
         Programs. One would be a guarantee against
18
         business loss, and the other quarantee would be
19
         a quarantee against loss of property value.
20
         And I believe --
21
         Are those two programs, in your view,
22
         significant to your opinions about orderly
23
         development?
24
              Because I do not -- that, if the Project
         No.
```

[WITNESS: Varney]

is carried out as we think it -- we all think 1 it should be, that there would be very limited 2 impact on businesses. There would be temporary 3 impact due to the nature of the Project. And 4 5 that there are very few properties that are 6 affected, as it relates to property values, 7 according to the analysis by Dr. Chalmers. 8 So, it would not change my overall opinion. But I feel that both of them are 9 10 appropriate and are in the best interests of 11 Eversource and any affected property owners. 12 Understanding that ultimately the upshot of 13 that answer was "no", they're not significant 14 to your analysis, --15 Α Right. 16 -- do you know if anyone has done any analysis 17 of them to determine how they might work? Any 18 efficacy analysis of those two programs that he 19 outlined? 20 Α No. 21 I think my last question for you, and it really 22 will be my last question for you, unless 23 somebody else does something. Have you ever 24 seen anything like this? You were Chair of the

# [WITNESS: Varney]

```
1
         SEC for some number of years, right?
 2
    Α
         Yes.
 3
         And you've never seen anything like this,
    Q
 4
         right?
 5
         It's been an interesting process. And I'll
         leave it at that.
 6
 7
                    CHAIRMAN HONIGBERG: Yes. Does
         anyone else on the Subcommittee have any
 8
9
         questions for Mr. Varney?
10
                         [No verbal response.]
11
                    CHAIRMAN HONIGBERG: Mr. Needleman,
12
         you have redirect?
13
                   MR. NEEDLEMAN: I do. I'm guessing
14
         it's thirty minutes or less. Your choice as to
15
         when I do it.
16
                    CHAIRMAN HONIGBERG: Off the record.
17
                         [Brief off-the-record discussion
18
                         ensued.]
19
                    CHAIRMAN HONIGBERG: Mr. Needleman,
20
         you're up for redirect.
21
                    MR. NEEDLEMAN: I'll try to do this
22
         as fast as I can.
23
                    MR. PATNAUDE: Well, not too fast.
24
                         [Laughter.]
```

[WITNESS: Varney]

```
1
                   MR. NEEDLEMAN:
                                    Keep up, Steve.
                   CHAIRMAN HONIGBERG: Off the record.
 2
 3
                         [Brief off-the-record discussion
 4
                         ensued.]
 5
                    REDIRECT EXAMINATION
    BY MR. NEEDLEMAN:
 6
 7
         Mr. Varney, Ms. Weathersby asked you about the
         status of MOUs. And, for the record, there are
 8
9
         five of them at this point: Lancaster, which
10
         is Applicants Exhibit 146; Canterbury, which is
11
         Applicant 206; Plymouth Water & Sewer.
12
         Applicant 207; Thornton, Applicant 208;
13
         Franklin, Applicant 209. And I'm going to ask
14
         you about Plymouth Water & Sewer in a minute.
15
              Is it your understanding that the
16
         Applicants' efforts with respect to getting
17
         additional MOUs are ongoing?
18
    Α
         Yes.
19
         Mr. Oldenburg asked you a little while ago
20
         about the Plymouth Water & Sewer. In
21
         particular, he was asking you about Plymouth.
22
         And, in comparison to Louis Karno, his question
23
         was "is there something in it for Plymouth?"
24
         And I think you made reference to a provision
```

#### [WITNESS: Varney]

1 about coordinating with the Town of Plymouth. And what I want to do is pull up this MOU, 2 3 and I'm looking at -- this is Applicant 207, and I'm looking at Section 2. Is this the 4 5 section that you were referring to, Section 2.1? 6 7 Α Yes. And, when you talked about "coordinating with 8 9 the Town of Plymouth", what specifically were 10 you talking about? 11 Efforts such as this. 12 And "such as this", do you mean working with 13 the Town, so that, to the extent they have 14 projects in Main Street, the street is only 15 torn up once instead of more than once? 16 Α Yes. And, in this case, it's an effort to not 17 only coordinate, but to also provide some funds 18 for engineering and consultant services, so that they could explore the installation of 19 20 water and sewer main replacements while the 21 Project is constructing the electric cable. 22 Turning to a different topic, Ms. Schibanoff, 23 when she was questioning you, asked about 24 businesses like Tamarack Camp, Kinsman Lodge,

# [WITNESS: Varney]

```
1
         and Franconia Lodge.
                                Do you recall that?
 2
    Α
         Yes.
 3
         And is it your understanding that all of these
    Q
         businesses were contacted by the Project in
 4
 5
         March, and with the intention of reaching out
 6
         to them and soliciting their input?
 7
    Α
         Yes.
         And Applicants Exhibit 215, which we'll put up
 8
    Q
         now, is the letter to Tamarack. Is that your
9
10
         understanding of it?
11
         Yes.
    Α
12
         And I'll leave that up there for a minute.
13
         Just a couple of other questions about
14
         Tamarack. You were asked about interference
15
         with a business like this. Do you recall that?
16
    Α
         Yes.
17
         And is it your understanding that this Camp
    Q
18
         operates on a seasonal basis?
19
    Α
         Yes.
20
         And, so, if the Project agreed to do its work
21
         without interrupting the Camp's seasonal
22
         operations, would that be relevant to your
23
         analysis?
24
         Yes.
    Α
```

[WITNESS: Varney]

```
1
    Q
         How so?
 2
         Because it would minimize potential impacts on
    Α
 3
         the operation of a business. In this case, I
         believe the Tennis Camp is a seven-week period.
 4
 5
         So, there would be an opportunity for the
 6
         Project to avoid and minimize impacts by
 7
         reaching an agreement with them about the
         timing of the work.
 8
         A while ago Commissioner Bailey focused on
 9
10
         working with businesses and the importance of
11
         Project mitigation, and Mr. Way also focused on
12
         that. I want to talk to you more about that.
13
              You've testified multiple times about the
14
         Project reaching out and opportunities to work
15
         with businesses. I want to get very granular
16
         about that for a moment. And I want to put up
17
         Exhibit 216. This is a summary thus far, and
18
         it's a two-page exhibit. So, I wanted to give
19
         people a chance to look at it.
20
                   MR. NEEDLEMAN: And then, Dawn, after
         a little while, if you can flip to Page 2.
21
22
    BY MR. NEEDLEMAN:
23
         But my questions to you are going to relate to
```

{SEC 2015-06} [Day 40/Morning Session ONLY] {09-26-17}

this in general. And my understanding is that

24

## [WITNESS: Varney]

```
1
         this is the Outreach Summary thus far that
         Louis Karno has engaged in, and the sorts of
 2
 3
         things that Louis Karno has heard from specific
         businesses. Is that right?
 4
 5
    Α
         Yes.
 6
         All right. I want to go through some concrete
    Q
 7
         examples with you of your understanding of what
 8
         can be done to minimize impacts during this
         underground construction.
 9
10
              One of them you mentioned was "time of
11
         year" issues. And Tamarack is an example of
12
         that, is that correct?
13
         Yes.
14
         Is it your understanding that the Project can
15
         also do time of day, work with businesses
16
         depending on the times of day in order to
17
         accommodate concerns?
18
    Α
         Yes.
19
         And, so, for example, there's a bus company in
    Q
         Campton who has asked the Project to coordinate
20
         their construction around the times that school
21
22
         buses are leaving and coming back to the yard.
23
         Is that your understanding?
24
         Yes.
    Α
```

#### [WITNESS: Varney]

```
1
    Q
         And there is a child care center in one of the
         towns that has asked the Project to accommodate
 2
 3
         parents dropping kids off and picking them up.
 4
         Is that your understanding?
 5
    Α
         Yes.
 6
         And there is an auto repair shop that has asked
    Q
 7
         the Project to be mindful of their need to
         conduct test drives of vehicles that they're
 8
9
         repairing. Is that your understanding?
10
         Yes.
    Α
11
         And is it your understanding, with respect to
12
         all of these that we've just talked about, and
13
         ones that I'm still going to go through, that
14
         the Project is working to accommodate all these
15
         concerns?
16
    Α
         Yes.
17
         And do you understand that businesses have
18
         talked to the Project about accounting for
19
         times when they might receive deliveries and
20
         making sure that those are not interrupted?
21
         Yes.
22
         And is it your understanding that businesses
23
         have talked to the Project about ensuring that
24
         adequate parking exists, and, if parking is
```

## [WITNESS: Varney]

```
1
         going to be blocked, that alternative parking
 2
         is made available?
 3
    Α
         Yes.
 4
         Is it your understanding that businesses, and
    Q
 5
         certainly on this list we've seen a lot of it,
 6
         have significant concerns about signage, and
 7
         want the Project to ensure that consumers and
         the public is made aware of the fact that they
 8
9
         remain open and are doing business during the
10
         construction?
11
         Yes.
    Α
12
         Is it your understanding, and I think you
13
         testified to this before, that businesses were
14
         concerned about fugitive dust, and, in
15
         particular, they're concerned about display
16
         windows being made dirty, and they want the
17
         Project to keep dust controlled and to keep
18
         those windows clean?
19
    Α
         Yes.
20
         And I think you also mentioned that the Project
21
         is working carefully with certain
22
         establishments, like restaurants and lodges, to
23
         direct workers to those places. Is that
24
         correct?
```

## [WITNESS: Varney]

```
1
    Α
         Yes.
               That's my understanding.
 2
    Q
         Let me ask you about master plans. I think,
 3
         when Ms. Pacik was questioning you, she
         criticized you for not providing information
 4
 5
         about Concord's Master Plan. Do you recall
 6
         that?
 7
    Α
         Yes.
 8
         And am I correct that Applicants Exhibit 1,
    Q
         Appendix 41, Page 2, which is your report, you
9
10
         specifically said that you "compiled a detailed
11
         summary" of various documents, and that summary
12
         included master plans. Is that right?
13
         Yes.
14
         And that detailed summary was provided to all
15
         the parties in discovery, is that correct?
16
    Α
         Yes.
17
         And the Committee now has that detailed summary
    Q
18
         as "Applicant Exhibit 121", is that right?
19
    Α
         Yes.
20
         You were also asked several times about
21
         "affected communities". Do you recall that?
22
    Α
         Yes.
23
         And, in your supplemental testimony, which is
24
         Applicants Exhibit 96, at Page 9, Lines 3
```

## [WITNESS: Varney]

```
1
         through 7, you specifically spoke to the issue
         of affected communities. Is that right?
 2
 3
    Α
         Yes.
 4
         And, on Pages [Lines?] 6 and 7, you offered the
    Q
 5
         opinion that "the abutting communities are
 6
         often a considerable distance from the Project
 7
         and, regardless of distance, likely will not be
 8
         affected." Correct?
 9
         Correct.
    Α
10
         And, with respect to "affected communities",
11
         Applicants Exhibit 123 is the list of affected
12
         community master plans, is that right?
13
         Yes.
14
         You were asked at one point about "joint use
15
         agreements". I can't remember who asked you.
16
         But you testified that you didn't review any as
17
         part of your work here.
18
              Have you ever seen a joint use agreement
19
         before?
20
    Α
         Yes.
21
         Are you generally familiar with them?
22
         Yes, generally. I didn't look at specific
23
         properties along this, for this Project. But I
24
         am well aware of those agreements.
```

#### [WITNESS: Varney]

```
1
    Q
         Is it your understanding that they allow
 2
         landowners to use a portion of the
 3
         right-of-way, as long as it doesn't interfere
         with the utility's use of the right-of-way?
 4
 5
               That's my understanding.
 6
         So, in light of that understanding, were the
    Q
 7
         joint use agreements that are at issue here
 8
         relevant to you?
9
    Α
         No.
10
         Why is that?
    Q
11
         Because they allow for the use of the
12
         right-of-way for electric transmission.
13
         it's a responsibility of the property owner to
14
         work with the utility to address any issues
15
         associated with joint use, and to have an
16
         agreement in place to work cooperatively.
17
         Mr. Reimers asked you about the Site Evaluation
         Committee's decision in the Portland Natural
18
19
         Gas Transmission System case, and, in
20
         particular, a small segment in Shelburne, New
21
         Hampshire. Do you recall that?
22
    Α
         Yes.
23
         I'm going to put an exhibit up in a minute and
24
         ask you to speak to it. But, as a general
```

## [WITNESS: Varney]

```
1
         matter, having sat on the Committee at that
         time, how do you compare the facts of that
 2
 3
         particular case to the facts here?
 4
         Totally different set of facts.
    Α
 5
         Let me put up Applicants Exhibit 123. This is
 6
         a Google map screen shot, when it comes up.
 7
                    MS. GAGNON:
                                 213.
    BY MR. NEEDLEMAN:
8
         Sorry, 213. This is a Google map screen shot
9
10
         of the particular location at issue in that
11
         decision. And am I correct that the proposed
12
         route would have created a new right-of-way
13
         through a forest in an undisturbed part of town
14
         on the north side of the river, is that right?
15
         Yes.
    Α
16
    Q
         And the Town proposed a specific design change
17
         to move this small segment of line to a
18
         disturbed area on the south side of the river,
         is that right?
19
20
    Α
         Yes.
         And, if we see it on the map, I think the
21
22
         disturbed area is the existing utility
23
         corridor. Is that your understanding?
24
         Yes.
    Α
```

[WITNESS: Varney]

```
1
    Q
         And the specific alternative that was
 2
         ultimately chosen by the SEC was one that was
 3
         not only found to be feasible, but had been
 4
         carefully studied and analyzed as part of that
 5
         SEC proceeding?
 6
         Yes.
    Α
 7
         Are there any other facts relevant to this
         opinion that you want to call to the attention
 8
         of the Committee?
9
10
         They were -- this was an underground gas
    Α
11
         pipeline project. And one of the key factors
12
         was that the project could have been located
13
         within an existing disturbed area, and the
14
         applicants were proposing to not use that
15
         existing disturbed area, the existing corridor,
16
         and instead were proposing to go through an
17
         undeveloped area, when the alternative that had
18
         been studied existed.
19
         Moving to a different topic, Mr. Wright asked
    Q
20
         you about impacts on specific resources, and I
21
         think he was picking up on questions that
22
         Mr. Reimers had asked you about places like Big
23
         and Little Diamond Pond, Nathan Pond, etcetera.
24
         Do you recall that?
```

[WITNESS: Varney]

```
1
    Α
         Yes.
 2
    Q
         As a general matter, why did you include
 3
         resources like this in your report?
 4
    Α
         In some cases, it was for illustrative
         purposes. In other cases, it was related to a
 5
 6
         major facility or a trail or route that
 7
         existed. For example, I believe it was Nathan
         Pond, was the Nathan Pond Ride the Wilds Trail,
 8
         and was named as such. And we discussed
 9
10
         crossings of named snowmobile trails and a
11
         number of named ATV trails along the route.
12
               It was not intended to be a complete
13
         description of every single water body within
14
         miles of the line.
15
         Your analysis of these resources was from a
16
         land use perspective on a before-and-after
17
         basis, is that correct?
18
    Α
         Correct.
19
    Q
         So, you weren't looking at them from an
20
         aesthetics use and enjoyment perspective?
21
    Α
         No.
22
         And you weren't looking at them from a tourism
23
         perspective. That was Mr. Nichols, is that
24
         correct?
```

[WITNESS: Varney]

```
1
    Α
         Correct.
 2
         You were asked about various meetings that you
    Q
 3
         had with town planners. You said repeatedly
 4
         during the course of this process that siting
 5
         transmission lines in existing transportation
 6
         and utility corridors is, in your opinion,
 7
         sound planning, correct?
                In both, with meetings with town
 8
    Α
         Yes.
9
         planners, as well as regional planners.
10
         When you met with these town planners and
    Q
11
         regional planners, did you tell them that that
12
         was your view?
13
         That that was likely to be my conclusion, yes.
14
         And did you tell them it was your intention to
15
         offer that opinion in the context of these
16
         proceedings?
17
    Α
         Yes.
18
    Q
         And did any of them, when you told them these
19
         things, disagree with you or take issue with
20
         that characterization?
21
         No.
22
         You were asked questions about the North
23
         Country Council. I think Mr. Baker at one
24
         point showed you a 2011 resolution of the
```

[WITNESS: Varney]

```
1
         Council, and you were asked about why you
         didn't include these in your report. And I
 2
 3
         think that you indicated that you thought that
         the Project that was submitted to the Committee
 4
 5
         was different from the one that they offered
         their views on. Is that correct?
 6
 7
         Yes.
    Α
         I want to pull up Joint Muni 160, which is an
 8
         exhibit that Ms. Fillmore used. And I'm
9
10
         looking, in particular, at Bates number 006957.
         This is the minutes that Normandeau created of
11
12
         its meeting with the North Country Council on
13
         March 27, 2015. Is that right?
14
    Α
         Yes.
15
         And I want to focus your attention on Points 5
16
         and 6, which I don't think were discussed
17
         earlier. With respect to Point Number 5, can
18
         you explain to me what's contained there and
         how that is supportive of your decision not to
19
20
         include the 2011 resolution?
               They were -- they were raising concerns
21
22
         about the Project's potential visual impacts in
23
         Pittsburg and in the Easton/Sugar Hill area, as
24
         well as the White Mountain National Forest.
```

#### [WITNESS: Varney]

```
1
         This, of course, was prior to the revised
         route, which included undergrounding in these
 2
 3
         areas.
         And how about Number 6?
 4
 5
         This similarly was an issue of concern about
 6
         the Appalachian Trail crossing and visual from
 7
         the Balsams and Mountain View Grand. And these
         issues have been addressed by the visual
 8
 9
         consultant. And the Appalachian Trail crossing
10
         is now undergrounded and in a location that is
11
         supported by the Supervisor of the White
12
         Mountain National Forest.
13
         So, the changes that were made didn't
14
         completely address every concern that the North
15
         Country Council had, is that right?
16
    Α
         Not everything, but it was substantial --
17
         substantially addressed many of their concerns.
18
    Q
         Moving on, when Ms. Saffo was questioning you,
19
         she asked you about traffic control plans, and
20
         she was pressing you on the issue of whether,
21
         if it took 30 to 45 minutes to travel in each
22
         direction, that's something that would have
23
         been considered "reasonable" in your view.
                                                      Dο
24
         you remember that?
```

# [WITNESS: Varney]

```
1
    Α
         Yes.
 2
         Is it your understanding that the Department of
    Q
 3
         Transportation will have to approve the traffic
 4
         control plan and the traffic management plan?
 5
         Yes.
 6
         And do you believe that DOT would approve any
 7
         plans if they didn't consider them to be
 8
         reasonable?
9
    Α
         No.
10
         And, so, if the Project receives approved plans
11
         from DOT, would that address those concerns
12
         that Ms. Saffo raised with respect to that
13
         issue?
14
         I believe they would, yes.
15
         Two more topics. When Ms. Fillmore was
    Q
16
         questioning you, she showed you a letter from a
17
         nursery. I believe it was in Sugar Hill.
18
         the nursery expressed concern about significant
19
         impacts that it believed had occurred to its
20
         business as a result of a recent road closure.
21
         Do you recall that?
22
    Α
         Yes.
23
         And I think that the nursery was trying to
24
         equate that experience with what might happen
```

#### [WITNESS: Varney]

```
1
         regarding Northern Pass.
                                    Is that fair to say?
 2
    Α
         Yes.
 3
         So, I want to call up Applicants Exhibit 214.
    Q
         This is the New Hampshire DOT notice with
 4
 5
         respect to the road closure that was at issue
 6
         in that letter. You've reviewed this before?
 7
         Yes, I've seen it.
    Α
 8
         Okay. And what was the period of time that
         that road closure occurred?
9
10
         It was a five-week road closure and detour.
    Α
11
         Okay. And it was -- and your understanding was
    0
12
         it was a complete closure of the road, is that
13
         right?
14
    Α
         Yes.
15
         And when did that occur?
16
    Α
         In the -- beginning on July 10th, so, in the
17
         middle of the summer -- peak summer season.
18
    Q
         Is it your understanding that, in the 52-mile
19
         underground stretch that Northern Pass is
20
         proposing to construct in, that there won't be
21
         any road closures, except possibly for sporadic
22
         ones at the Plymouth traffic circle that will
23
         have detours?
24
         That's my understanding, yes.
```

[WITNESS: Varney]

```
1
    Q
         So, do you find that -- well, what is your
 2
         opinion then with respect to the concerns
 3
         expressed in that letter in relation to what
 4
         you understand the facts of Northern Pass to
 5
         be?
 6
         That the Project will be addressing the
         concerns and will not cause some of the impacts
 7
         that were being suggested by the intervenor.
 8
9
         I want to go to the ELMO for a minute, just so
10
         everybody is clear about the locations. So,
11
         the map we have on here will be Applicants
12
         Exhibit 217.
13
              There is an "N" on that map. I'm going to
14
         ask that that be circled. That's what we
15
         understand to be the approximate location of
16
         the nursery. And then the bridge crossing or
17
         culvert crossing, where the road was closed, if
18
         we could circle that. And, again, my
19
         understanding is that is the location. And,
20
         then, where is the Town of Franconia? And,
         then, if we can put with highlighting what is
21
22
         the proposed Northern Pass route?
23
              Okay. And then one last question.
24
         is a -- we've heard a lot about this, so I just
```

## [WITNESS: Varney]

```
1
         want to have a clear record for this. There is
         a -- is there a "P" on that map? Yes. Could
 2
 3
         we circle the "P". And what do you understand
 4
         that location to be, Mr. Varney?
 5
         That's Polly's Pancake Parlor.
 6
         And you had said earlier you thought you knew
    Q
 7
         the distance from the proposed construction
         area?
 8
9
         Yes. Given the interest, I measured it. And
10
         it's about a mile and a half from the Project
11
         corridor.
12
         Okay. One more set of questions with regarding
    Q
13
               When Ms. Bradbury was asking you
14
         questions, she was talking about local town
15
         events that would be of importance to the
16
         people of Deerfield, like the Deerfield Arts
         Tour and the Deerfield Fair. Do you recall
17
18
         that?
19
    Α
         Yes.
20
         And I think you explained at one point that
21
         these are the sorts of issues that could be
22
         worked out between the Applicant and the Town?
23
    Α
         Yes.
24
         So, I want to call up Applicants Exhibit 208.
```

## [WITNESS: Varney]

```
1
         This is the Thornton MOU. Have you looked at
         this document before?
 2
 3
    Α
         Yes.
         And I want to call your attention to Page 2,
 4
    Q
         Section 2.3. This is "Traffic Control". And
 5
 6
         is it your understanding that the Town of
 7
         Thornton had concerns, like the Town of
         Deerfield, about the impact that construction
 8
 9
         might have on important community events?
10
         Yes.
    Α
11
         And this document memorializes that
12
         understanding and evidences a commitment of the
13
         Project to work with the Town to address those
14
         specific concerns?
15
    Α
         Yes.
         And is this the type of approach that you had
16
    Q
17
         in mind when you were speaking about the
         Deerfield events?
18
19
         Yes. Especially regarding the reference here
    Α
20
         to the Blue Grass Festival and Blues Festival
21
         located at the Sugar Shack Campground in the
22
                It's a very good example.
23
                                    Thank you. Nothing
                    MR. NEEDLEMAN:
24
         further.
```

## [WITNESS: Varney]

```
1
                    CHAIRMAN HONIGBERG: All right.
                                                       Ιf
 2
          there's nothing else for Mr. Varney, we will
 3
          let him go.
                    We'll break for lunch and be back
 4
          around ten minutes after two.
 5
 6
                         (Lunch recess taken at 1:08 p.m.
 7
                         and concludes the Day 40 Morning
 8
                         Session. The hearing continues
 9
                         under separate cover in the
10
                         transcript noted as Day 40
11
                         Afternoon Session ONLY.)
12
13
14
15
16
17
18
19
20
21
22
23
24
```

## 

#### CERTIFICATE

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)

**BY CHAIRMAN HONIGBERG:** [1] 148/3 BY CMSR. BAILEY: [2] 34/4 76/16 BY DIR. WRIGHT: [2] 66/2 74/22 BY MR. IACOPINO: [1] 142/1 BY MR. **NEEDLEMAN: [3]** 151/5 154/21 161/7 BY MR. **OLDENBURG:** [7] 4/18 6/19 25/11 26/20 35/21 39/5 104/1 **BY MR. WAY: [6]** 24/8 34/24 91/14 101/12 106/9 113/11 BY MS. BAILEY: [1] 137/19 BY MS. **WEATHERSBY:** [4] 109/13 113/21 120/3 128/9 **CHAIRMAN HONIGBERG:** [17] 4/1 65/17

65/20 76/6 76/11 91/10 109/5 119/24 128/4 137/17 141/22 150/6 150/10 150/15 150/18 151/1 171/24 CMSR. BAILEY: [3] 76/13 91/7 141/20 **DIR. WRIGHT:** [4] 65/19 65/21 65/24 76/4 MR. IACOPINO: [4] 141/24 147/20 147/23 148/1 MR. NEEDLEMAN: [9] 109/8 141/21 120/1 128/6 147/22 | \$ 147/24 150/12 150/20 150/24 154/19 171/22 MR. **OLDENBURG:** [14] 4/7 4/11 6/18 24/3 24/5 26/19 34/3 34/23 35/19 39/2 65/15 103/21 103/24 106/8 MR. PATNAUDE: [1] 150/22 MR. WAY: [14]

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