

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

October 12, 2017 - 12:55 p.m. DAY 46
49 Donovan Street **Afternoon Session ONLY**
Concord, New Hampshire

{Electronically filed with SEC 10-25-17}

IN RE: SEC DOCKET NO. 2015-06
NORTHERN PASS TRANSMISSION -
EVERSOURCE; Joint Application of
Northern Pass Transmission LLC and
Public Service of New Hampshire d/b/a
Eversource Energy for a
Certificate of Site and Facility
(Hearing on the Merits)

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

Chmn. Martin Honigberg <i>(Presiding Officer)</i>	Public Utilities Comm.
Christoper Way, Designee	Dept. of Business & Economic Affairs.
Dir. Craig Wright, Designee	Dept. of Environ.Serv.
William Oldenburg, Designee	Dept. of Transportation
Patricia Weathersby	Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq. Counsel for SEC
(Brennan, Caron, Lenehan & Iacopino)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

COURT REPORTER: Cynthia Foster, LCR No. 14

I N D E X

WITNESS PANEL

JAMES PALMER
MICHAEL BUSCHER
JEREMY OWENS

Cross-Examination by Mr. Needleman	5
Cross-Examination by Ms. Percy	67

E X H I B I T S

EXHIBIT ID	D E S C R I P T I O N	PAGE NO.
APP 322	DEIS Conclusions v. FEIS Conclusions, APP84043	13
APP 323	T.J. Boyle Simulation Viewpoints Spreadsheet; APP84262-84266	22
APP 324	Jean Vissering Memo re; Antrim Wind; APP84054-84055	40
APP 325	T.J. Boyle Examples of Potential Scenic Resources; APP83919-83926	43
APP 326	Chart of Double Counting of Potential Resources; APP84013-84011	55
APP 327	T.J. Boyle examples of Private Properties as Potential Resources; APP84257-84261	61
APP 328	T.J. Boyle Exampes of Potential Scenic Resources; APP84019-84023	81
APP 329	T.J. Boyle Response to DR 21; APP84267-84268	85

APP 330	A Lay Person's Guide to New Hampshire Current Use; APP84026-84037	94
APP 338	Interview with Dr. James F. Palmer, FASLA; APP84047-84053	157
DNA/PSC 51	Christine Lake	67
DNA/PSC 55	Rendering of Trails established in 1880s behind Percy Summer Club	69
DNA/PSC 113	Potters Ledge	69

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

P R O C E E D I N G S

(Proceedings resumed at 12:55 p.m.)

PRESIDING OFFICER HONIGBERG: My understanding is that there's no other Intervenor Groups who are here who have questions for this Panel. I believe Ms. Percy is going to be here around 2 o'clock. So in order not to waste time, Mr. Needleman, what we've asked I hope is that you would start and be able to take a break at some point, allow Ms. Percy to do her questions and then you'd resume. That's okay with you?

MR. NEEDLEMAN: Yes.

PRESIDING OFFICER HONIGBERG: So I think with that, we're ready for you to begin.

MR. NEEDLEMAN: Thank you.

CROSS-EXAMINATION

BY MR. NEEDLEMAN:

Q Good afternoon, gentlemen. I'm Barry Needleman. I represent the Applicant. I think I've met all of you before. Except maybe Mr. Owens. I can't remember.

I'm going to direct my questions at you, Mr. Buscher, because you're in the middle. That

1 doesn't mean that if any of you have information
2 that you think is relevant you shouldn't jump
3 in, and if there's a particular question I ask
4 or a topic I'm covering that one of you is
5 better suited to cover, then please just let me
6 know, and I would just ask all of us to try to
7 work together to make sure that we don't talk
8 over each other so that we have a clean record.
9 Okay?

10 So Applicant's Exhibit 106 which I don't
11 need to call up at this point, but I certainly
12 will if you want me to, is the Draft
13 Environmental Impact Statement that was prepared
14 by the United States Department of Energy
15 reviewing this Project for purposes of the
16 Presidential permit. And my understanding is
17 that you prepared the Visual Assessment
18 Technical Report for that Draft EIS; is that
19 right.

20 A (Buscher) That is correct.

21 A (Palmer) We prepared a Draft Visual Impact
22 Assessment Report for the Draft EIS.

23 Q And my understanding is that you completed that
24 work, and it was published on July 10th, 2015.

1 Does that sound right?

2 A (Buscher) I'm sorry. Could you repeat the
3 question? I was still on the last question.

4 Q My understanding is that the completed work for
5 that portion of the Project was published on
6 July 10th, 2015. Sound about right?

7 A (Buscher) That sounds approximately right. I
8 would have to confirm the exact date.

9 Q Okay. Exact date is not critical. Looking for
10 a ballpark.

11 And then Applicant's Exhibit 205 is the
12 Final Environmental Impact Statement for the
13 Project prepared by the Department of Energy,
14 and my understanding is that you also prepared
15 the Final Technical Report for that document,
16 correct?

17 A (Buscher) That is correct.

18 Q And I believe that your work on that was
19 completed on August 10th, 2017. Sound about
20 right?

21 A (Buscher) That sounds about right.

22 Q And the Final Environmental Impact Statement
23 concluded that the proposed alternative,
24 Alternative 7, was the Department of Energy's

1 preferred alternative; is that right?

2 A (Buscher) I believe that's correct.

3 Q Now, for purposes of the work that you've done
4 here in this docket, on May 13th, 2016, Counsel
5 for the Public sought permission to retain you
6 for purposes of this process. Is that your
7 understanding?

8 A (Buscher) That sounds about the approximate
9 timing.

10 Q And on May 25th, 2016, the Committee granted
11 that request. Sound right?

12 A (Buscher) Sounds appropriate.

13 Q And you completed your work and submitted your
14 Prefiled Testimony or you completed your initial
15 work and submitted your Prefiled Testimony here
16 on December 30th, 2016, right?

17 A (Buscher) That's correct.

18 Q So a fair portion of the time that you were
19 doing your work on this Project, there was also
20 temporal overlap with the work that you were
21 doing on the Draft Environmental Impact
22 Statement, correct?

23 A (Buscher) Yes.

24 Q Now, with respect to that Draft Environmental

1 Impact Statement, in the Technical Report, I
2 believe you concluded that the total average
3 scenic impact for the proposed alternative was
4 in your numbers 1.76 which you quantified as
5 very low to low. Does that sound right?

6 A (Palmer) I would have to see it, but I have --

7 Q I don't want to make it a memory test,
8 Mr. Palmer, so I can pull it up.

9 A (Palmer) Yes. I think that's not accurate. I
10 think that those numbers refer to a rating for a
11 specific cell, and the problem was that it
12 didn't incorporate, when you talk about the
13 overall impact, the area that's being impacted.
14 So there's a second index that does incorporate
15 that.

16 Q So I'm going to call up Applicant's Exhibit 106,
17 the Supplement to the Draft Environmental Impact
18 Statement on page 5. And I'm looking at
19 Alternative 7 which is the proposed action.

20 A (Palmer) The final analysis redid all of these
21 numbers. None of this is -- it's all draft,
22 right? This is all from the Draft?

23 Q My question to you, yes, was with respect to the
24 Draft Environmental Impact Statement.

1 A (Palmer) Okay.

2 Q So now that you see this chart does that refresh
3 your recollection?

4 A (Palmer) Yes. And the use of the average scenic
5 impact there was criticized in public --

6 Q It's just a yes or no question.

7 MS. CONNOR: I believe he can explain his
8 answer.

9 PRESIDING OFFICER HONIGBERG: Let's get the
10 yes or no first, and then if he has an
11 explanation, he can give it. Off the record.

12 (Discussion off the record)

13 A (Palmer) This appears to be a table from the
14 supplementary report to the Draft VIA.

15 Q Correct. And the conclusion at that point was
16 that the proposed action, number 7, according to
17 you, the total average scenic impact was 1.76
18 which down below there you quantify as very low
19 to low, correct?

20 A (Palmer) Yes. That's what it says.

21 Q Okay. Then in the Final Environmental Impact
22 Statement, you concluded that the average scenic
23 impact for the proposed alternative was 1.41
24 which was a net change of .03 over the existing

1 conditions. Does that sound right?

2 A (Palmer) That may be so, but the final VIA also
3 describes why not to use that number.

4 Q We'll get to that. I'm just asking you if that
5 sounds right.

6 A (Palmer) Okay. If you have it, I can look at
7 it. I mean, it's going to be in that ballpark,
8 correct.

9 Q Sure. It's page 272 of the Technical Report.
10 Do you recognize this document?

11 A (Palmer) I do.

12 Q I think if we go to the bottom of that. Because
13 if you look on the left side in the Total
14 column, and then you follow across, I think we
15 have the total there of 1.41. Is that right?

16 A (Palmer) I mean, it's real hard to say because I
17 can't see what, the material that we're bringing
18 this from.

19 Q What would you like to see?

20 A (Palmer) I just want to, I just want to read the
21 heading.

22 Q Sure.

23 A (Palmer) So I can understand what figures you're
24 showing me.

1 Q Sure. Take your time.

2 A (Palmer) Thank you.

3 MR. IACOPINO: Mr. Needleman, I know they
4 have bigger screens than us, but is there any
5 way this can be blown up so we can see it?

6 MR. NEEDLEMAN: Yes, we're happy to blow up
7 whatever part you want to see.

8 MR. IACOPINO: Just generally so we can get
9 an idea of what's on the paper.

10 MR. NEEDLEMAN: Sure. Does that help?

11 BY MR. NEEDLEMAN:

12 Q This is your document, correct?

13 A (Palmer) Yes. So 1.41 is the average scenic
14 impact over the whole Project.

15 Q Okay.

16 A (Palmer) And that's, yes, in comparison to the
17 existing line.

18 Q All right. Thank you. So am I also correct
19 that as part of that work that you did, you drew
20 conclusions about visual impacts by region?
21 There was a north region, a central region, a
22 southern region and then the White Mountain
23 National Forest?

24 A (Palmer) We calculated statistics for each

1 region, but I don't think we drew conclusions.

2 Q Well, let's, we've put together Exhibit 322
3 which is a compilation of your statements
4 regarding Alternative 7. This is a summary, and
5 next to each of those we have the Final
6 Environmental Impact Statement page reference.
7 And I'm happy to call up any of those if you'd
8 like, but what I'd like do for purposes of
9 moving this along is just to run through those.

10 A (Palmer) Maybe I should let you know that we had
11 no hand in writing the Final EIS so all of this
12 material was written by someone else?

13 Q Sure.

14 A (Palmer) And I've not read the Final EIS.

15 Q But you did all of the underlying work that went
16 into these conclusions; is that correct?

17 A (Palmer) Assuming that the people that wrote the
18 Final EIS used our material, that's correct.

19 Q Do you ever check that?

20 A (Palmer) No. We were not asked to check that.
21 Actually, we weren't even given an opportunity
22 to check that.

23 Q Did you check any of that work in the context of
24 the Draft Environmental Impact Statement?

1 A (Palmer) We did check things in relation to the
2 Draft Environmental Impact Statement, but the
3 Draft Environmental Impact Statement did not
4 include Alternative 7.

5 Q Did you find the work in the Draft Environmental
6 Impact Statement with respect to Visual
7 Assessment to be well done and sound?

8 A (Palmer) We were asked to read specific
9 sections, and we did that. We were specifically
10 asked not to make a judgment about the
11 significance which is a keyword in the federal
12 NEPA language.

13 Q And the sections that you read, did you find
14 them to be well done and sound?

15 A (Palmer) We offered suggested corrections, and
16 those were made or not made. I didn't go back
17 and check them.

18 Q I'm not sure you answered my question.

19 A (Palmer) I can't answer your question.

20 Q Okay. So with respect to the northern section
21 of the line which encompasses Coos County, the
22 conclusion in the Final Environmental Impact
23 Statement was that the scenic impact of the
24 proposed conditions was 1.15 or very low to low.

1 Is that correct?

2 A (Palmer) I wouldn't use that average anymore as
3 a result of the review of the Draft
4 Environmental Impact Statement. The aggregate
5 numbers were considered to be the better
6 indicator.

7 Q But these are the numbers in the final
8 Environmental Impact Statement from the United
9 States Department of Energy.

10 A (Palmer) You cherry-picked some numbers that are
11 in that statement. That's correct.

12 Q And I'm sure you will get an opportunity on
13 redirect to explain why you disagree with them.

14 What I'm asking you, and do you agree with
15 me, that these are the final numbers from the
16 Environmental Impact Statement representing this
17 category?

18 A (Palmer) I'll take your word for it that you
19 accurately did these. I didn't write the Final
20 EIS so I can't say.

21 Q You've never seen this before.

22 A (Palmer) I have not read the Final EIS.

23 Q Well, that's not what I'm asking you. I'm
24 asking you if you've ever seen this before. Not

1 this exhibit but these conclusions with respect
2 to these sections.

3 A (Palmer) If they're the same as in the final
4 VIA, then yes, I have seen them, but as I've
5 said several times, I didn't have anything to do
6 with writing the Final EIS.

7 Q Mr. Buscher or Mr. Owens, did you ever see these
8 before?

9 A (Buscher) I would say the same thing that Jim
10 has said. It's hard to verify without going
11 back through the entire document to see if it
12 was transposed correctly to the Final EIS and
13 then to this exhibit.

14 Q Mr. Buscher?

15 A (Buscher) I've only loosely looked through the
16 Final EIS. I wouldn't be able to tell you if
17 that was the exact document or the exact chart
18 from the EIS.

19 Q All right. Well, I'm certain that if we didn't
20 get any of these average scenic impacts correct,
21 then that will be cleared up on redirect. So
22 we'll keep going for now.

23 A (Buscher) That sounds fine.

24 Q Based on the chart we have here, the central

1 section average scenic impact which is Grafton
2 and Belknap County in the Final EIS was 1.62
3 which was also considered very low to low; is
4 that correct?

5 A (Buscher) That's what this chart says yes.

6 Q And in the southern section, it was 1.76, also
7 considered very low to low, correct?

8 A (Buscher) That, again, is what this chart says.

9 Q And then, finally, the chart says that in the
10 White Mountain National Forest the impact was
11 2.45 which is low to moderate. Is that correct?

12 A (Buscher) Again, that is what this chart says,
13 yes.

14 Q And in your work in this docket, you have
15 offered the opinion that there are 29 specific
16 locations where there will be unreasonable
17 adverse effects on aesthetics; is that right?

18 A (Buscher) That's correct.

19 Q At the tech session, I asked you how you could
20 analyze the same Project and reach what appear
21 to be such different conclusions, and you said
22 to me something along the lines of the report
23 for the Department of Energy was at a landscape
24 planning scale, and it wasn't looking at site

1 specific resources.

2 A (Buscher) That's correct. In fact, we were
3 specifically directed in conducting the visual
4 analysis for the DOE or on behalf of the DOE to
5 pull back from looking at really specific site
6 level details.

7 Q So it's your testimony then that there is no
8 correlation between the work you did for the
9 Environmental Impact Statement and the work you
10 did here?

11 A (Buscher) There's correlation, but it's
12 different work. It's looking for a different
13 answer to a different question.

14 Q All right. Well, I want to dig into that a
15 little bit.

16 So the T.J. Boyle Technical Report, which I
17 guess is also known as the Visual Impact
18 Assessment that supported the EIS, talked about
19 how you went about doing your work there, and
20 I'm going to call up Applicant's Exhibit 205,
21 and this is page 2 of the Technical Report, and
22 I want to take a moment to look at that.

23 This is a description of how you were
24 undertaking the work in that process, and it

1 talks about there being two distinct approaches
2 to analyzing these visual impacts. The first
3 one captures what is framed as a big picture
4 approach using GIS to conduct visibility
5 analysis, a landscape assessment and evaluation
6 of exposure to roads, et cetera. And then it
7 says, quote, "The second is a more focused
8 viewpoint assessment that includes an extensive
9 visual inventory of the existing conditions and
10 the preparation of representative photo
11 realistic visual simulations. An evaluation of
12 Key Observation Points, KOP, provide an in-depth
13 description of the effects at specific
14 viewpoints." Correct?

15 A (Buscher) Correct.

16 Q So in this assessment, you engaged in a, quote,
17 "focused viewpoint assessment," and I believe
18 that that included visiting and documenting over
19 a thousand viewpoints; is that right?

20 A (Buscher) As part of this process, we engaged in
21 a level of field analysis that involved
22 extensive field work and observation.

23 Q And you prepared multiple photo simulations of
24 specific locations for this work; is that right?

1 A (Buscher) That is correct.

2 Q And you evaluated Key Observation Points using
3 both leaf-on and leaf-off conditions to, quote,
4 "provide in-depth descriptions at specific
5 viewpoints," correct?

6 A (Buscher) That is correct.

7 Q And for the Draft EIS, it's my understanding
8 that you selected 65 specific viewpoints to
9 create photo simulations.

10 A (Palmer) I think its more like 70, but you're in
11 the neighborhood.

12 Q Yes. I thought the draft was 65, and in the
13 final you selected 73.

14 A (Palmer) Yes. That could be, yes.

15 Q 73 sound right for the final?

16 A (Palmer) It does, yes. Thank you.

17 Q And Mr. Buscher, a moment ago you talked about
18 doing field work in connection with this
19 Project. You did extensive field work for the
20 EIS; is that right?

21 A (Buscher) That is correct.

22 Q And that field work involved spending a lot of
23 time in a range of specific locations to
24 understand the character and detail of those

1 locations and the potential impact of those
2 places, right?

3 A (Buscher) That is correct.

4 Q And you did a photo inventory which we received
5 in discovery, and we counted that between 2013
6 and 2016 your team spent 46 days in the field;
7 actually, two teams spent 46 days in the field;
8 does that sound about right?

9 A (Buscher) I would have to look at the exact
10 numbers, but we spent quite a bit of time out in
11 the field.

12 Q And at page 52 of that Final EIS, you said,
13 quote, "a field team visited each public road
14 crossing of the proposed Project," close quote.
15 Sound right?

16 A (Buscher) I'm sorry. Could you repeat the last
17 thing that you said?

18 Q "A field team visited each public road crossing
19 of the proposed project."

20 A (Buscher) Yes. Sounds correct.

21 Q And there were --

22 A (Buscher) Did you have something to add?

23 A (Palmer) I was just going to say meaning the
24 overhead crossings but yes.

1 Q And there are 120 of those crossings; is that
2 right?

3 A (Palmer) That's in the ballpark, right.

4 Q And at page 53 of that document, it said that
5 field teams collected information at each one of
6 those points as part of your analysis. Does
7 that sound right?

8 A (Buscher) That sounds correct.

9 Q And all of the field sheets that were filled out
10 were then inputted into a complete T.J. Boyle
11 simulation viewpoint spreadsheet. Does that
12 sound right?

13 A (Buscher) It does.

14 Q And I'm going to call that spreadsheet up, and
15 it's going to be a bit challenging, I think, for
16 folks to read because you packed a lot of
17 information into it, but I'm happy to go to any
18 point on the sheet that anyone wants, but I want
19 to use sections of it just for illustrative
20 purposes.

21 So, Dawn, maybe we could start at the top
22 and block off just the first half so people can
23 see the categories of information there.

24 So my understanding is that Surveyors would

1 be the field team that went to a particular
2 location; is that right?

3 A (Buscher) That's correct.

4 Q And then you have the Location next to that. In
5 this case, Pontook Reservoir looking northwest,
6 right?

7 A (Buscher) Yes.

8 Q And before that you've got a date and a time
9 that the people were there, right?

10 A (Buscher) That is correct.

11 Q And then GPS ID. I'm assuming that just is a
12 way to figure out the GPS coordinates of the
13 location?

14 A (Buscher) Yes. Each waypoint that was captured
15 was given a unique identifier.

16 Q All right. And then Photo Number. So when it
17 says 820 to 892, does that mean that you took 72
18 photos at that location?

19 A (Buscher) That is correct.

20 Q And you were just numbering your photos
21 sequentially somehow?

22 A (Buscher) That's correct.

23 Q Okay. And then Photo Notes. I suppose that's
24 just information about how photos were taken.

1 Correct me if I'm wrong.

2 What are those next categories, Observation
3 NOT?

4 A (Buscher) I believe that stands for observation
5 notes.

6 Q Okay. So it's talking about corridor visibility
7 there. And then you have your next category,
8 Designation, so I guess that would relate to
9 whether there's some formal scenic designation
10 like a cultural byway or some such thing?

11 A (Buscher) It would.

12 Q Okay. And then let's keep going over. So
13 there's designation notes. What does scenic ATT
14 mean?

15 A (Palmer) It's attractiveness, an attractiveness
16 rate.

17 Q Okay. So you're rating the scenic quality or
18 scenic attractiveness as a term of art?

19 A (Palmer) I suppose. I mean, it would be a
20 general scenic value rating, but yes. Yes.

21 Q What does the next thing mean? Num resdn?

22 A (Owens) Number of residences.

23 Q So you're noting residences in the area?

24 A (Owens) That were visible clearly from the

1 general area where we visited, yes.

2 Q Okay.

3 A (Buscher) Yes, because, obviously, there can be
4 visibility over a larger area, we typically took
5 that observation note from within, say, if it
6 was a road crossing from within the road
7 crossing itself.

8 Q And then you have, I guess that's number of
9 structures that would be visible?

10 A (Palmer) Correct. That would be the existing
11 line.

12 Q And then you have primary use, secondary use,
13 tertiary use; is that right?

14 A (Buscher) That's correct.

15 Q And then Dawn, let's see the rest.

16 A (Palmer) So use being land use probably. We'd
17 have to check that, but that's my guess based on
18 what I'm seeing in the cells.

19 Q Road Classification sounds obvious. What is
20 Use, Use Intensity, I guess, right?

21 A (Palmer) Correct.

22 Q So what does that mean?

23 A (Palmer) Well, if the use is, say,
24 recreationists of some kind like kayakers and

1 canoes, does it appear to be intensively used or
2 not based on whatever we could tell just
3 standing there at the viewpoint. We didn't talk
4 to anybody about that.

5 Q So that was just a field observation. You
6 didn't do any research to fill that category in?

7 A (Palmer) All of these are field observations.
8 There's no research behind -- it's all field
9 observation. Like notes.

10 A (Buscher) This only reflects information that
11 was captured by the observation team when out in
12 the field. There was no additional research
13 that went into this.

14 A (Owens) I'm sorry. Just to clarify, there were
15 some scenic roads and things like that we had
16 mapped that would help inform us if it was going
17 to be scenic road that we could then put into
18 the spreadsheet.

19 Q What's Scenery IN?

20 A (Palmer) Scenery interest.

21 Q How is that different from attractiveness, that
22 earlier category?

23 A (Palmer) It's been several years since I did
24 these ratings so I'd have to go back and look at

1 the code book which you discovered but we didn't
2 bring. If you have that, it would be wonderful
3 to bring it up, and then we could answer these
4 more accurately.

5 Q I don't think I do. What is Seg Vis Ra?

6 A (Owens) It's the segment, yeah, I think it was a
7 rating of the segment. Sometimes we took
8 multiple photos from the same location so that
9 would be photo group A, photo group B and might
10 be from one side of a corridor and then looking
11 at it from the other side. We'd have to look up
12 what the full meaning is.

13 A (Palmer) I'm not sure about that.

14 Q Can we get the rest of the sheet, Dawn? I don't
15 think we need to go through every category.
16 Unless there's something that you want to say.

17 So it seems we have the team member or the
18 team as you designated them. The town. Is the
19 hyperlink just to where you store the photos?

20 A (Owens). Yes, that was -- actually, that's not
21 where we stored it on our computers but a link
22 that would allow others to be able to go
23 straight to see that group of photos.

24 Q And what's that last category? I assume KOP is

1 Key Observation Point, but what does SIM mean in
2 there?

3 A (Palmer) We had 73 sims all together as you
4 indicated. Some of those were evaluated as KOPs
5 and some of them were not further evaluated.
6 They were just simulated so KOP have a detailed
7 description in Appendix A.

8 Q Okay.

9 A (Owens) And just to clarify, those were added
10 afterwards. There's not something that we did
11 in the field. We were using this to track all
12 our points later in the process.

13 Q So at each of these locations, I assume you took
14 notes, right?

15 A (Palmer) These are the notes.

16 Q And you made determinations about whether it was
17 a designated resource, you assessed scenic
18 resource attractiveness, number of structures,
19 primary and secondary uses, I think distance
20 range, existing contrast I think was one of the
21 categories, existing visual magnitude, scenery
22 interest, viewpoint distance range, all these
23 things for each one of these resources, right?

24 A (Palmer) At each viewpoint, correct.

1 Q And with the photo simulations that you
2 developed for the Final Environmental Impact
3 Statement, it's my understanding that you
4 selected those from over a thousand viewpoints
5 that your team documented; is that right?

6 A (Buscher) I don't know the exact number, but
7 there were quite a few viewpoint locations.

8 A (Palmer) So I mean that process is described in
9 the Final VIA.

10 Q Okay. So let me go back to where we started.
11 When you described that summary of the work that
12 you were doing with the two distinct approaches,
13 and you talked about the second being a more
14 focused viewpoint assessment with preparation of
15 representative photo realistic simulations,
16 in-depth descriptions, et cetera, you
17 characterized in the EIS this effort as
18 involving a substantial amount of site specific
19 work; is that right?

20 A (Buscher) That we described the effort we
21 undertook for the EIS as -- can you repeat the
22 question?

23 Q Yeah. It's fairly characterized as a
24 substantial amount of site specific work for

1 that effort, isn't it?

2 A (Buscher) So we, just to be clear, the way that
3 that report ended up evolved through our process
4 and ongoing discussions with the DOE. So we
5 ended up doing some upfront work that we may not
6 have approached in a similar way if we knew how
7 the end result or what was required with the
8 report for a final product.

9 Q Okay. Let's go back to my question. It was
10 pretty straightforward.

11 The work you did for that effort, that
12 Project, involved a substantial amount of site
13 specific work. Correct?

14 A (Buscher) The work that we conducted, yes, did
15 involve.

16 Q All right. And so despite that, despite
17 everything we've gone through, you still
18 maintain that this was landscape scale only and
19 all the site specific work you did in the EIS is
20 completely separate from the site specific work
21 that you've done here for your SEC analysis?

22 A (Buscher) 100 percent.

23 Q Okay. Am I correct that, Mr. Buscher, other
24 than the very limited role that you played in

1 the Antrim Wind docket, none of you have ever
2 been involved in a proceeding before in front of
3 the New Hampshire Site Evaluation Committee?

4 A (Buscher) That's correct.

5 Q And none of you have participated in the SEC
6 rulemaking process that led to the creation of
7 the current set of rules?

8 A (Buscher) That's correct.

9 Q And this is the first time that you are
10 undertaking a professional effort to apply those
11 SEC rules; is that correct?

12 A (Buscher) Sure.

13 A (Owens) I would disagree in the sense that we
14 didn't actually create the VIA so we weren't
15 limited to those rules. We did a review based
16 on our understanding of those rules in someone
17 else's work.

18 Q Well, that wasn't my question though. My
19 question was, and I'm not sure which one you
20 were responding to, but I think you all agreed
21 that you didn't participate in the rulemaking
22 process. Is that right?

23 A (Owens) Yes.

24 A (Buscher) That is correct.

1 Q And this is the first time that in a
2 professional capacity any of you are actually in
3 some way trying to apply those SEC rules; is
4 that correct?

5 A (Buscher) Yes, and I would add to that I think
6 this is only the second project in which those
7 rules are being applied.

8 Q It's actually not right, but we'll get to that
9 in a little while.

10 A (Buscher) Sure.

11 Q So you and Mr. DeWan have a substantial
12 disagreement about the number of scenic
13 resources that should be evaluated here; is that
14 fair to say?

15 A (Buscher) That's fair to say.

16 Q T.J. Boyle said initially that there were 18,933
17 scenic resources within the area of potential
18 visual impact when screened for topography that
19 should be evaluated. That was your initial
20 number, correct?

21 A (Buscher) Yes. That was our initial number, and
22 we even had some additional discussion about the
23 volume of that number.

24 Q That was, I think, the number contained in your

1 December 30th, 2016 report, right?

2 A (Buscher) That's correct.

3 Q And then you submitted Supplemental Testimony on
4 April 17th, 2017. Correct?

5 A (Buscher) Yes. That's correct.

6 Q And in that testimony, you reduced the number to
7 7,417 resources; is that right?

8 A (Buscher) Yes. What we undertook based on some
9 of the questions I believe we received under the
10 technical review is we felt that it would be
11 beneficial to start refining that raw data
12 because that 18,000 number was raw data. Yet it
13 still didn't include certain types of resources
14 that we didn't have a database to include.

15 Q And my understanding is that the process of
16 refining that data included when you looked at
17 those 18,000 resources and got yourself down to
18 7,417, a good part of that process was removing
19 a lot of duplicates. Is that right?

20 A (Buscher) That was part of it. Another part was
21 combining roads that might stretch a hundred
22 miles into a single road which might not be the
23 most appropriate thing to do either.

24 A (Palmer) By duplicates, I think you mean that a

1 resource is listed twice because it's occurring
2 in two towns, for instance. So, yeah, we would
3 have stated it once. But that's also the case
4 in the DeWan report. There are many instances
5 of a single resource that's located more than,
6 identified as more than once. The Pemi, for
7 instance, is evaluated as a resource in several
8 different towns.

9 Q And as you sit here today, it remains your view
10 that DeWan missed thousands of scenic resources.

11 A (Buscher) Yes. That would be our contention.

12 Q And DeWan identified initially a total of 662
13 resources within the ten-mile viewshed between
14 their original October 2015 filing and the
15 filing of their Supplemental Prefiled Testimony.
16 Does that sound right?

17 A (Buscher) That does sound right.

18 Q Based on topographic screening, that number
19 dropped to 542 for bare-earth and 422 for the
20 vegetative viewshed; does that sound right?

21 A (Buscher) I believe that's correct.

22 Q So what we have here is really an enormous
23 disparity between the number of resources in
24 DeWan's universe and the number of resources in

1 your universe, and that is a pretty substantial
2 part of this case, and so what I want to do is
3 spend a little bit of time looking at that
4 disparity so that everyone can understand it.

5 We've already heard how Mr. DeWan went
6 about identifying his resources, and I really
7 don't want to revisit that. I think that we can
8 agree that, and I will if you'd like me to pull
9 it up, but he researched a range of public
10 databases, he collected information generally
11 from a range of databases, conservation lands,
12 tourist destinations, things like that, and he
13 compiled this into an initial database. Would
14 you generally agree with that?

15 A (Buscher) I think he definitely stated that
16 there was primary emphasis put on to designated
17 resources.

18 Q Okay. T.J. Boyle identified resources in a
19 somewhat different way. You started with
20 numerous databases which I think you explained
21 on pages 68 to 70 of your report. Is that
22 right?

23 A (Buscher) Do you mind if I take a moment to pull
24 those pages up?

1 Q Sure.

2 A (Buscher) Yes. Starting on page 68 we give a
3 detailed review of the databases that were used
4 in our assessment or identification of scenic
5 resources.

6 Q And on page 68 you said, quote, or you said you
7 assumed, quote, "all or nearly all of the
8 resources identified in these databases possess
9 a scenic quality," close quote; is that right?

10 A (Buscher) That is what the report states.

11 Q And on top of your review of these databases you
12 also developed a list of community-identified
13 resources through these community workshops that
14 we've heard a little bit about; is that right?

15 A (Buscher) That is correct.

16 Q And at the community workshops, my understanding
17 is that 170 people filled out 991 resource
18 identification forms and collectively identified
19 848 resources. Sound correct?

20 A (Buscher) That sounds approximately correct.

21 Q And I'm just curious. Do professionals in your
22 field when you go about doing your work normally
23 ask that resources be identified this way at a
24 local level or do professionals in your field

1 normally expect or look to towns to identify
2 resources of importance to them?

3 A (Buscher) So the first thing that I would say, I
4 have a lot of background in Vermont. We don't
5 look at scenic resources as a sole source. We
6 look at general visibility. The whole scenic
7 resource thing is sort of informative if there
8 is specific designated components because it
9 might give it a certain rate of sensitivity, but
10 we're looking at overall visibility of a
11 project. So it depends on what rules you're
12 trying to follow. And in New Hampshire, I feel,
13 and it was our interpretation, there's a very
14 broad definition of what constitutes a scenic
15 resource.

16 Q So I get the Vermont part of it. I assume that
17 you've done this kind of work in jurisdictions
18 that do use that phrase "scenic resource."
19 Certainly you've done it here in New Hampshire.
20 Have you done it anywhere else?

21 A (Buscher) Maine would be an example that has
22 some specific laws that deal with scenic
23 resources.

24 A (Palmer) So, as an example, the NRPA Chapter 315

1 Section 10, under this rule the Department
2 considers a scenic resource is the typical
3 viewpoint from which an activity in, on, over or
4 adjacent to a protected natural resource is
5 viewed.

6 So in Maine, the scenic resource is a
7 viewpoint, not an area, and it includes
8 viewpoints that are adjacent to a protected
9 natural resource. So areas visible from a road,
10 for instance, that might border a State Park.

11 A (Buscher) So it's very specific to the
12 regulations that you're trying to adhere to.

13 Q So in jurisdictions where you do your work, and
14 where scenic resources are an approach to doing
15 that kind of work, I guess Vermont is not one,
16 but there are ones where it is, back to my
17 question.

18 Do people in your field typically expect
19 that local resources of importance would be
20 identified in some way by towns? Or would you
21 simply use an ad hoc approach to local resource
22 identification as you did here with the
23 community workshops?

24 A (Palmer) Public involvement is identified as a

1 way to identify scenic resources in the Forest
2 Service Landscape Assessment Manual, in the FHWA
3 procedure. It's not unusual, and it would
4 typically be part of informational hearings,
5 but, yes, similar to those workshops.

6 Q Do any of you know Jean Vissering?

7 A (Buscher) Yes.

8 A (Owens) Yes.

9 Q Mr. Palmer?

10 A (Palmer) Yes. I know Jean.

11 Q Is she a competent visual impact assessor?

12 A (Buscher) Yes.

13 Q You think highly of her work?

14 A (Buscher) I think highly of Jean. I think she's
15 very, a very talented person. We might have
16 disagreements on specific approaches.

17 Q Were you aware that she served as the visual
18 expert for Counsel for the Public in the first
19 Antrim Wind docket before the New Hampshire Site
20 Evaluation Committee?

21 A (Buscher) I am aware of that.

22 Q Were you aware that she also was hired by the
23 Town of Antrim in 2011 to provide comments on
24 its draft wind ordinance?

1 A (Buscher) I was not aware of that.

2 Q I want to pull up Applicant's Exhibit 324. This
3 is a July 25th, 2011, memorandum that Ms.
4 Vissering prepared and submitted to the town of
5 Antrim which are her preliminary review of the
6 wind ordinance and wind siting considerations.
7 Is this a document you've ever seen before?

8 A (Buscher) It is not.

9 Q I certainly want you to have the opportunity to
10 look at whatever part of it you'd like to, but
11 what I want to do is call your attention to the
12 second page. And I want you to take a look at
13 this yellow highlighting. And take a minute to
14 read that if you would.

15 A (Palmer) What's the date on this?

16 Q July 25th, 2011.

17 A (Palmer) So well before the new rules.

18 Q Yes. Are you set reading it?

19 A (Palmer) Yes.

20 Q So in the middle, Ms. Vissering says with
21 respect to the Site Evaluation Committee that it
22 was her opinion that they will be looking for
23 clear language about particular resources or
24 particular concerns. General statements about

1 rural character are not particularly helpful.
2 If a lake or pond is noted only for its natural
3 values, the scenic characteristics won't be
4 given as much consideration.

5 Do you agree with Ms. Vissering?

6 A (Buscher) I hundred percent agree that if a town
7 goes out of its way to look and designate
8 resources within its communities, but the
9 reality of that being implemented and we have
10 vast experience with how encumbered that towns
11 are to do, especially small towns, to have that
12 type of work done, it's difficult for them. But
13 if that work is done for a community, it
14 definitely is helpful for them.

15 A (Palmer) So your question is whether we agree
16 with this paragraph in relation to how the SEC
17 would evaluate this statement? I mean, clearly
18 they've passed whole new rules that have a lot
19 more detail.

20 Q I want to go back to what you said a moment ago,
21 Mr. Buscher. Sounds to me like you're saying
22 that you think it would be too burdensome for
23 New Hampshire towns to identify local resources
24 of scenic importance to them.

1 A (Buscher) I think it creates a burdensome
2 situation for some communities to say that that
3 is the sole way for the SEC to consider local
4 scenic resources that are important to those
5 communities.

6 Q I'm not sure anybody said anything about the
7 sole way, but I think we understand what you're
8 saying.

9 So as we discussed earlier, as we sit here
10 today, your position remains that there are
11 7,417 potential scenic resources that should
12 have been listed based on your interpretation of
13 the SEC rules in Mr. DeWan's report, and you
14 still fault him for not identifying those
15 resources; is that correct?

16 A (Buscher) In fact, we've noted several times
17 that there's lots of categories that we don't
18 have databases for. And it's clear in the SEC
19 rules that they're looking for very broad
20 definition and a very broad list of what the
21 scenic resources are.

22 Q By clear, you mean as you interpreted the rules
23 going about doing your work for this Project.

24 A (Buscher) I think it's, I feel like the rules

1 are fairly clear, clearly written.

2 Q Okay.

3 A That's our interpretation, yes.

4 Q Well, let's look at that. So I want to call up
5 Applicant's Exhibit 325, and I want to just look
6 at a couple of resources that are on your list
7 of the 7,000 or so.

8 Now, you provided a document, Counsel for
9 the Public Exhibit 139, Appendix G, which listed
10 all of these various resources. Does that sound
11 familiar?

12 A (Buscher) That sounds familiar.

13 Q So we went to that document and so, for example,
14 in your document, you list this place called the
15 Cheer Center, and for these various resources
16 you provided specific information about where
17 they were located; is that right?

18 A (Buscher) Can you expand on what you mean by
19 we've provided specific information?

20 Q Well, if somebody wanted to know what you meant
21 by the Cheer Center, they could look in the
22 materials that you provided in discovery and
23 they could figure out what you meant by the
24 Cheer Center, right?

1 A (Buscher) Yes. I would agree with that.

2 Q So we did that. We looked at a couple of these
3 resources. And so let's pull up the Cheer
4 Center. That's the Cheer Center. It's in
5 Allenstown. It's a fire station now. And based
6 on our analysis it's 3.4 miles from the line.
7 So I take it that it's your view that this is a
8 scenic resource that would have bare-earth
9 visibility of the line, and, therefore, should
10 have been evaluated by Mr. DeWan.

11 A (Buscher) In some mechanism, yes.

12 Q I'm not going to go back to your list each time.
13 I'm just going to represent to you that these
14 photos I'm showing you are on your list, and if
15 you doubt that for some reason, let me know and
16 we will go to your list.

17 A (Palmer) I'm assuming that you're not in
18 disagreement, though, that the standard database
19 that we got from New Hampshire GRANIT listed
20 this as a recreation resource.

21 Q We'll just go through your list because what
22 we're talking about here is your determination
23 and your criticism of Mr. DeWan for not
24 including resources like this. This is your

1 work. So let's continue on.

2 The next one, Dawn, next photo?

3 So this is, do you know what this is?

4 Funspot in Laconia?

5 A (Buscher) I'm not familiar with it.

6 Q It's an indoor arcade and bowling alley which by
7 our count is 8.8 miles from the Project. So I
8 would assume that you think that that must be
9 visible because of bare-earth. Fair assessment?

10 A (Buscher) So this is a component on a database
11 that based on our review should represent scenic
12 resources. You're asking me if we're saying
13 that if we then went and started reviewing each
14 and every one of those, are we going to conclude
15 that it's definitely a scenic resource? We
16 haven't done that evaluation.

17 Q It's one of the 7,417 on your list, correct?

18 A (Buscher) That is correct because it is an
19 initial identification of scenic resources. And
20 we were providing an example of what we would
21 consider an appropriate way of identifying
22 scenic resources.

23 Q And it's also one of many that you and others
24 continue to fault Mr. DeWan and Ms. Kimball for

1 not including on their list.

2 A (Buscher) Not this particular site. What we're
3 faulting is the methodology that was employed to
4 identify scenic resources, and, furthermore, a
5 filtering process that was used to eliminate
6 scenic resources just purely for their
7 identification.

8 Q Dawn, let's go to the next one, please.

9 Included on your list is the Weirs Beach
10 Go-Cart Track which is also 8.8 miles away.
11 Does that sound familiar?

12 A (Buscher) I am not familiar with this specific.

13 Q Let's go to the next one, Dawn.

14 This is Sheep Davis Road Dam in Concord.
15 It's behind a mall and a movie theater and
16 surrounded by parking lots and the Wal-Mart.
17 I'm not even sure there's public access, but
18 that's a separate issue. Does this look
19 familiar to you?

20 A (Buscher) We did not visit this location.

21 Q Okay. Next one, please, Dawn?

22 So this is the University Heights
23 Conservation Area. Also on your list. And what
24 we were able to determine as far as we can tell,

1 and you can correct me if I'm wrong, that the
2 conservation areas are the little strips of land
3 between the houses in this development, and
4 there are 12 strips so you counted them as 12
5 scenic resources, and I think this is about six
6 miles from the Project.

7 Does this look familiar?

8 A (Buscher) No. We did not go. I think I've been
9 clear we did not go to all these resources, and,
10 quite honestly, we're not saying how they should
11 be evaluated. We're not working for the
12 Applicant. But we are saying there is a clear
13 standard in the SEC rules that say there is a
14 very broad expectation for an Applicant to
15 identify scenic resources.

16 Q Do you think if Mr. DeWan agreed with you and
17 went to Funspot and looked at it and said I am
18 not going to include this on my list, would that
19 make sense?

20 A (Buscher) If it were me, I would probably note
21 it as being identified through our background
22 research, and then clearly give a reason why it
23 wouldn't be considered a scenic resource.

24 Q Let's go to the next one, Dawn.

1 It's the Riverside Speedway in
2 Northumberland. Does that sound familiar to
3 you?

4 A (Buscher) Again, we did not go specifically to
5 this location.

6 Q Just one more. I'm not going to belabor the
7 point. I think we understand what you're seeing
8 here.

9 This is the Proulx Community Center in
10 Franklin. Again, on your list. Does that sound
11 familiar?

12 A (Buscher) I'm not personally familiar with this
13 specific site.

14 Q So none of these places made Mr. DeWan's list,
15 right?

16 A (Owens) We don't know that. We don't know if he
17 ever identified this at all. It's not reported
18 in any of the VIA materials.

19 Q So, Mr. Owens, you didn't have a chance during
20 the course of this proceeding to look at all of
21 the discovery materials and all the work that
22 Mr. DeWan did and determine whether or not these
23 resources were included on his list?

24 A (Owens) I didn't see a list that was included in

1 the actual VIA which is I believe where it
2 should have been included that all of these
3 locations that we've identified were looked at
4 in some manner and then reported that they
5 either weren't in some way qualifying of being
6 scenic or in some way discarded as not being
7 worth further investigation.

8 Q Understood. So these are the sites you're
9 faulting Mr. DeWan for not looking at which is
10 what we're trying to get at.

11 A (Buscher) So let's use this as an example. The
12 photo you have up right now.

13 Q Sure.

14 A There's probably a very probable historic
15 resource. I don't know the distance from the
16 line. I forgot if you just mentioned it. But
17 if the line was immediately adjacent to this
18 particular site, yeah, we could be looking at
19 this for a significant impact. It's possible.

20 A (Palmer) And it's my understanding that this
21 comes from the recreational inventory which
22 would be the GRANIT database for recreation
23 points probably, and it was my understanding
24 that that was also used in the DeWan VIA.

1 Now, in a screen visibility analysis, this
2 may be discarded because it didn't fall within
3 the screen viewshed, but within the terrain
4 viewshed it may have so we put it in our list.
5 But that doesn't mean that DeWan wouldn't have
6 had it on his list at all. It may very well
7 have been on his list.

8 Q We know it's on DeWan's list, right? He gave it
9 to you, right?

10 A (Palmer) No. Actually, I don't. We didn't
11 cross-check the 7,000 that we identified with
12 DeWan's list to see which ones were on.

13 Q I'm quite certain that we don't need to have any
14 sort of argument about this. DeWan's list is in
15 evidence. People can read it for themselves.

16 Fair to say that these are examples of some
17 of the thousands of resources that you
18 criticized DeWan for not evaluating in some way?

19 A (Buscher) We, our criticism was in his
20 identification of scenic resources.

21 A (Palmer) And we're not saying that the resources
22 that he identified, the 600, are not also
23 indicated in the 6000 that we identified. They
24 are. And this may be an example of one that he

1 identified and that we identified.

2 Q There could literally be thousands of resources
3 like this on your list, correct, that I just
4 went through?

5 A (Buscher) Yeah, and that's what is being asked
6 for by the SEC rules.

7 Q Have you ever been to the Swenson Granite Quarry
8 in Concord?

9 A (Buscher) I haven't been to the granite quarry.

10 Q It's an industrial granite quarry.

11 A (Buscher) Yeah.

12 Q That's on your list.

13 A (Buscher) Yeah.

14 Q Does that surprise you?

15 A (Buscher) No. Not at all. I mean, I'm familiar
16 with the Barre Granite Quarry. It's a huge
17 tourist attraction. And then we would look at
18 it and say hey, what's going on with the
19 Project? Does it deserve an assessment? Yeah.
20 Definitely.

21 A (Palmer) I may be mistaken, but I think actually
22 there was an article about six months ago in the
23 Concord paper about swimming in the granite
24 quarry, and it is a recreation resource and it

1 wasn't clear what the ownership and stuff was.

2 Q Well, I'm looking forward to seeing that one on
3 redirect. I'm sure we will.

4 How about the Groveton Fish & Game Club.
5 That's a membership-only shooting range. That's
6 on your list. Does that surprise you?

7 A (Buscher) Doesn't surprise me.

8 Q A membership-only range would be a resource that
9 you think needed to be evaluated?

10 A (Buscher) We would have to do that evaluation
11 which we did not.

12 Q So when you did your work here, it was your
13 understanding that the SEC rules required people
14 in your profession to look at resources like
15 this; is that correct?

16 A (Buscher) I'm looking at what the SEC requires
17 as part of the Visual Impact Assessment.

18 Q And I think, Mr. Buscher, you said, but let's
19 just be certain about this, you didn't visit any
20 of these sites, did you?

21 A (Buscher) Oh, I'm certain, we certainly visited
22 many of these sites.

23 Q Sites that we just looked at, the pictures?

24 A (Buscher) Not the sites that you just looked at.

1 Q Okay.

2 A (Buscher) That you just mentioned. Not that I
3 can recall. Remember, we had four different
4 teams going out and doing site visits so I'm not
5 familiar with each and every site that we did
6 visit.

7 Q So if you had personally visited any of these
8 sites, would you still have kept them on your
9 list and faulted Mr. DeWan for not evaluating
10 them?

11 A (Buscher) I would fault him for not identifying
12 them. Because it's not the evaluation, it's
13 purely, I mean, it's a very, in my opinion, in
14 our opinion, it's a clear rule that there is an
15 identification requirement.

16 Q We discussed earlier that you went from the
17 18,000-plus to the 7,000-plus. So your approach
18 initially caused you to list over 11,000
19 resources that actually should have been
20 included on the list. Is that right?

21 A (Buscher) I wouldn't agree with that statement
22 totally.

23 Q Why don't you characterize it the way you would.

24 A (Buscher) For instance, we have taken roads and

1 combined them into a single resource where, as
2 Jim pointed out, even Mr. DeWan has evaluated
3 different crossings of the Pemi River as a
4 separate resource so that in of itself was a
5 gigantic reduction in the number.

6 Q And a chunk of that effort was, I understand it,
7 to eliminate double counting. I think you said
8 that before, Mr. Palmer?

9 A (Palmer) No, you said double counting, and I
10 asked, I think, what you meant about that. So
11 double counting was things like the Pemi River
12 that is occurring in different towns and so we
13 consolidated that. I think that that was in
14 response to comments that were made in the
15 hearings.

16 Q So --

17 A (Palmer) In the tech sessions.

18 A (Buscher) And in general, we listened to some of
19 the questions that were being asked, and we did
20 that next step in starting to analyze that list
21 to try to bring it into a more understandable
22 level.

23 Q So we went back and looked a little bit more
24 closely at your list of 7,417 resources, and I

1 guess my question to you is would it surprise
2 you to learn that we still found a substantial
3 amount of double counting?

4 A (Buscher) It wouldn't surprise me.

5 Q Let's look at some it. Applicant's Exhibit 326.
6 And we can call places, we'll call this up in
7 pieces. Again, I'm not going to go through the
8 whole thing. But Turtle Pond, you've got that
9 listed four times even though it's the same
10 resource, and it appears it's listed four times
11 because it's listed in four different databases;
12 am I right about that?

13 A (Palmer) It qualifies as a scenic resource in
14 four different ways. That's correct.

15 Q But there's only one Turtle Pond, right?

16 A (Palmer) That's correct.

17 Q But you've got four Turtle Ponds in your
18 database. So that's double counting, right?

19 A (Buscher) Are you asking us to do the
20 Applicant's responsibility and analyze this list
21 in totality right now?

22 Q I'm asking you if on your list of 7,417
23 resources Turtle Pond is counted four times.

24 A (Owens) I don't know that it is counted four

1 times. I think that some of this is a
2 conservation easement that's right next to it,
3 and we'd have to look at that to figure out if
4 that, maybe it's only counted twice because
5 there's two conservation easements or one is the
6 pond, one is the river leading to it, one is the
7 point that happens to be right next to the pond.
8 So we could go into that further if you really
9 want to get to the bottom of that.

10 Q I guess we'll find out.

11 How about the Soucook River? That's listed
12 five times. Any explanation for that?

13 A (Palmer) Well, I think that these are all
14 different brooks that are within the Soucook
15 River drainage. I think that's pretty clear.

16 Q So every little brook is a potential scenic
17 resource?

18 A (Palmer) They're all public waters. I mean, if,
19 that's where they come from. They're listed in
20 the State Public Waters. Yes.

21 Q There's five listings for the Salmon Brook. I
22 guess you would say the same thing about that,
23 right?

24 A (Palmer) I mean, isn't it pretty clear that

1 these are all separate streams that are feeding
2 into the --

3 Q It's actually not at all clear to me. That's
4 why I'm asking.

5 A (Palmer) Well, unlike Turtle Pond where they're
6 all Turtle Pond and what we're doing is looking
7 at it and assuming that the boat launch may be
8 treated as a resource separate from the pond, I
9 think it's pretty clear here that Salmon Brook
10 Main Stream is one and Salmon Brook Emerson
11 Brook is another, and each of those is separate.

12 Q Okay. A moment ago you talked about the Pemi
13 and in your initial count trying to deal with
14 those issues. I still count the Pemi 16 times
15 in this list. Is that a surprise to you?

16 A (Palmer) So some of those are because they're
17 recreation access points. At least one of those
18 is. I would say there's a clear double counting
19 for Ayers Island Hydro Station. It appears to
20 have come from the same database. Several of
21 these are sort of separate streams or resources.

22 Q I don't want to belabor the point. I think you
23 understand where I'm going.

24 A (Palmer) Yes.

1 Q I guess my question to you is as you sit here
2 today, do you have any idea how much double
3 counting there is in this database?

4 A (Buscher) We clearly understand that there needs
5 to be a methodology to start to process that
6 information to bring it into a reasonable level
7 of analysis. That's not saying that we don't
8 think this is the appropriate starting point.

9 Q So there could be hundreds, possibly even
10 thousands of resources double counted here?

11 A (Palmer) I could even give you the thousand.
12 But there's still 5,000 resources. There's
13 double counting in the DeWan database also.

14 Q And I'm sure we've seen that pointed out.

15 A (Palmer) Actually, we haven't really pointed it
16 out or belabored it, but it's there.

17 Q Pretty shocking that we've gotten to this point
18 in the proceeding and no one has told us about
19 it.

20 A (Palmer) Well, the Pemi is an example, and we
21 did talk about that. Bear Brook State Park has
22 several separate resources. There's others.
23 But I'm not, we don't feel that it's really
24 necessary to somehow clean the data in that way.

1 These are all important places, and they all
2 should be evaluated, and we're really pleased
3 that DeWan did that.

4 Q Let's talk about public access. The threshold
5 requirement is that before a resource can be
6 considered scenic it has to be publicly
7 accessible. You agree with that?

8 A (Buscher) We would agree that the rules require
9 a legal right of access.

10 Q Yes. Site 102.45 says, quote, "Scenic resources
11 means resources to which the public has a legal
12 right of access." And then there's a bunch of
13 listings. Are we on the same page with that?

14 A (Palmer) We are.

15 Q So T.J. Boyle, I believe, interpreted public
16 access to mean, quote, "places to which the
17 public has the ability, right and/or permission
18 to enter or use," close quote. And I'm reading
19 from page 10 of your report. Does that sound
20 right?

21 A (Buscher) That sounds correct.

22 Q And DeWan approached it somewhat differently.
23 In his VIA he determined that a legal right of
24 access means, quote, "having a way to both

1 physically and legally access a property
2 consistent with prior Visual Impact Assessments
3 submitted to the New Hampshire Site Evaluation
4 Committee." Does that sound familiar?

5 A (Buscher) That sounds familiar.

6 Q So do you understand that Mr. DeWan actually
7 conducted a site-by-site assessment to determine
8 whether individual resources were publicly
9 accessible?

10 A (Buscher) What is your meaning of "site by
11 site"?

12 Q I'm asking you if you were aware of that fact.
13 That he went site by site through his list and
14 made a determination about whether the resource
15 was publicly accessible?

16 A (Buscher) Of his list of 600 and so resources?

17 Q Yeah. Did you know he did that?

18 A (Buscher) I think we did understand that.

19 Q Okay. But you actually never did that with your
20 list, right?

21 A (Buscher) Our, the list of identified scenic
22 resources?

23 Q The list of 7,000-plus.

24 A (Buscher) That's correct. We did not do that.

1 Q In fact, you told me at the tech session that
2 you actually don't even know if the resources in
3 this database that you reviewed and identified
4 are publicly accessible, right?

5 A (Buscher) I'm sorry. Could you reask that?

6 Q Sure. You told me at the tech session that you
7 actually don't know if the resources on this
8 list of 7,000-plus are publicly accessible.

9 A (Buscher) I think that's the same question you
10 asked before. You asked if we did the
11 assessment to see, to assess whether these are,
12 in fact, publicly accessible.

13 A (Palmer) I think that's not precisely accurate.
14 There's some of them that we may not know, but
15 many of them are public roads. Are you willing
16 to accept that those are publicly accessible?

17 Q How many don't you know?

18 A (Palmer) I can't tell you that, but I can tell
19 you that an awful lot of them are public roads.
20 A significant number of them are State Waters
21 which the public has the right of access.

22 Q I want to call up Applicant's Exhibit 327, and
23 we can focus this discussion a little bit.

24 A (Palmer) Great.

1 Q And, again, these are resources that you
2 identified, and if you'd like me to give you the
3 references from where in your materials we got
4 them, I'll let you know, but let's jump to the
5 first picture, Dawn.

6 So this is the New Hampshire State Military
7 Reservation, one of your identified resources.
8 Would you agree with me that's not publicly
9 accessible?

10 A (Palmer) I have no idea what goes on there.

11 Q Think the public has a legal right of access to
12 this installation?

13 A (Palmer) I don't know anything about what goes
14 on there.

15 Q Let's go to the next one, Dawn.

16 This one is interesting because this is
17 listed in your database as the Northwood Driving
18 Range, but it doesn't even exist anymore.

19 Did you make any effort to at least verify
20 whether the resources you were identifying were
21 still actually there?

22 A (Buscher) I think we were pretty clear that this
23 was an initial level and an initial methodology
24 that we would suggest is appropriate and, have

1 to admit, I've been clear, we've not done that
2 next level of review of analyzing this list of
3 resources.

4 Q Let's go to the next one, Dawn.

5 This is the Pembroke Water Works. Does it
6 look like the public has a legal right of access
7 there?

8 A (Buscher) I could not say.

9 A (Palmer) It says no trespass.

10 Q Yeah. Next one, please, Dawn?

11 This is the Blood Conservation Easement
12 which I think we heard from Mr. Roth about a
13 while ago. Would you interpret that to mean
14 that the public was welcome there?

15 A (Palmer) Well, what it says is that there's no
16 hunting or trapping so I don't know.

17 Q Private property.

18 A (Palmer) That doesn't mean that the public is
19 not welcome. It just means that it's posted no
20 hunting.

21 Q Okay. I think we'll probably come back to that
22 one, too. Dawn, let's look at one more.

23 This is the circa 1950 one-story home that
24 I guess was identified in your list because that

1 commercial adjoining garage is an historic
2 outbuilding. Does this look like a publicly
3 accessible place?

4 A (Buscher) I can't tell from this. It looks like
5 it is possibly a publicly accessible location.

6 Q Okay.

7 A (Palmer) Is it a retail business?

8 Q No. It's a private home.

9 A (Buscher) Okay. So it sounds like you're
10 already doing the assessment work.

11 A (Palmer) I mean, it looks like they're selling
12 Troy-Bilt stuff so there's a couple Troy-Bilt
13 mowers on the lawn to the right and there's
14 another mower to the left. You sure this isn't
15 the retail establishment?

16 Q So you would interpret this as publicly
17 accessible, Mr. Palmer?

18 A (Palmer) If it's a retail establishment, I
19 believe it would be.

20 A (Owens) Or a museum maybe. Looks like there
21 might be more in the backyard.

22 Q So if you had done the work that Mr. DeWan did,
23 would all of these resources remain on your
24 list?

1 A (Buscher). Again, I think we were clear that
2 this list is a methodology that would need
3 further analysis.

4 Q But you continue to fault Mr. DeWan for not
5 looking at resources like this. Is that
6 correct?

7 A (Buscher) We faulted the methodology, and based
8 on our alternative way of looking at it that
9 there's no way that Mr. DeWan properly
10 identified all of the scenic resources as
11 defined by the SEC rules.

12 A (Palmer) Could we go back to the retail
13 establishment?

14 Q You mean the private home that was just up
15 there? Sure.

16 A (Palmer) I mean the Troy-Bilt Garage.

17 Q Yes. Let's go back to it.

18 A (Palmer) You stated that the garage is listed as
19 an historic resource?

20 Q That's my best understanding. I actually
21 couldn't figure it out. I was hoping you could
22 tell me.

23 A (Palmer) What database did it come from? It
24 would state where --

1 Q Why don't we pull it up just so you can be clear
2 about it. Let's pull up CFP 004632.

3 A (Palmer) So it says that it comes from the
4 Potential Historic Resource Database. That
5 would be from the Preservation Company's
6 inventory is my understanding.

7 Q Did the Preservation Company as part of the work
8 that they did which they then handed off to you
9 make any determinations about public
10 accessibility?

11 A (Palmer) No. They did not. But if it's a
12 retail establishment, it would be publicly
13 accessible, and if it's an historic resource
14 that possesses a scenic quality, some scenic
15 quality, then it's a scenic resource. That's
16 what the rules say.

17 Q We'll come back to that part in a minute. I'm
18 focused on public access at the moment.

19 So just a couple more questions here. It's
20 your understanding as professionals in the field
21 that the Site Evaluation Committee rules require
22 people like you to identify resources like this
23 as part of this assessment process.

24 A (Palmer) I think the rules say that those that

1 are doing the VIA have to identify the scenic
2 resources as 102.45 describe.

3 MR. NEEDLEMAN: So, Mr. Chair, I'm happy to
4 keep going, but I'm not sure yet if you want me
5 to take the break.

6 PRESIDING OFFICER HONIGBERG: If this is a
7 break time for you, then why don't we do that.

8 MR. NEEDLEMAN: I didn't know if Ms. Percy
9 was here ready to go.

10 PRESIDING OFFICER HONIGBERG: She is here.

11 MR. NEEDLEMAN: Okay. I'm happy to stop
12 here for a break.

13 PRESIDING OFFICER HONIGBERG: Let's take
14 ten minutes, let Ms. Percy get herself set up
15 and she can do what she needs to do.

16 (Recess taken 2:09 - 2:26 p.m.)

17 PRESIDING OFFICER HONIGBERG: Ms. Percy,
18 you may proceed.

19 **CROSS-EXAMINATION**

20 **BY MS. PERCY:**

21 Q Thank you, and I apologize for being late. I
22 notice on my opening here I say good morning.

23 My name is Susan Percy, and I am
24 spokesperson for the Dummer, Stark,

1 Northumberland group and also an Intervenor
2 representing the Percy Summer Club, and I also
3 like to introduce myself as representing the
4 public because we have public access through
5 Percy Summer Club lands to the Nash Stream
6 Forest and the Calhoun Forest and the Percy
7 State Forest.

8 So from that, I'm going to shorten things a
9 lot in order to try to make sure that Attorney
10 Needleman lets me keep going.

11 So with that, I put up the picture of the
12 Christine Lake which is located in the town of
13 Stark, and I'm only going to start on one piece
14 of that. I used this exhibit before, and it's
15 an aerial view up the lake and on the, you look
16 at Potters Ledge on the top photograph which is
17 across the lake and then you look directly down
18 on Potters Ledge from the aerial view. Is that
19 all right? Do you understand that?

20 A (Buscher) Yes.

21 Q Thank you. So Terry DeWan in his most recent
22 testimony said that he was unable to hike
23 Potters Ledge despite the fact that he tried,
24 actually in the transcript it says several

1 times. You were able to hike Potters Ledge; is
2 that correct?

3 A (Owens) I was able to hike Potters Ledge with
4 another coworker of mine, yes.

5 Q Thank you. When you hiked Potters Ledge, did
6 you hike that ledge coming from -- oh, next map.

7 MR. CUNNINGHAM: This is 51.

8 MS. PERCY: Sorry. I meant to do that.

9 Q So this is DNA/PSC 113.

10 This map has on it, this is from the
11 Historic Resources, identifies Potters Ledge.
12 Is that correct? Can you see that?

13 A (Owens) Yes. On the left side.

14 Q Thank you. Okay. Next map. And this is
15 DNA/PSC number 55. This has also been shown.
16 This is a rendering of the trails that were
17 established in the 1880s behind the Percy Summer
18 Club. Does that look like a fair representation
19 of the trails?

20 A (Owens) What date did you say this was?

21 Q Well, they were established in 1880s so they are
22 trails of historic significance.

23 A (Owens) Yes. I think there might be also a
24 logging road that I was on that maybe doesn't

1 quite match one of these, but --

2 Q Yes, that was done at a later date, but you're
3 quite correct. So in looking at that you also
4 hiked Victor Head; is that correct?

5 A (Owens) That's correct.

6 Q And coming down from Victor Head, did you
7 traverse across the Coos Trail?

8 A (Owens) I think you have to.

9 Q You do. Thank you. And so from the Coos Trail,
10 you were able to then cut over to Potters Ledge
11 on the trail there, is that correct?

12 A (Owens) That's correct.

13 Q And when you got to Potters Ledge, you were able
14 to see the transmission corridor; is that
15 correct?

16 A (Owens) From my memory there were two overlooks
17 at Potters Ledge. One that looked a little bit
18 to the northeast and the other that looked a
19 little more to the east. The northeast one you
20 had to kind of stand out on the precipice there
21 to get a good view, but from the other, the
22 other overlook that looked more to the east you
23 could definitely see the Project in the near
24 ground or maybe of a quarter of a mile away.

1 I'd have to check that. And then also you could
2 see it at a distance. About five miles away.

3 Q Thank you. And so the distance was looking out
4 at Dummer Hill; is that correct? I mean, I'm
5 sorry. Dummer. So you're looking east towards
6 Dummer, and you see the right-of-way coming down
7 that hill?

8 A (Owens) That's correct. I didn't look into
9 exactly which hill that is, but I know which one
10 I think that you're talking about, and it could
11 have been.

12 Q Thank you. Were there any photo simulations
13 done of Potters Ledge and the transmission line
14 during that?

15 A (Owens) We didn't do any photo simulations from
16 there, and I don't think that the DeWan office
17 did any photo simulations from there either.

18 Q Would you think that that's a significant area
19 that should be considered in the Nash Stream
20 Forest?

21 A (Owens) I'd have to check whether or not, you
22 had mentioned a lot of different tracts of land
23 through there, the Calhoun Forest. I don't
24 remember exactly which one that it was in, but I

1 would say that it would qualify as a scenic
2 resource based on what I saw in the trails that
3 led to it and the maps that I saw as well.

4 Q Great. Thanks. One last question.

5 Attorney Needleman was just talking about
6 the posted signage, and as you enter Percy
7 Summer Club land it says private property; is
8 that correct?

9 A (Owens) I do believe that it lets you know that
10 it's private property managed by the Club.

11 Q And all the access to all the trails noted in
12 all the public documents such as hiking manuals,
13 the Appalachian Mountain Club, the Coos Trail,
14 those all indicate that you walk through the
15 gate that has "private property" noted on it in
16 order to access the trail, and that's open to
17 the public; is that correct?

18 A (Owens) That's what we found when we were going
19 there as well.

20 Q Great. Thanks very much. I have no further
21 questions.

22 PRESIDING OFFICER HONIGBERG: Mr.
23 Needleman? You're back up.

24 **CROSS-EXAMINATION CONTINUED**

1 **BY MR. NEEDLEMAN:**

2 Q I want to continue on where we left off.

3 In your list of 7,417 or 19 resources you
4 have 1359 historic sites listed. Is that
5 correct?

6 A (Buscher) Do you want to direct me to a spot and
7 I can verify that?

8 Q Yeah. It's Appendix G, Table 1, CFP 005287.

9 A (Buscher) Just need to pull up the Appendix.

10 Q What would you like to see?

11 A (Buscher) Do you want to show me the specific
12 location? I couldn't tell you if that number
13 was accurate or not.

14 Q So you don't think your report is accurate?

15 A (Buscher) No, I just can't tell you, I can't
16 remember what the number is in the report.

17 Q Is it on your screen?

18 A (Buscher) Yes. There it is.

19 Q Okay. We were not communicating.

20 A (Buscher) So yes. That's what we reported.

21 Q Okay. And 1,290 of these came directly from
22 Heritage Landscapes if I recall that correctly.
23 Is that right?

24 A (Buscher) Could you repeat the question?

1 Q Yes. My recollection was that 1,290 of these
2 historic resources came directly from Heritage
3 Landscapes. Does that sound right?

4 A (Buscher) I don't think that is accurate.

5 Q You think it's more or less?

6 A (Buscher) Is there a way to find the data
7 source?

8 A (Palmer) Can you go to the section of this
9 Appendix probably above that talks about
10 historic resources, please?

11 Q We can. I'll tell you it's not a particularly
12 important point. I'm more focused on the 1359,
13 but if you do want to go, we can do that.

14 A (Palmer) That's the only way we can check where
15 it came from.

16 Q Okay. I tell you what. I will skip past that.
17 We agree on the 1359.

18 So am I correct that with respect to these
19 historic resources, the 1359, no specific
20 analysis of criteria for eligibility on listing
21 to the National or State Register was done; is
22 that right?

23 A (Palmer) Could you state that again?

24 Q Yeah. Did you, the three of you or anybody in

1 your group, do any analysis with respect to
2 these historic resources as to criteria for
3 eligibility on listing for the National or State
4 Register? Did you do that analysis?

5 A (Palmer) I think whoever gave us, however the
6 database was acquired, which would have been
7 described up above, I think, did that analysis.

8 Q Okay. And I think we discussed this earlier,
9 but you didn't assess public accessibility for
10 any of these historic resources, right?

11 A (Palmer) We didn't, no. That's correct.

12 Q So I want to pull up Applicant's Exhibit 116.
13 And could we go to the cover page, Dawn, so
14 these folks can see what it is? Do we have
15 that? Not that one.

16 Have you seen this document before? I know
17 it's appeared in this case before. I'm just not
18 sure that you saw it.

19 A (Buscher) Personally, I have not seen this
20 document before.

21 A (Palmer) I don't recognize it either.

22 Q So this is the DHR Policy Memorandum regarding
23 Agency Review of Applications before the New
24 Hampshire Site Evaluation Committee, and I want

1 to go to page 3 of this document.

2 And in that yellow highlighting it says,
3 "In New Hampshire, aboveground historic
4 properties meeting the definition of Site 102.23
5 are identified through the preparation and
6 submission of area and individual inventory
7 forms."

8 Were you aware of that?

9 A (Palmer) So I'm sorry. I was not paying good
10 attention. Could you refresh me on what this
11 document is about?

12 Q Sure. Let's go back to the first page.

13 A (Palmer) Thank you. I'm sorry.

14 Q This is New Hampshire Division of Historical
15 Resources guidance about review of applications
16 before the SEC as they relate to historic sites.

17 A (Palmer) And the date of this document is?

18 Q I don't know. Does it say it on there? Let's
19 go to the last page. Yes. January 15th, 2016.

20 A (Palmer) Great.

21 Q So certainly available before you did your work,
22 right?

23 A (Palmer) Correct.

24 Q Am I correct, sounds like at the time you did

1 your initial work you weren't aware of this
2 document.

3 A (Buscher) No.

4 Q And at the time you did your Supplemental
5 Prefiled Testimony you weren't aware of this
6 document?

7 A (Buscher) As was stated.

8 Q So you did not have the benefit of DHR's
9 thinking with respect to how one thinks about
10 historic resources in the SEC context when you
11 went about doing your work; is that correct?

12 A (Buscher) I would not agree with that.

13 Q Okay. So why don't you tell me how it is you
14 absorbed the information in this document
15 without having seen it or been aware of it?

16 A (Buscher) Because we were using lists that were
17 created by historic consultants that I would
18 assume would be aware of this list.

19 Q Do you know if they were aware of this list?

20 A (Buscher) I do not know.

21 Q Did they represent to you that they were aware
22 of this guidance document?

23 A (Buscher) No.

24 A (Palmer) But further than that, my understanding

1 is that the definition of a historic resource is
2 much broader than eligible for listing.

3 Q Would it surprise you that the DHR was trying to
4 provide guidance to people like us in doing our
5 work regarding resource identification in this
6 context as it relates to historic resources?

7 A (Palmer) Clearly, that's what the title says,
8 but nonetheless, the way that I read the rules
9 which aren't part of the Department's, they're
10 not the Department's rules, they're the SEC
11 rules, and the SEC rules read as being broader.

12 Q Do you think professionals in your field going
13 about your work would benefit from understanding
14 what an agency like DHR thinks about the
15 definition of historic resources?

16 A (Palmer) Yes.

17 Q And as far as you know, did Counsel for the
18 Public or these historic resource experts
19 prepare and submit an area or individual
20 inventory form for all of the historic sites
21 included in your database?

22 A (Palmer) You've got to go back and look at where
23 the database came from. I think I've said that
24 several times.

1 A (Buscher) So the database I can list the
2 database because I looked it up. That database
3 includes points within one mile of the NPT
4 centerline representing properties constructed
5 before 1968 as identified by Preservation
6 Company 2015 during their field assessment.

7 A (Palmer) So that's their field assessment and
8 there would be sheets for those.

9 Q Is there anything in the documents you were
10 looking at or any of the materials you have
11 access to that you can use to confirm that
12 individual inventory forms were prepared and
13 submitted to DHR for these sites?

14 A (Buscher) Is there anything available that we
15 can reference?

16 Q Do you know if they were?

17 A (Buscher) I can't tell you. We would have to
18 look that up.

19 Q And this DHR guidance says that historic
20 properties meeting the definition at Site 102.23
21 are identified through that process of
22 submitting these forms, right?

23 A (Buscher) That's what it says.

24 Q Okay. So as far as you know, sitting here

1 today, that guidance was not complied with. You
2 just don't know.

3 A (Palmer) That's correct. We don't know.

4 A (Buscher) That's correct.

5 Q Not knowing that, you still maintain that all of
6 the resources you identified are historic
7 resources within the meaning of the SEC rules.

8 A (Buscher) Again, we are utilizing a database
9 that was created specifically for this Project
10 by a consultant that specializes in historic
11 preservation. I would make the assumption that
12 this is a legitimate database to use.

13 Q Well, let's pull up Applicant's Exhibit 328. Is
14 it a different number? Oh, right. I'm sorry.
15 CFP Exhibit 138, Appendix D.

16 Dawn, can you highlight Baker Brook Cabins?
17 So Baker Brook Cabins and Motor Inn area is
18 listed among your 7,000 resources as a potential
19 historic resource, correct?

20 A (Buscher) I'm sorry. We were just having a
21 small conversation. Could you repeat the
22 question?

23 Q Sure. Baker Brook Cabins and Motor Inn was
24 listed on your list of 7,000-plus resources as a

1 potential historic resource, correct?

2 A (Buscher) That's correct.

3 Q Okay. And Dawn, can you now go to Exhibit 328?

4 So that's Baker Brook Cabins, and are you
5 aware of the fact that they've since been
6 demolished?

7 A (Owens) I might have heard something, but I
8 haven't been there to confirm that that's what
9 happened.

10 Q Were you aware of that?

11 A (Buscher) We may have been. I can't tell you
12 for certain.

13 Q So if that's the case, they wouldn't belong on
14 the list, right?

15 A (Buscher) That's correct.

16 Q Let's go to the next one, Dawn? And I'm not
17 going to keep jumping back to your initial list
18 unless you want me to. We'll do the same thing
19 here to keep moving this along, but I'm going to
20 represent to you that this is from your list.
21 It's called the Garneau Road area, and it's in
22 Franklin, and there are four addresses on the
23 list. 2, 3, 5, and 7 Garneau Road.

24 Does this look familiar to you?

1 A (Buscher) We did not go to this specific
2 location.

3 Q This is listed attractiveness potential historic
4 resource that should have been evaluated.

5 A (Buscher) Based on work done by historic
6 consultant if it came out from that 1000-plus
7 number, yes.

8 Q And other houses in this development like that
9 are included as well. Does that surprise you?

10 A (Buscher) That does not surprise me.

11 Q Next one, please, Dawn.

12 This is 8 Ed Brown Road in Pittsburg.
13 Recognize that?

14 A (Buscher) I do not.

15 Q Looks like a private home, doesn't it?

16 A (Buscher) I'll take your word for it. I can't
17 make that assumption from just looking at a
18 photo.

19 Q Let's go to the next one. 1204 South Main
20 Street in Franklin. This one is on your list.

21 A (Buscher) Okay.

22 Q As a potential historic resource.

23 A (Buscher) Okay.

24 Q Did you go there?

1 A (Buscher) Again, I'm going to reiterate that we
2 used existing databases. This was a database
3 that came from the historic preservation
4 consultant. So we looked at whether those
5 listed resources were going to be visible based
6 on bare-earth assumptions. We did not then move
7 on to the next part that would be required by an
8 Applicant within the VIA to assess whether, yes,
9 indeed, this should be listed as a scenic
10 resource or not.

11 Q Dawn, one more, please?

12 So Webster Lake Terrace subdivision in
13 Franklin is another one. Does that look private
14 to you?

15 A (Buscher) That could be private.

16 Q So I know you said earlier that as part of your
17 work you did visit sites. Am I correct, though,
18 that you didn't visit any of these sites?

19 A (Buscher) I can't tell you for certain whether
20 or not we visited these sites or not. They do
21 not look familiar to me off the top of my head,
22 but I also visited multiple hundreds of sites
23 for the Project.

24 A (Owens) We did visit this subdivision. We

1 didn't visit the actual house.

2 Q Is this site familiar to you, Mr. Owens?

3 A (Owens) I know where it is. I haven't been
4 there myself.

5 Q Okay. So you didn't go to this particular
6 location?

7 A (Owens) I did not, but I did do simulations from
8 nearby, and I visited the lake nearby, and I
9 looked at a lot of maps, and I believe I
10 understand where this subdivision is.

11 Q So, Mr. Owens, if you had visited all these
12 particular sites, would you still keep them on
13 your list? Or would you feel comfortable taking
14 them off?

15 A (Owens) I don't know that it necessarily would
16 need to come off of the list. I think it's, the
17 list might still need to be there and it might
18 need to be reported that there's some potential
19 terrain visibility and that that would then be
20 turned over to the SEC so that they would know
21 that there's the potential for a historic
22 resource to have visibility of the Project.

23 Q I think you said in your report that there are
24 more than 120 road crossings and trails that are

1 crossed by the NPT corridor that are potential
2 scenic resources. Does that sound familiar?

3 A (Buscher) That sounds approximately correct.

4 Q We asked you a Data Request to get some
5 clarification about this, and that was DR 21 and
6 I'm going to make that Exhibit 329.

7 And, Dawn, if you can highlight the
8 relevant section? First paragraph under number
9 of.

10 And you said here that it seems safe to
11 assume that most public roads in New Hampshire,
12 particularly those outside of urban areas, are,
13 therefore, a scenic resource. And I guess you
14 were referring to 102.45(c) when you said
15 therefore. In addition, when presented with a
16 view that possesses a scenic quality it is
17 assumed that many drivers and passengers will
18 appreciate it.

19 Do you recall saying that?

20 A (Buscher) Yes.

21 A (Palmer) Yes.

22 Q So it's fair to say that you simply assumed that
23 all public roads, even if they're not
24 designated, are scenic and should be evaluated.

1 Is that right?

2 A (Palmer) Possess a scenic quality, yes.

3 Q And 102.45(c), which we've seen a lot of in this
4 proceeding, talks about lakes, ponds, rivers,
5 parks, scenic drives and rides and other tourism
6 designations that possess a scenic quality.

7 I take it you're familiar with that
8 definition?

9 A (Buscher) Yes.

10 Q And I believe that you were all here when
11 Attorney Connor was cross-examining Mr. DeWan
12 and Ms. Kimball about four particular roads.
13 Mount Prospect Road, Mountain Road, Deerfield
14 Road, and Route 104. Do you remember that?

15 A (Buscher) We were here at that point.

16 Q And Ms. Connor seemed to be implying that all
17 four roads qualify as scenic resources under
18 this definition at 102.45(c). Do you remember
19 that?

20 A (Buscher) I'm sorry. Could you repeat the
21 question?

22 Q Sure. Seemed like Ms. Connor was implying that
23 all four of these roads that we just talked
24 about qualified as scenic resources under the

1 definition of 102.45(c). Do you remember that?

2 A (Buscher) Yes.

3 Q And I think we established that Mr. DeWan
4 actually did evaluate Mount Prospect Road as a
5 scenic resource because it's locally designated.
6 Do you remember that?

7 A (Buscher) Vaguely. Yes.

8 Q And so the remaining three roads were the ones
9 in question, and my question to you is, is it
10 your opinion that any of those three roads are
11 tourism destinations?

12 A (Buscher) So assuming that a scenic drive which
13 that is our interpretation could be considered a
14 tourism destination, yeah. It's not
15 inconceivable to think that people might be out
16 looking to drive and appreciate fall foliage,
17 for instance, on any one of these roads.

18 Q So just to be clear, and I will not be arguing
19 with you about interpretations. I just want to
20 understand the work you did here. In your work
21 with respect to those three roads, you believe
22 that those are tourism destinations?

23 A (Buscher) We believe that they're scenic drives.

24 Q You didn't do any evaluation at all as to

1 whether those scenic drives were actually
2 tourist destinations?

3 A (Buscher) Are you asking if they are a
4 designated tourism destination?

5 Q No. I'm asking if in your opinion or in your
6 work you did any evaluation as to whether those
7 three locations were tourism destinations?

8 A (Buscher) I actually think that's irrelevant. I
9 feel as though they meet the definition of being
10 a scenic drive.

11 Q Without having any connection to being a tourism
12 destination.

13 A (Buscher) Like I said, I think that point is
14 irrelevant.

15 Q You're nodding yes, Mr. Palmer?

16 A (Palmer) Yes. I think tourist destination is
17 one of the categories like scenic drives and
18 rides is a category.

19 Q Okay. And I take it then that it's fair to
20 conclude that there is no information anywhere
21 in any of the work that you've done in this case
22 that would support the notion that any of those
23 roads are a tourist destination?

24 A (Buscher) I mean, we captured scenic

1 attractiveness ratings when we did our field
2 work, but we did not do any type of analysis to
3 identify which lakes, ponds, rivers, parks,
4 scenic drives and roads would also be considered
5 tourism destinations.

6 Q Okay. CFP 139, Exhibit A. If we can call that
7 back up, Dawn. We looked at this a few minutes
8 ago. Appendix G. I don't think that's the one,
9 Dawn. There we go. That one.

10 So I want to just go up on that list a
11 little bit.

12 And Dawn, if you can highlight the scenic
13 drive section.

14 So of the 7,417 resources on your list,
15 3947 of them are in this scenic drive public
16 roads category; is that right?

17 A (Buscher) That's correct.

18 Q So that means that about 53 percent of all the
19 resources on this list fall into that category;
20 does that sound about right?

21 A (Buscher) That would sound appropriate. It's
22 our common experience that roads are by far the
23 most common location where the public interact
24 with a project such as the Northern Pass

1 Project.

2 Q And how many of these 3,947 roads are designated
3 nationally by the state or by a town?

4 A (Buscher) We did not do that analysis.

5 Q So you have no sense as you sit here today?

6 A (Palmer) Is there a road designation category
7 that's hidden by the --

8 Q No. It's your document. I don't know. Is
9 there?

10 A (Buscher) So how many of those roads are, so if
11 we cross-reference it with the databases we used
12 for Site 102.45(a), designated scenic resources,
13 we do have database files for Scenic Byways and
14 Designated Rivers. Specifically, for Scenic
15 Byways, it's 11. But if my recollection is
16 correct, that doesn't include roads that are
17 designated by towns.

18 Q Okay. So there's some handful in that list. We
19 don't know how many that are actually
20 designated.

21 A (Palmer) Because some of these are a hundred
22 miles long and include many roads, but, yes,
23 it's a small-ish number.

24 Q Okay.

1 A (Palmer) By comparison to 7,000.

2 Q And, conversely, what we now also know is that
3 every road in that list that isn't designated,
4 you have no information at all as to whether
5 those roads are tourism destinations. You
6 didn't do that analysis?

7 A (Buscher) That's what we previously stated. We
8 feel that that fact is irrelevant.

9 Q Okay. Let's go to the next topic. In your
10 initial assessment of the 18,000 scenic
11 resources, and then your refined assessment of
12 7,417 resources --

13 A (Buscher) Can I be clear? We did not do an
14 assessment of those resources.

15 Q Initial listing.

16 A Inventory would be a more appropriate.

17 Q Okay. We can use that word. In your initial
18 inventory. And then in the followup inventory
19 of 717, you didn't include any current use
20 parcels, right?

21 A (Buscher) That is correct.

22 Q But it's your view as professionals in this
23 field that the SEC rules require current use
24 parcels to be assessed. Is that right?

1 A (Buscher) It's our feeling that it is most
2 definitely a possibility that those should be
3 assessed. I think they meet the description of
4 a scenic resource.

5 A (Palmer) It's a subset of those parcels. So
6 it's those current use parcels taxed for current
7 use that have an additional 20 percent
8 adjustment. In return, they give the public
9 access for certain recreation purposes for a
10 full 12 months.

11 Q You anticipated where I was going. So let's
12 just clarify it a little bit.

13 So these are only the current use parcels
14 that have that qualified recreational adjustment
15 I think that's what you were talking about.

16 A (Palmer) Right. There's a trade that the public
17 gets access, the State covers the liability
18 issues, and they get 20 percent more on their
19 current use adjustment.

20 Q And you said on page 69 of your report that,
21 quote, "an existing spacial database has not
22 been identified for these resources," close
23 quote. Does that sound familiar?

24 A (Palmer) At the time that's what we found. But

1 there is a database, a tax database for at least
2 a lot of the towns.

3 Q There's a spacial database for them with GIS
4 coordinates?

5 A (Palmer) This is a statewide database of parcels
6 that has parcel ID, and the towns maintain the
7 actual tax records which you need to identify
8 parcels that have the 20 percent adjustment and
9 many towns subscribe to a service that maintains
10 those records digitally.

11 Q So is it your testimony that when you said on
12 page 69, an existing spacial database has not
13 been identified for these resources, that's no
14 longer accurate, and as you sit here today,
15 there is now a spacial database for these
16 resources?

17 A (Palmer) My understanding is that a spacial
18 database for the 20 percent reduction could be
19 built fairly easily.

20 Q Could be built. Does it exist today?

21 A (Palmer) Well, the full tax record database
22 exists, and you just have to extract the 20
23 percent reduction. Yes. It's not a big deal.

24 Q On page 73, you provided a summary acreage and a

1 percent area of current use parcels in Table 5.

2 Do you remember that?

3 A (Palmer) Yes.

4 Q Did you have any way to identify or provide a
5 methodology on how those individual current use
6 parcels could be identified? It's not anything
7 you provided in your report, is it?

8 A (Palmer) Those figures are by town, and they
9 come from a report that every town submits to
10 the State.

11 Q So let's put up Applicant's Exhibit 330. And
12 I'm pretty sure someone else has already put
13 this up. I just can't remember when. This is A
14 Layperson's Guide to New Hampshire Current Use.

15 Have you seen this document before?

16 A (Palmer) I may have, but this cover does not
17 look familiar to me so maybe not.

18 Q Okay. Let's jump to page 3, Dawn.

19 So according to that highlighted provision,
20 there's nearly three million acres in current
21 use or almost 60 percent of the taxable private
22 land in the state. Does that sound about right?
23 Is that what it says?

24 A (Palmer) Yes, it does.

1 Q And 27,000 landowners participate; is that
2 right?

3 A (Palmer) That's what it says.

4 Q And based on your interpretation of the SEC
5 rules, a Visual Impact Assessment would have to
6 analyze each and every current use parcel with
7 the recreational adjustment. Is that right?

8 A (Palmer) Yes, but, of course, that's going to be
9 a subset of that. But I will concede that it's
10 still going to be a very large proportion of
11 state.

12 Q And you'd also have to identify which of those
13 27,000 landowners have opted for that
14 recreational access discount. Is that right?

15 A (Palmer) The tax records tell us that.

16 Q And based on the chart that you provided on page
17 69, roughly 58 percent of all current use
18 parcels receive that recreational adjustment,
19 right?

20 A (Palmer) Yes. So about a third of the state.

21 Q Okay. So 58 percent of three million acres is
22 somewhere north of a million and a half acres
23 that you believe should have been evaluated as
24 part of this assessment; is that correct?

1 A (Palmer) Well, that's not quite right because
2 the whole state doesn't get evaluated. It's
3 only within 10 miles of the centerline, and from
4 our point of view 10 miles of the overhead
5 portion but yes.

6 Q And am I right that you calculated that as
7 something a little bit north of 800,000 acres?

8 A (Palmer) I can't tell you, but it's a lot of
9 land. I understand that.

10 Q And you didn't do any analysis of these current
11 use properties at all, right?

12 A (Palmer) We didn't do a VIA, and, actually, we
13 were asked not to go do that analysis because
14 we're not responsible for doing that work. The
15 Applicant is.

16 Q And as we sit here today, you still fault
17 Mr. DeWan for not doing analysis of that land;
18 is that correct?

19 A (Buscher) For not considering that land in his
20 analysis. That, I mean, I think what you've
21 just shown us, it's clear that there's been
22 considerable public effort to make this land
23 available. Yes.

24 Q Okay. We talked a little while ago about the

1 other cases that have come before the SEC since
2 the rules were amended. Do you remember that?

3 A (Buscher) I'm sorry. Can you repeat, please?

4 Q Yes. We talked a little while ago about the
5 other cases that have come before the SEC since
6 the rules were amended. Remember that?

7 A (Buscher) I think I made a small comment.

8 Q Yeah. Were you aware that when Mr. DeWan
9 testified, he said that he carefully assessed
10 the Visual Impact Assessments that were done in
11 the Antrim Wind docket and the Merrimack Valley
12 Reliability Project docket, including the
13 Committee deliberations and decisions? Did you
14 know that?

15 A (Buscher) I don't think I specifically knew
16 that, but it would make sense.

17 Q And you said before, and I don't know if you
18 misspoke, that there had been only one case that
19 had come before the SEC under the new rules.
20 Which case did you have in mind?

21 A (Buscher) The Antrim Wind Project.

22 Q So did you not know about the Merrimack Valley
23 Reliability Project?

24 A (Buscher) I think I did know about it. I don't

1 think I was aware, I did not review the findings
2 of that case, that it was subject to the new
3 rules.

4 Q Were you aware that Mr. DeWan testified that he
5 was guided by the methodologies from the VIAs in
6 those cases, and he believed that the
7 methodology that he used here is similar to the
8 ones there in many key respects?

9 A (Palmer) Were those cases submitted before he
10 started his methodology?

11 Q I'm asking you if you were aware that that's
12 what he testified to. Were you?

13 A (Palmer) No.

14 Q Okay. And are you aware that both the Merrimack
15 Valley Project and the Antrim Wind Project were
16 actually heard and decided using these new
17 rules?

18 A (Buscher) I am aware that the Antrim Wind
19 Project was decided with the new rules.

20 Q Have you ever heard of somebody named John
21 Hecklau?

22 A (Palmer) I have not.

23 A (Buscher) I have not.

24 Q Mr. Hecklau was the visual impact assessor in

1 MVRP so I take it that you weren't aware that he
2 prepared a VIA there?

3 A (Buscher) That's correct.

4 Q And are you aware that in the Antrim Wind docket
5 there were two VIAs prepared? One by
6 Applicant's witness, David Raphael, and the
7 other by Ms. Connelly, the witness for Counsel
8 for the Public?

9 A (Buscher) I am aware of that.

10 Q And would it have had any relevance to you that
11 if it turned out that the way resources were
12 identified in those two cases was very similar
13 to how Mr. DeWan identified scenic resources
14 here?

15 A (Buscher) If that is the case, we would contend
16 that their identification as scenic resources
17 was improperly done.

18 Q I didn't hear what you said. Could you speak
19 up?

20 A (Buscher) If that is the case, then I would
21 contest that the identification of scenic
22 resources were improperly done.

23 Q And if it turned out that the approach that
24 you're using here was dramatically different

1 from the approaches they used, then I take it
2 you would contend that they were all wrong?

3 A (Buscher) I would contend that.

4 Q Okay. Would it surprise you that there were no
5 parking lots or shopping areas like Loudon Road
6 identified as scenic resources by any of those
7 experts?

8 A (Buscher) It would surprise me.

9 Q Would it surprise you that none of the VIAs
10 considered current use parcels?

11 A (Buscher) Would it surprise me? I don't know.

12 Q So if it turns out on all these issues
13 Mr. DeWan's approach is consistent with how
14 those other experts did their work and your
15 approach was inconsistent, would that be a cause
16 of concern for you?

17 A (Buscher) No, I'm confident in the approach
18 that we're proposing.

19 Q You testified earlier that you have no
20 experience doing VIAs in New Hampshire and you
21 didn't participate in the rulemaking process,
22 right?

23 A (Buscher) That is what we said.

24 Q So don't you think it would have benefited you

1 to see how other experts went about doing their
2 work here, given your lack of experience in this
3 state?

4 A (Buscher) We started reviewing this Project, in
5 my opinion, before either the, I can't speak for
6 the Merrimack case but before the Antrim Wind
7 decision or hearings even occurred.

8 Q Do you know when the Merrimack Valley case was
9 decided by the Site Evaluation Committee?

10 A (Buscher) I'm not aware.

11 Q If it was about June of 2016, would that be
12 relevant to you?

13 A I will take your word for it that that's when it
14 was decided.

15 Q Do you know when the Antrim case was decided by
16 the Site Evaluation Committee?

17 A (Buscher) I believe it was some time after that.

18 Q Yes, it was decided in March so shortly before
19 you issued your Supplemental Testimony. But the
20 case was heard and deliberations occurred in
21 December of 2016. Does that surprise you?

22 A (Buscher) No. That sounds appropriate.

23 A (Palmer) I don't understand. The DeWan have IA
24 was submitted in December '15; is that correct?

1 Q I don't recall. You'll have to check.

2 A (Palmer) So I don't understand how he could have
3 referenced those two findings and procedures if
4 the cases were that late.

5 Q I think what you should do is look at
6 Mr. DeWan's testimony and Mr. DeWan's VIA and
7 see how he described how he relied on those
8 cases and that will answer your question.

9 A (Palmer) Okay.

10 Q Let's talk about public community workshops. We
11 talked about this a little bit earlier, and my
12 understanding is that with respect to the public
13 workshops that were conducted here, it resulted
14 in the initial identification of 848 scenic
15 resources. Sound about right?

16 A (Buscher) That sounds about right.

17 Q And I think at the tech session you said to me
18 that there were 444 resources that were
19 identified once you removed duplicates and then
20 screening on bare-earth visibility; does that
21 sound right?

22 A (Buscher) I would have to review those numbers
23 specifically. Do you have a reference, page
24 number that we can look at?

1 Q Yes. CFP Exhibit 138, page 88 of the T.J. Boyle
2 report.

3 A (Buscher) 444 is what the reported number is.

4 Q So that's the total number of
5 community-identified resources, right?

6 A (Buscher) That's after, I believe that's after
7 we reduced for duplication.

8 Q Right. That was my understanding.

9 Now, these workshops were held, and I'm a
10 little confused here, in Concord, Ashland,
11 Littleton, Lancaster and Colebrook; is that
12 right?

13 A (Buscher) Yes.

14 Q And the reason I'm confused is because I only
15 see five, but I think in your report you said
16 there were six workshops, and I'm looking at
17 page 70 of your report.

18 A (Buscher) There were two workshops done in
19 Colebrook.

20 Q Okay. Got it. And in total 170 people attended
21 these workshops; is that right?

22 A (Buscher) That's correct.

23 Q And so I take it you believe you had a good
24 representation of people from each town or

1 subarea along the Project?

2 A (Buscher) I think we discussed that in our
3 report specifically. Give me one second. I
4 think we specifically note on page 70, the third
5 paragraph from the bottom, that we do not
6 represent that these data constitute a random
7 sample of New Hampshire residents. Rather the
8 community workshops were an attempt to engage
9 people from affected communities in a
10 constructive way to describe in simple terms how
11 the landscape is important to them.

12 Q Did you find value in these workshops?

13 A (Buscher) Sure.

14 Q Why?

15 A (Buscher) We were able to identify locations
16 within these communities that were important to
17 the residents that turned up for these
18 workshops. I think it's important to say that
19 the materials we used and the way that we
20 approached the Project actually was devoid of
21 talking about the Northern Pass Project. In
22 fact, we used maps that didn't even represent
23 the Project on those maps. We were there really
24 to talk about scenic resources in general and

1 give them the opportunity to let us know what
2 resources were important to them.

3 Q So this was really purely an exercise on your
4 part to gather the wisdom of the masses and
5 figure out what the important resources were to
6 these people. I guess that's what you're
7 saying.

8 A (Buscher) Also to try to understand what types
9 of resources might not be represented in
10 statewide databases.

11 Q So they came up with 444 separate resources,
12 right?

13 A (Buscher) That's what we reported.

14 Q And this is nowhere near the 7,417 resources
15 that you came up with in your revised inventory,
16 right?

17 A (Buscher) Sure. I would agree with that.

18 Q It is much closer, though, to the 662 resources
19 that DeWan ultimately identified, isn't it?

20 A (Buscher) Technically, those numbers are
21 similar. I don't see the correlation between
22 the two.

23 Q Well, seems to me fair to say that the wisdom of
24 the crowds here came up with about the same

1 number as DeWan and a lot less than you did.

2 Does that seem right?

3 A (Buscher) I would say that as we noted our
4 sample included 170 people and that we would not
5 consider that would constitute a random sample.
6 It seems like an entirely low number of people
7 to represent the number of towns affected by
8 this Project.

9 Q Well, if it's such a low number of people, are
10 you saying that it's not something worth relying
11 on?

12 A (Buscher) I'm not saying that at all.

13 Q Okay.

14 A (Buscher) I'm saying it's important for what we
15 were able to obtain out of it. But we do feel
16 that there's other probably better ways to
17 ascertain types of information that we attempted
18 to use this for.

19 Q All right. So I want to move away from the
20 resource identification issue but just couple
21 more questions.

22 We established earlier that on May 13th,
23 2016, Counsel for the Public sought to retain
24 you, and then got authority to retain you on May

1 25th, right?

2 A (Buscher) That's correct.

3 Q And you submitted your initial report on
4 December 31st, 2016, which contained over 18,000
5 resources in the inventory, right?

6 A (Buscher) That's correct.

7 Q And then when you submitted that, in your
8 original testimony you included a scenic
9 resource description evaluation for only three
10 specific resources, right?

11 A (Buscher) Can you repeat the question?

12 Q Yes. When you submitted that December 31st
13 testimony and report, you did a specific scenic
14 resource evaluation for only three specific
15 resources, right?

16 A (Buscher) That is not accurate.

17 Q Mr. Palmer was nodding yes so maybe you better
18 check.

19 A (Buscher) No. That is not accurate. Could you
20 repeat the question?

21 Q Sure. When you submitted your original report
22 and testimony on December 31st, 2016, you
23 included a scenic resource description
24 evaluation for only three specific resources.

1 A (Buscher) So there's two different evaluations
2 for individual scenic resources. One's more of
3 a form-based analysis for which with the
4 December report we included 41 specific scenic
5 resources. In January, we provided a more
6 comprehensive descriptive evaluation of 29 of
7 those resources that were included within the
8 41.

9 Q Okay. So we're actually getting to the same
10 place here.

11 A (Buscher) Sure.

12 Q So the January 20th, 2017, submittal had those
13 41 resources, and I think it was at that point
14 that you did the analysis of the 29. Is that
15 right?

16 A (Buscher) That's correct.

17 Q Okay. And I think you explained that you only
18 analyzed 41 sites the way you just described it
19 because that was all you had time to do, right?

20 A (Buscher) That's not the only reason.

21 Q Well, let's pull up CFP Exhibit 138, pages 97
22 and 98. We'll go to the bottom. And I think
23 what you said at the time is that, quote, "time
24 limitations imposed by the SEC review process

1 prevent a more in-depth or full analysis of all
2 identified scenic resources."

3 Is that what you said?

4 A (Buscher) That's what the text specifically says
5 right there.

6 Q Okay. So from the time that you started your
7 work here, and I'm going to assume that you
8 started right on May 25th, 2016, the day the SEC
9 said it was okay for Counsel for the Public to
10 hire you, until the time you provided that
11 analysis in January of the 41 sites, about 8
12 months elapsed. Is that right?

13 A (Buscher) From the time that we were given
14 permission to go, to that time, that's correct.
15 However, we most certainly didn't have all the
16 information that we required to do our analysis
17 for that full 8 months.

18 Q Right. I'm actually giving you the benefit of
19 the doubt here and assuming you did. You'll see
20 where I'm going in a minute.

21 A (Buscher) Okay.

22 Q At that rate, do you know how long it would take
23 to evaluate the 7,419 sites that are on your
24 inventory list?

1 A (Buscher) Assuming that all of those resources
2 would need a specific evaluation which we have
3 not contended anywhere, then it would be a very
4 long time.

5 Q Yeah. At the pace you did it which is by my
6 calculation 5.1 resources per month, if you
7 evaluated them all, it could take 121 years.

8 A (Buscher) Well, you have to realize that we
9 weren't just tasked with evaluating scenic
10 resources. We had a whole slew of things that
11 we were doing for this Project.

12 Q I understand.

13 A (Buscher) I think that's an unfair
14 representation.

15 Q That doesn't include current use parcels, right?
16 You didn't even look at those.

17 A (Buscher) That's correct.

18 Q So if you were able to do it five times as fast
19 as you actually did it, it would only take 24
20 years, right?

21 A (Buscher) If we had to go out and individually
22 evaluate every single scenic resource on that
23 list of 7,000, which I have to say we have never
24 contested that, we're not saying that each one

1 of those scenic resources deserves a full
2 evaluation, but if you had to, yeah, it would
3 take a really long time.

4 Q All right.

5 A (Palmer) What we've been saying is that the
6 rules require that the scenic resources be
7 identified.

8 A (Buscher) Potentially.

9 A (Palmer) So that, and that's pretty much as far
10 as we went. We only evaluated a small sample,
11 if, in fact, the number of potential resources
12 that appeared to be worthy of evaluation remains
13 at, you know, 5, 6000, something like that, I
14 would expect there to be a sampling scheme to
15 identify which resources actually got evaluated,
16 and then you would just extrapolate from that to
17 find the overall impact of the Project. But
18 it's important to know that there's that many
19 potential scenic resources. The inventory is a
20 requirement.

21 Q So up to this point, we've focused on that
22 inventory or the identification of resources,
23 the universe, so to speak. What I want to talk
24 about now is the filtering process. And I think

1 we have a clear understanding of the fact that
2 once Mr. DeWan identified his universe, whatever
3 you may think of it, he then undertook a series
4 of steps to filter resources out of his
5 universe, right?

6 A (Buscher) That is described in his methodology.

7 Q Right. And one of the filters which I want to
8 discuss first is visibility. And, again, the
9 touchstone here is always the rule so let's
10 start there.

11 Site 102.10 defines the area of potential
12 visual impact. I assume you're familiar with
13 that, right?

14 A (Buscher) Yes.

15 Q And it says, quote, "a geographic area from
16 which a proposed facility would be visible and
17 would result in potential visual impacts;" is
18 that correct?

19 A (Buscher) That's correct.

20 Q All right. And focusing on your inventory of
21 7,417 resources, am I correct that your view is
22 they might have a view of the Project based on
23 bare-earth analysis?

24 A (Buscher) So I'm going to go back to

1 301.05(b)(1) in which it says the first
2 requirement is that a description and map
3 depicting locations of the proposed facility and
4 talks about what encompasses the proposed
5 facility. That would, the words that you're
6 using, would be visible from any scenic
7 resources based on both bare ground conditions
8 using topographic screening only and with
9 consideration of screening by vegetation and
10 other factors.

11 Q Okay. Let's go back to my question.

12 My question was, focusing on the 7,417
13 resources on your list, my understanding is you
14 believe they may have a view of the Project
15 based on bare-earth analysis, correct?

16 A (Buscher) That's correct.

17 Q And you don't know how many of these 7,417
18 resources would have potential visibility if the
19 buildings and vegetative screening were
20 considered. You didn't filter for that, did
21 you?

22 A (Buscher) That would be a logical step to
23 include.

24 Q It would be a logical step, but you didn't do

1 it, right?

2 A (Buscher) Right. We never, we don't contest
3 that we further evaluated those resources. But
4 I will add that even Mr. DeWan asserts in his
5 testimony the complications with using
6 obstruction-based visibility analysis and how
7 that it's not going to represent visibility from
8 certain viewpoints that are going to be obscured
9 in that type of analysis.

10 Q So even if an important scenic resource has
11 absolutely no visibility of the Project, you
12 wouldn't know that based on the analysis you
13 did, right?

14 A (Buscher) Again, we did not do analysis.

15 Q Based on the work you did.

16 A (Buscher) I'm sorry. Could you rephrase?

17 Q Yes. Even if an important scenic resource had
18 absolutely no visibility of the Project, you
19 wouldn't know that based on the work you did,
20 right?

21 A (Buscher) That's right. We did not evaluate all
22 those resources.

23 Q Now, DeWan filtered visibility by determining if
24 vegetation or buildings blocked the view of the

1 Project from the scenic resource, right?

2 A (Buscher) To a certain extent. There's
3 different data sources that were used. One data
4 source would include things such as buildings.
5 The other data source would not.

6 Q Okay. And you filtered visibility differently,
7 right? You used bare-earth which didn't factor
8 in vegetations or buildings.

9 A (Buscher) Actually, we prepared viewshed
10 analysis maps, GIS-based viewshed analysis maps,
11 that used both components.

12 Q You prepared both maps, but as you just said,
13 you didn't apply the vegetative filter to your
14 inventory of resources, right?

15 A Not to the specific inventory list.

16 Q So in bare-earth, unless there was some
17 intervening topographic feature like a hill or a
18 mountain, you would see the resource, right?

19 A (Buscher) It would indicate potential
20 visibility. But what's really helpful with the
21 bare-earth analysis is it tells you where the
22 Project is definitely not going to be visible.
23 So when you look at some of the factors
24 Mr. DeWan talks about such as being on the edge

1 of a lake or on top of the hillside, you can use
2 that bare-earth analysis to make that
3 assessment.

4 Q So in CFP 138, Appendix D, I just want to look
5 at a couple of examples of how you did this work
6 here.

7 Would you call that up, Dawn?

8 So I take it you recognize this document?

9 A (Buscher) Yes.

10 Q So this is your bare-earth viewshed map for
11 Concord, right?

12 A (Buscher) That's correct.

13 Q And according to your bare-earth viewshed map
14 for Concord, the light, I'll call it the light
15 purple, is the bare-earth area of visibility; in
16 other words, the place where the Project would
17 be visible based on bare-earth analysis, right?

18 A (Buscher) That's correct.

19 Q And the pink in the middle is, I think you
20 defined it as an urban area or something like
21 that?

22 A (Buscher) That's correct.

23 Q Okay. And with respect to that pink in the
24 middle, pretty much all of that area has

1 bare-earth visibility except for maybe those
2 little orange patches sort of to the west,
3 right?

4 A (Buscher) Yes.

5 Q And so if you, and I think folks in this room
6 probably can do this, if you figure out where
7 the State House is there, it's sort of right in
8 the middle of Concord just opposite Eagle Square
9 to the west; is that right?

10 A (Buscher) That seems appropriate.

11 Q So in your bare-earth analysis, that area right
12 in front of the State House, the State House
13 lawn which is considered a scenic resource,
14 would have visibility of the Project, right?

15 A (Buscher) I feel as if you're taking the context
16 away because we're looking at both components.
17 We just didn't get to that next phase. But
18 there are other locations where bare-earth
19 analysis might show visibility where
20 obstruction-based visibility analysis doesn't
21 that is very likely that there could be future
22 visibility. I would love to bring up our
23 obstruction-based visibility map for this same
24 location.

1 Q You do agree that based on your bare-earth
2 map --

3 A Sure. That it shows potential visibility.

4 Q And really, practically speaking, and from a
5 vegetative or a building screening map, it
6 wouldn't have visibility because if you were
7 standing on the State House lawn looking east,
8 you'd see a row of buildings, right?

9 A (Buscher) 100 percent.

10 Q And the only way you'd have actually have real
11 visibility would be to get rid of all those
12 buildings.

13 A (Buscher) That's entirely accurate.

14 A (Palmer) But, nonetheless, the phrase "would be
15 visible from any scenic resource," the analysis
16 to define that phrase is based on both bare
17 ground conditions and a screen vegetation.

18 Q We're going to get to that in a few minutes.

19 A (Palmer) Okay.

20 Q I just want to walk through a few more of these.
21 Let's go to another one, Dawn.

22 A (Buscher) Is it possible to bring up the second
23 map that we did for that same location?

24 Q I'm sure when Counsel for the Public does

1 redirect, she'll bring up anything you want.

2 A (Buscher) Duly noted.

3 Q Let's go to the next one.

4 So this is, I'm going to call up the Daniel
5 Webster Historic Site, and this, according to
6 your map, is in the purple so it's got
7 bare-earth visibility, right? This would be a
8 publicly accessible scenic resource that we
9 probably all agree needs some evaluation, right?
10 And this has bare-earth visibility according to
11 you, correct?

12 A (Buscher) This is the bare-earth visibility
13 viewshed analysis, yes.

14 Q And if we look at your vegetative map for this,
15 no visibility, right?

16 A (Buscher) That's correct.

17 Q And just one other one. This is going to be
18 Little Cherry Pond which is in the Pondicherry
19 Wildlife Refuge, and according to your
20 bare-earth analysis, most of that area and those
21 trails do have bare-earth visibility, right?

22 A (Buscher) That's correct.

23 Q And then if we bring up the vegetative map for
24 that same site, now there's very little

1 visibility around that area; is that correct?

2 A (Buscher) That's what the map is indicating,
3 yes.

4 Q Right. And do you see where it says Cherry
5 Pond?

6 A (Buscher) I do.

7 Q And if you look to the northwest of Cherry Pond
8 you see that collection of hiking trails there?

9 A (Buscher) I do.

10 Q And those hiking trails are areas that do have
11 bare-earth visibility but in the vegetative map
12 are screened; do you see that?

13 A (Buscher) I see that.

14 Q So I want to call up the next slide.

15 So if you look on the bottom, this is from
16 DeWan, I believe, or actually it's not. This is
17 an exhibit we created. There's the pond right
18 there, just to the east of that red arrow. Do
19 you see that?

20 A (Buscher) I see that.

21 Q And that red arrow is a point in space looking
22 towards the line, do you see that?

23 A (Buscher) I do.

24 Q And the photograph above is that point in space

1 looking in that direction toward the line which
2 is 1.9 miles away. Do you see that?

3 A (Buscher) I do.

4 Q So in a bare-earth analysis, in order for this
5 scenic resource to have visibility, all those
6 trees would need to disappear. Is that right?

7 A (Buscher) That's true.

8 Q Okay.

9 A (Buscher) And if we go one step further we can
10 probably assess whether the potential impact on
11 that resource would be low, medium or high.

12 Q And, in fact, there are probably thousands of
13 locations just like the ones I showed you in
14 your list of 7400, right?

15 A (Buscher) I agree with that.

16 Q So when DeWan was doing his work, he was looking
17 at real visibility today based on actual
18 conditions, and you're looking at hypothetical
19 visibility based on bare-earth, right?

20 A (Buscher) As required by the SEC rules.

21 Q And as a consequence of this approach, your view
22 is the rules require thousands of resources to
23 be evaluated further even if in reality, like
24 these ones that we just looked at, there

1 actually is no real view of the line.

2 A (Buscher) Yes. And I'd like to -- can I talk
3 about that for a second?

4 Q Sure.

5 A (Buscher) This Project isn't going to go away
6 any time soon once it would be constructed. We
7 would anticipate that this Project is going to
8 be here for 100 years or more. So there are
9 plenty of locations, maybe not the specific
10 examples that you just showed us, that where
11 there is a real possibility where the vegetation
12 is going to be removed in a lot of locations
13 specific to this report, to this Project,
14 because the Project's located within lands that
15 are managed for forest practices.

16 Q So as you did your work under the rules, you
17 were assuming that all of these places might
18 somehow have the landscape razed, and, as a
19 consequence, those resources needed to be
20 identified and evaluated.

21 A (Buscher) Not at all. We're following the
22 rules. The further, the further evaluation
23 would be to assess what is the likelihood that
24 there could be a dramatic change in the forest

1 cover in a particular area. That's an
2 evaluation that should be done regardless of
3 what the SEC rules when you're conducting VIAs,
4 but the SEC rules specifically require it in our
5 interpretation and reading of those rules.

6 Q Okay. Would it surprise you to learn that the
7 Applicant's expert in the Merrimack Valley
8 Project also used vegetative screening when
9 assessing visibility the way Mr. DeWan did?

10 A (Buscher) Using vegetative screening analysis is
11 a very acceptable method along with a bare-earth
12 analysis.

13 Q Would it surprise you to learn they didn't do
14 bare-earth analysis like you did?

15 A (Buscher) I would contest it's not an
16 appropriate way to approach it.

17 Q So I assume you'd say the same thing if the
18 experts in Antrim also didn't do it your way?

19 A (Buscher) Yes. I would.

20 Q All right.

21 A (Buscher) We've done hundreds of analyses in
22 which we look at both, and we appropriately give
23 weight to each of those different types of
24 analysis. And additionally, just by utilizing

1 the bare-earth analysis, you can easily find
2 locations and we commonly find locations where
3 there is visibility that's shown as not having
4 visibility with vegetative or construction-based
5 GIS analysis. And I think Mr. DeWan agrees with
6 us that these are used as tools in orienting
7 field investigation and going out and doing the
8 work required for a VIA.

9 Q Would you agree with me that part of what makes
10 a scenic resource a scenic resource is its
11 existing character? Things like land forms and
12 vegetation?

13 A (Buscher) The SEC has a very specific
14 description of scenic resources and some of
15 those descriptions or categories actually don't
16 rely heavily on the degree of scenic
17 attractiveness. I think that's what you're
18 getting at.

19 Q I would assume you're aware of the fact that
20 301.14(a)(1) requires the SEC to consider the
21 existing character of the area of potential
22 visual impact?

23 A (Buscher) In their evaluation of
24 unreasonableness.

1 Q Correct.

2 A (Buscher) Yes.

3 Q You were aware of that?

4 A (Buscher) Yes.

5 Q So if an entire forest in and around a scenic
6 resource were removed, wouldn't that impact the
7 character of that resource?

8 A (Buscher) It could.

9 Q And certainly possible that that resource would
10 no longer be scenic, right?

11 A (Buscher) Not necessarily. It could.

12 Q So if all the trees in Bear Brook State Park
13 were removed, would it still be a scenic
14 resource in your view?

15 A (Buscher) I would have to make that assessment.

16 Q Certainly it would dramatically change the
17 character of the resource, wouldn't it?

18 A (Buscher) It would.

19 Q So how can you possibly consider existing
20 character at the same time that you analyze
21 resources by assuming that the landscape is
22 actually devoid of trees and buildings?

23 A (Buscher) I don't think that's an accurate
24 characterization of anything that we said.

1 Q Why not?

2 A (Buscher) Because we didn't say it.

3 Q You've done your whole threshold analysis using
4 bare-earth, isn't that right?

5 A (Buscher) We did an identification of resources
6 based on bare-earth as is required by the SEC
7 rules.

8 Q I want to talk for a few minutes about viewshed
9 maps. You prepared this bare-earth map, and you
10 also, as you talked about a few minutes ago,
11 have vegetative viewshed analysis as well,
12 right?

13 A (Buscher) Which is also a requirement of the SEC
14 rules.

15 Q And I think it's in Appendix D to your December
16 30th, 2016, report that you have this
17 information, and what I want to do is you were
18 asking a moment ago to pull up one of your
19 vegetative maps.

20 Well, Let's start with bare-earth. So CFP
21 138, Appendix D. Let's pull up an example.

22 So I assume you recognize this.

23 A (Buscher) Yes.

24 Q This is your document, as I understand it, it's

1 the bare-earth viewshed of Plymouth which you
2 provided in Appendix D at page 57, right?

3 A I'll take your word for the page numbering.

4 Q And purple on this map represents potential
5 visibility, right?

6 A (Buscher) That is correct.

7 Q And visibility means that in a raster, the
8 computer is telling us that it can see a
9 theoretical point at the top of the tower.
10 That's my understanding. Am I correct?

11 A (Buscher) For multiple towers. I think it
12 was --

13 Q It could be one. It could be a whole bunch of
14 towers, right? Mr. Palmer, you're shaking your
15 head? But it's that theoretical point at the
16 top that the computer is saying from this little
17 area I can see that.

18 A (Palmer) At eye level in the cell, right.

19 Q So purple areas could consist entirely of areas
20 where only the very tops of a single structure
21 or a couple of structures are visible to the
22 computer, right?

23 A (Buscher) Right.

24 Q And this is really theoretical visibility that

1 people in your profession go out and field
2 verify; is that right?

3 A (Buscher) Right.

4 Q And when you provided these maps to Mr. Kavet
5 and Mr. Rockler for them to use, did you make
6 them aware of these limitations that we just
7 discussed?

8 A (Owens) I don't know if they, what they were
9 doing with it after we provided it to them. So
10 I don't --

11 A (Buscher) So I personally did not have any
12 direct conversations with them about the use of
13 these specific viewsheds, but I personally did
14 not do that coordination. I believe both Jim
15 and Jeremy probably had a more active role in
16 that.

17 Q Let's find out. Mr. Owens, did you have
18 conversations with them so that it was clear to
19 them what the limitations were on these maps?

20 A (Owens) I don't recall specific conversations
21 about limitations or exactly what they were
22 going to use it for.

23 Q Mr. Palmer, did you?

24 A (Palmer) No.

1 Q Did, Mr. Buscher, to the best of your knowledge,
2 or any of you, to the best of your knowledge,
3 did anyone in your office involved with the work
4 you're doing here have those conversations with
5 Mr. Kavet and Mr. Rockler to make them aware of
6 these limitations?

7 A (Buscher) Correct me if I'm wrong, Jeremy, but I
8 believe, or Jim, I believe the transfer of data
9 wasn't direct. I believe it was through the
10 prime consultant.

11 Q What does that mean?

12 A (Buscher) We were subconsultants to a lead
13 consultant on the Project, and they were working
14 for the overall organization and direction of
15 each of the individual consultants on the
16 Project.

17 Q Are you sure that's with respect to the SEC
18 process? And not the EIS process?

19 A (Palmer) I don't remember having contact with
20 them at all. We did have contact with
21 economists on the DOE evaluation, but I don't
22 remember having contact with anybody on this
23 side. So it's hard for me to say. Did they
24 testify that they talked to us or is it that

1 they used our map? Or that -- I don't know
2 where this is coming from.

3 Q Well, they certainly used your map, and all I'm
4 trying to understand is what information, if
5 any, aside from providing the maps to them, you
6 all gave them and it's sound to me --

7 A (Buscher) I have to apologize. I was mixing up,
8 you know, we're going back over five years of
9 work on this Project. So I think the most
10 interaction that we had with economic
11 consultants were they participated in some of
12 the public workshop meetings that Counsel for
13 the Public hosted. We would probably need to go
14 back and look at our records to understand -- I
15 can't, I can't specifically remember providing
16 them, and I don't know if Jim or Jeremy can,
17 providing them the specific data files or if
18 they were using paper maps that they acquired
19 some other way. We would have to go back and
20 look through our data on that.

21 Q Do any of you remember at any point Mr. Kavet or
22 Mr. Rockler or anyone from their office calling
23 you or anyone from your office and asking you,
24 can you explain these maps to us?

1 A (Buscher) I'm pretty confident that I can say
2 no, that didn't happen.

3 Q Okay. So, Dawn, can we pull up the next map?

4 So now, this is also from Appendix D at
5 page 57, and this is the vegetated viewshed map
6 of Plymouth which you provided. Do you
7 recognize this?

8 A (Buscher) I do.

9 Q So Dawn, can you put them up side by side for a
10 minute? I think we need bare-earth on one and
11 vegetated on the other. Okay.

12 So that's your bare-earth on left and your
13 vegetated on the right, correct?

14 A (Buscher) That's correct.

15 Q We don't need to zoom in, Dawn. Zoom back out.

16 So do you see the town of Plymouth there in
17 orange?

18 A (Buscher) I do.

19 Q And just to the north of the town of Plymouth,
20 there is a yellow line running horizontally
21 across the map which I believe is the Tenney
22 Mountain Highway; do you see that?

23 A (Buscher) Yes.

24 Q And it's on both maps. In bare-earth, there is

1 no visibility for the Tenney Mountain Highway.
2 But then on the vegetated map, which presumably
3 should show less visibility, now the Tenney
4 Mountain Highway has visibility. How is that
5 possible?

6 A (Owens) So the viewshed that we used for
7 vegetated was from the DOE Project. We didn't
8 rerun it for this Project. That included
9 existing structures that continued north through
10 the White Mountain National Forest.

11 When we ran the terrain-based viewshed
12 which we did for the SEC side of things, that
13 only included structures from where, from the
14 beginning to the end of where they were
15 proposing the Project. So that portion in
16 between through the White Mountain National
17 Forest, we ran the terrain-based viewshed
18 without those structures. So they aren't really
19 comparable. And in order to correct that we
20 would have had to do quite a lot of work and
21 rerun the vegetated viewshed analysis which we
22 talked to Counsel for the Public and decided
23 that that wasn't an undertaking that was worth
24 doing. I think somewhere in our materials we

1 actually explained that.

2 A (Buscher) I think we did explain that. And just
3 to give you some concept of when Jeremy says a
4 lot of work, to run these viewsheds at the
5 detail level we're talking about, it's weeks.
6 It's not, you know, four or five hours in a
7 single day. It's GIS models running 24 hours
8 consecutively.

9 A (Palmer) I think in addition to that, it
10 requires access to the NEXTMap data which we do
11 not have for the SEC Application. So we can't
12 run a screened viewshed without reacquiring
13 those data.

14 Q So let's dig into this a little bit.

15 A (Palmer) Yes.

16 Q Purple on the maps means visibility, right?

17 A (Palmer) Purple on the maps for the terrain is
18 an evaluation of the Project submitted to the
19 SEC. Purple on the map for the screened is the
20 so-called Alternative 2 for the DOE Project.

21 Q Simple question. Purple represents potential
22 visibility, right?

23 A (Palmer) That's correct.

24 Q Let's start with the bare-earth. Visibility of

1 what? This is Plymouth so this is an
2 underground section. So what do those purple
3 sections represent visibility of?

4 A (Buscher) Structures that are located somewhere
5 within 10 miles.

6 Q What kind of structures? Structures of the new
7 Project?

8 A (Palmer) Should be of Alternative 7, yes, the
9 new Project, the Project submitted to the SEC.

10 Q Okay. So your testimony is that the map on the
11 left represents bare-earth potential visibility
12 of Northern Pass structures if the Project were
13 built.

14 A (Palmer) Using bare ground.

15 Q Using bare ground. So what's the nearest
16 overhead structure to this map?

17 A (Buscher) Can you give us a minute?

18 Q Sure.

19 A (Buscher) Okay. Do you want us to give you an
20 actual measurement or do you want us to tell you
21 how to get that measurement?

22 Q I guess I'm just curious to know that if you're
23 in Plymouth and there's visibility, what's it
24 of? Are you saying it's visibility of the

1 places where the Project comes back aboveground
2 in Bridgewater?

3 A (Buscher) Yes.

4 A (Owens) Yes.

5 A (Palmer) That's correct.

6 Q And that's something in the neighborhood of five
7 miles away from there? Something like that?

8 A (Buscher) I don't think it's that far.

9 A (Owens) There's a scale on the map so if you
10 wanted to answer that question you could
11 measure, figure out what that measurement is to
12 wherever it is that you're interested in how
13 there's visibility.

14 Q All right.

15 A (Buscher) So in certain locations in Plymouth,
16 it's less than probably half a mile.

17 Q Okay. And then we go over to the other map, and
18 I thought my understanding was the purpose of
19 the providing the other maps was then to figure
20 out how vegetative screening would relate to
21 scenic resources in the SEC process, but I guess
22 what you're telling me is it doesn't tell us
23 that.

24 A (Owens) It's from the DOE process.

1 Q I understand where it's from, but it doesn't
2 tell us that, does it?

3 A (Owens) It doesn't say that on the map. I think
4 we'd have to find where we've stated that that
5 is a limitation. Are you interested in us
6 finding that for you?

7 Q Well, you can probably find it at a break. I
8 guess I'm more interested in understanding this
9 better.

10 So what good is this to us in the SEC
11 process?

12 A (Buscher) It tells us where the Project is going
13 to be visible from with vegetation and other
14 obstructions that would help limit visibility.
15 And for certain areas as we describe in more
16 detail in our report, it includes existing
17 structures within the existing right-of-way
18 going through the White Mountain Forest so we
19 can use this map, and if we were doing a full
20 analysis, and let's, for instance, make believe
21 that proposed structures are going to be lower
22 in height, we could use this to identify where
23 the corridor in general or where structures
24 within the corridor in general are visible from

1 and then do an assessment of how the change
2 would occur.

3 A (Owens) There is a limitation though. Where the
4 Project is undergrounded, that the maps start to
5 become, the vegetative viewshed map starts to
6 become less useful in this scenario because it
7 includes those existing structures.

8 Q Well, and that's what I want to get to here. I
9 still don't understand why this map matters.
10 And you said, Mr. Buscher, a moment ago, the
11 Project would be visible. What Project? When
12 we're looking at the map on the right, and we
13 see that purple, what's visible there? It can't
14 be Northern Pass because if Northern Pass wasn't
15 visible there in bare-earth, it's not possible
16 for it to be visible with vegetative screening.
17 So what's visible?

18 A (Buscher) So I think it would be best if we
19 pulled this up in our report to describe it in
20 detail. I think the best way to handle this is
21 to look up the more precise description that we
22 have in our report.

23 Q Why don't you look up whatever you need to look
24 up to answer this question.

1 PRESIDING OFFICER HONIGBERG: Off the
2 record.

3 (Discussion off the record)

4 PRESIDING OFFICER HONIGBERG: Let's take a
5 few minutes. We'll say ten.

6 (Recess taken)

7 (Recess taken 3:50 - 4:04 p.m.)

8 PRESIDING OFFICER HONIGBERG: All right.
9 Mr. Needleman.

10 MR. NEEDLEMAN: Thank you.

11 BY MR. NEEDLEMAN:

12 Q So I think, Mr. Buscher, before we broke, the
13 question I asked you was with respect to the map
14 on the right where it's showing visibility along
15 the Tenney Mountain Highway and you said it's
16 showing visibility of the Project. I'm curious.
17 What Project?

18 A (Buscher) I want to clarify. So it's showing
19 visibilities of structure within the existing
20 right-of-way. So on page 72 of our review we
21 note that the screen visibility analysis was
22 originally conducted as part of the US
23 Department of Energy's Environmental Impact
24 Assessment, and the methods are described in the

1 associated VIA, T.J. Boyle 2015, page 23.

2 Based on that we, in our Rebuttal Testimony
3 on page 3 of 8, the question beginning at line
4 6. The question reads, please refer to the
5 screen viewshed provided in Appendix D to
6 Exhibit CFP Boyle 4. That includes existing
7 structures between the Bethlehem and Bridgewater
8 Transition Stations. Do you wish to clarify
9 your approach here? If so, please explain. Our
10 answer is the screen viewshed was developed as
11 part of the analysis for the DOE EIS and VIA.
12 In the DOE EIS the visual magnitude of the new
13 NPT structures, the new structures that will
14 replace removed PSNH structures and existing
15 PSNH structures that will remain is compared to
16 the visual magnitude of the existing PSNH
17 structures. In the terminology of the DOE EIS,
18 this is a comparison of Alternative 7, proposed
19 action, to Alternative 1, no action. The screen
20 viewshed provided in Appendix D to Exhibit CFP
21 Boyle 4 uses the results from an intermediate
22 step of the visual magnitude analysis. The
23 analysis used higher quality NEXTMap terrain and
24 land cover heights for the area within 1.5 miles

1 of the proposed right-of-way. These data were
2 licensed only for use in preparing the DOE EIS.
3 As a result it is not permitted to use them to
4 evaluate the SEC Permit Application. Exhibit
5 CFP Boyle 6, Appendix H, corrections to NPT VIA
6 review includes corrections where the screen
7 viewshed is referenced that make it clear that
8 it's for proposed and existing to remain
9 structures.

10 Q So I have to confess I'm not sure I understand,
11 but let me try to ask this simply.

12 The map on the right where it's showing
13 purple for visibility along Tenney Mountain
14 Highway, I think what you're telling me is that
15 is visibility of the existing line that's out
16 there today.

17 A (Buscher) That includes visibility of the
18 existing line. We did not, we had limitations
19 to accessibility of the NEXTMap data which I
20 believe was in the realms of \$30,000? Something
21 to that extent. And while we had use of that
22 for the DOE Project, we then did not have use,
23 we did not have the license rights to use that
24 for the SEC review. So we understand that that

1 viewshed incorporates existing structures that
2 we would have probably preferred not have but we
3 were under limitations of how to amend that
4 data. The only way we could have amended it was
5 running viewsheds by either purchasing \$30,000
6 of data or by running it with less accurate
7 data.

8 Q But just to be clear, again, focusing on the map
9 on the right, you said that that's showing
10 visibility of existing structures. Those things
11 that are out there today that we could drive up
12 and take a look at, right?

13 A (Buscher) Existing structures and proposed
14 structures.

15 Q That's what doesn't make sense to me. How is it
16 that proposed structures on that map on the
17 right are visible along the Tenney Mountain
18 Highway with vegetative screening, but they're
19 not visible in the bare-earth map?

20 A (Buscher) Because it includes visibility of both
21 existing structures to remain and proposed
22 structures.

23 A (Owens) I get your point, and that's correct.
24 If process of elimination would mean that it can

1 be visible, it can't be invisible in the terrain
2 viewshed and then be visible in the other one.
3 So in those locations you'd have to assume that
4 what you're seeing for the purple along Tenney
5 Mountain Highway is the existing structures.

6 A (Buscher) So in the bare ground analysis that
7 was, none of the existing structures north of
8 that Transition Station were used in that
9 analysis which is why it's not showing
10 visibility on the bare-earth analysis.

11 Q So am I correct that you have not presented to
12 us or the SEC for Plymouth an accurate vegetated
13 map that would allow us to understand your
14 perspective with regard to the Northern Pass
15 Project? We don't have that.

16 A (Buscher) We have not provided a map, and,
17 again, we'll reiterate, and we commonly put
18 notations on our viewshed maps that these are a
19 tool primarily used by us in understanding
20 visibility to go out and identify resources and
21 the impacts of those resources. So we are able
22 to utilize this map, but could it create some
23 misrepresentation to the public? Yes. I would
24 probably agree with you for a limited portion of

1 the Project which is why we've included this
2 clarification in our Supplemental Testimony.

3 Q You said these are a tool. Just to be clear,
4 these, this map is not a tool for gaining any
5 insight at all into where the Northern Pass
6 Project would be visible based on vegetative
7 screening, right? This one on the right. That
8 doesn't tell us anything about that.

9 A (Buscher) Sure it does. This is Alternative 7.
10 So --

11 Q I think Mr. Owens just told me it doesn't, but
12 maybe I just don't understand.

13 A (Owens) It does for the purposes of the DOE
14 analysis. For the SEC analysis there's a
15 limitation, as I said earlier, between areas
16 where the Project is being undergrounded through
17 the White Mountain National Forest.

18 A (Buscher) So it's a limitation. It doesn't mean
19 that they're not able to be utilized.

20 Q So are you representing that with respect to the
21 map on the right all of the areas in purple are
22 places where there is visibility or potential
23 visibility of the Northern Pass Project in this
24 area?

1 A (Buscher) Not of the proposed structures, no.

2 Q That's what I understood. And there is no map
3 anywhere in your documents that we can look to
4 to get that information. Is that right?

5 A (Buscher) So there is a limited number of maps
6 that has this complication associated with it.

7 Q All right. Let me call up the next map and
8 maybe you can help me with that because that may
9 be another one.

10 And Dawn, let's just put them side-by-side.

11 So these are your Sugar Hill maps, right?

12 A (Buscher) That's correct.

13 Q And which one of these is the bare-earth?

14 A (Buscher) The bare-earth is the map on the left.

15 Q All right. And the vegetated one is the one on
16 the right, correct?

17 A (Buscher) That's correct.

18 Q So it seems to me that we have the same defect
19 here in terms of lots of purple on the right
20 showing visibility which actually does not
21 represent visibility of Northern Pass. Is that
22 right?

23 A (Buscher) This represents the exact same
24 situation that we were just discussing. So this

1 is the northern end of that underground section
2 of line.

3 Q So what's the scope of this problem? Can you
4 explain it?

5 A (Buscher) What's the scope of this problem?

6 Q Yeah. How many of these maps have this problem?

7 A (Owens) It's the maps for the towns in between
8 the undergrounding. I think you'd have to count
9 that up. I think we did maps for each community
10 although I'd have to go back and find out in the
11 APE.

12 Q So all the vegetated maps that you provided from
13 Bethlehem to Bridgewater have this defect?

14 A (Owens) I don't know if I would refer to it as a
15 defect because it is something that we've stated
16 comes from the DOE analysis. Not all of them
17 would have that problem where you have different
18 representations of visibility specifically north
19 or south of the two maps that we've just talked
20 about. The viewshed starts to be more accurate
21 with regard to continuity with the terrain
22 viewshed.

23 Q How do you know that? Have you confirmed that?

24 A (Owens) Do you mean did I go back and -- I know

1 that from the sense that I constructed them, and
2 so within 10 miles of, maybe there's a little
3 bit of overlap because you're looking at
4 existing structures between those two transition
5 stations going back to the south or back to the
6 North for 10 miles. So there's a little bit of
7 issue there.

8 Q So it sounds like you're saying the issue
9 extends potentially south of Bridgewater and
10 potentially north of Bethlehem.

11 A (Owens) Yes, although that's much more minor
12 because the structures that we're talking about
13 are much shorter than the proposed Northern Pass
14 structures.

15 A (Buscher) And if my recollection is correct, we
16 actually, you know, we were frustrated with the
17 fact that we couldn't use the NEXTMap data and
18 we had, Jim, I believe you had several
19 conversations with them trying to get them to
20 agree that we were able to use it. Again, our
21 hands were sort of tied on this matter. And to
22 a certain degree, we already understand what the
23 situation is so we're able to accommodate for it
24 in our review.

1 I further go on to say that if, say, we did
2 the next step to try to understand which scenic
3 resources that we identified through bare-earth,
4 wanted to go through a filter because a logical
5 filter would be also to see where they land on
6 the vegetated or obstructed base, we would have
7 to devise a way to deal with this problem in
8 that type of analysis.

9 Q Just one other question on this topic before I
10 move on.

11 Am I correct that these, my word,
12 defective, vegetative maps are the ones you
13 provided to Kavet Rockler?

14 A (Buscher) I would not call them defective.

15 Q Did you provide them to Kavet Rockler?

16 A (Buscher) I would have to check our records to
17 see what we provided to them.

18 Q So as you sit here today you don't know if these
19 are the maps they relied on to do their work?

20 A (Buscher) I do not know that answer.

21 Q Okay. So I want to move on to the next topic.

22 On page 19 of your report, you assert that
23 the Northern Pass VIA, the DeWan VIA, didn't
24 consider bare ground visibility analysis as

1 required by site 301.05 (b)(1), right?

2 A (Buscher) I'd like to see exactly what we said.

3 Was that a --

4 Q Yes. Dawn, it's page 19 of Exhibit 138.

5 It's really the first line. Do you see
6 this?

7 A (Buscher) Yes, I do.

8 Q And Site 301.05(b) lists the required components
9 for a Visual Impact Assessment, right?

10 A (Buscher) Yes, it does.

11 Q And I want to call up 301.05 (b)(1), Dawn, if
12 you can do that.

13 This is something you've referred to
14 multiple times.

15 A (Buscher) Sure.

16 Q So this is the segment that I think you were
17 referring to within what the requirements are
18 for Visual Impact Assessment, and it calls for a
19 description and map depicting the locations of
20 the proposed facility and all associated
21 buildings, structures, roads, and other
22 ancillary components and all areas to be cleared
23 and graded that would be visible from any scenic
24 resources based on both bare ground conditions

1 using topographic screening only and with
2 consideration of screening by vegetation or
3 other factors.

4 That's the provision you were referring to
5 earlier, right?

6 A (Buscher) Yes.

7 Q And in his supplement, Mr. DeWan provided that
8 bare-earth map, right?

9 A (Buscher) He did.

10 Q And he also provided a map showing visibility
11 with screening as part of the initial filing,
12 right?

13 A (Buscher) He did.

14 Q And Site 301.05(b)(1) is, I believe, the only
15 place anywhere in the SEC rules where bare-earth
16 is mentioned. Is that correct?

17 A (Buscher) I believe it's the only location where
18 those specific words are used, but part of that
19 statement notes, specifically, what I'd like to
20 point out, is it talks about "would be visible."

21 Q I understand your interpretation. And we'll get
22 there. But I'm asking you. Is 301.05(b)(1) as
23 far as you know the only place in the SEC rules
24 where bare-earth is mentioned?

1 A (Buscher) That is where the specific verbiage
2 bare-earth is used.

3 Q And as far as you know, is Section 301.05(b)(1)
4 cross-referenced anywhere in the SEC rules?

5 A (Buscher) I'm sorry. First of all, I'd like to
6 correct where it say it's, actually it states
7 bare ground.

8 Q Bare ground. I'll rephrase the question.

9 Is that the only place where bare ground is
10 mentioned in the SEC rules?

11 A (Buscher) I believe that's the only place where
12 that specific verbiage is used.

13 Q And am I also correct that Site 301.05(b)(1) is
14 not cross-referenced anywhere else in the SEC
15 rules?

16 A (Buscher) I think (b)(1) sets up a series of
17 components that are used, and our interpretation
18 is that it clearly says that would be visible
19 and if we go down to (b)(5), there's a
20 requirement, an identification of all scenic
21 resources within the area of potential visual
22 impact and a description of the scenic resources
23 from which the Project would be visible. So I
24 think there's a direct correlation between those

1 specific two points.

2 Q Do you remember my question?

3 A (Buscher) If that verbiage was cross-referenced
4 specifically?

5 Q No. Was the section cross-referenced anywhere
6 else in the rules?

7 A (Palmer) I don't think so.

8 MR. ASLIN: Mr. Chairman, I'm happy to let
9 this question be answered, but to the extent
10 we're asking what the rules say, the rules speak
11 for themselves, and this is kind of getting
12 repetitive.

13 MR. NEEDLEMAN: I'm not asking what the
14 rules say.

15 PRESIDING OFFICER HONIGBERG: No. He's not
16 really.

17 MR. ASLIN: He's asking if these words
18 occur, if there's a cross-reference within the
19 rules.

20 PRESIDING OFFICER HONIGBERG: I'd rather
21 have him do that than ask him what it means.

22 MR. ASLIN: Fine.

23 A (Palmer) I don't think that Site 301.05(b)(1) is
24 referenced anywhere else in the new rules.

1 That's the question, right?

2 Q So with respect to this section, Mr. DeWan
3 complied with it. He provided both a bare-earth
4 map and a vegetated screening map.

5 A (Buscher) To what effect though?

6 Q He provided what was required here. Do we agree
7 on that?

8 A (Buscher) It's like providing a glass to catch
9 water that was poured five minutes ago.

10 Q I'm not sure you answered my question, but I
11 guess I'll take that as a yes.

12 A (Owens) Hold on a second. Can you specifically
13 say again what you just asked?

14 Q My question was did Mr. DeWan provide the
15 bare-earth or bare ground map and the vegetated
16 screening map?

17 A (Buscher) Yes. He checked the box.

18 A (Owens) The map, yes. I don't know about the
19 description though.

20 Q All right. Now, you said that DeWan did not
21 include a bare-earth, quote, "analysis," right?

22 A (Buscher) That's correct.

23 Q And it's your opinion, you went about doing your
24 work operating under the assumption that a

1 bare-earth analysis is required, and so you
2 fault Mr. DeWan for not doing that, right?

3 A (Buscher) That's correct.

4 Q And you would agree with me that there's no
5 place in 301.05(b)(1) that requires a bare-earth
6 analysis or even uses that word?

7 A (Palmer) I'm not sure that I would agree with
8 that. The rules require, define the way you
9 determine visibility is with a computer
10 analysis, and that would be visible from any
11 resource is based on both bare ground
12 conditions, blah, blah, blah, and screening by
13 vegetation. So I think it's clear that the
14 expectation is that the computer analysis is
15 used. That would be visible from any scenic
16 resource is based on both of those, and DeWan
17 didn't use bare ground in his identification of
18 scenic resources that would be visible from any
19 scenic resource.

20 Q All right. I understand what you're saying.
21 Let me go a step further. 301.05(b)(5)
22 requires, quote, an identification of all scenic
23 resources within the area of potential visual
24 impact and a description of those scenic

1 resources from which the proposed facility would
2 be visible, right?

3 A (Buscher) That's correct.

4 Q And Site 102.10 defines area of potential impact
5 to mean a geographic area from which a proposed
6 facility would be visible and would result in
7 potential visual impacts subject to the aerial
8 limitations specified in 301.05(b)(4), right?

9 A (Buscher) Yes.

10 Q So when you did your work here, you interpreted
11 the definition of visibility in 301.05(b)(5) to
12 mean hypothetical visibility. In other words,
13 what the computer would determine to be visible
14 using bare-earth analysis without any existing
15 trees or buildings and not actual real world
16 visibility based on current conditions.

17 A (Buscher) I would not agree with that.

18 Q And why is that?

19 A (Buscher) Because you're paraphrasing
20 holistically a statement that we did not say and
21 that Mr. DeWan repetitively repeats in his
22 Supplemental Testimony.

23 Q Well, I'm not relying on Mr. DeWan. I'm trying
24 to understand how you did your work, and my

1 understanding of how you did your work is that's
2 how you interpreted the rules and that's how you
3 did your work.

4 A (Buscher) Our interpretation of the rules is
5 scenic resources need to be identified first
6 based on bare-earth conditions because that is
7 the most encompassing methodology to do it. You
8 then need to also consider obstruction-based
9 visibility.

10 Q So when you went about doing your work here, and
11 you read Site 102.10 which said would be visible
12 and would result in potential impacts, you
13 interpreted that to mean hypothetical bare-earth
14 visibility versus actual visibility?

15 A (Buscher) Again, you're jumping to one way or
16 the other, and, no, that's not what we're
17 saying. We're saying that there needs to be
18 consideration given to bare-earth condition as
19 well there needs to be consideration given to
20 the screening effect by in-place objects and the
21 possible removal of those objects at some future
22 date.

23 Q Okay. So I want to turn now to the next
24 filtering mechanism which is scenic quality, and

1 Mr. DeWan applied a methodology to determine the
2 scenic quality of the resources he identified,
3 right?

4 A (Buscher) Yes. That's correct.

5 Q And he used this to filter out certain resources
6 that he concluded would then not need a full
7 assessment, is that right?

8 A (Buscher) I believe he didn't do an assessment
9 on those resources. That's correct.

10 Q He filtered them out. And then you didn't do
11 this analysis up front. I think as we discussed
12 earlier, you assumed all resources possess
13 scenic quality.

14 A (Buscher) What we said is that the resources we
15 identify felt was a valid starting point to
16 assess whether something would be considered a
17 scenic resource.

18 Q So, Mr. Buscher, one of those places on your
19 list is Loudon Road. That's listed as a scenic
20 drive, right?

21 A (Buscher) I don't, let's see. I'd like to pull
22 up that evaluation.

23 Q Sure CFP 138. Page 004484.

24 A Could we look at the actual assessment form that

1 we did for Loudon Road?

2 Q Well, you did a photo simulation for Loudon
3 Road, right?

4 A Right.

5 Q Can we look at the assessment form? This was
6 one of the 29 resources that we did an
7 assessment. I think it would be more
8 appropriate to see how we described it because,
9 again, this is just a list of identifications so
10 Loudon Road is a road, and we felt being a road
11 in New Hampshire that generally has high scenic
12 quality throughout the state, it's appropriate
13 to evaluate all roads.

14 Q And you actually said a moment ago that Loudon
15 Road was on that list of 41, right?

16 A (Buscher) That's correct.

17 Q And, in fact, it's not just on your list of 41.
18 It's one of the 29 that you concluded would have
19 an unreasonable adverse effect, right?

20 A (Buscher) That's correct.

21 Q So I want to call up Applicant's Exhibit 338.
22 Now, Mr. Palmer, I'm willing to bet you
23 recognize that article.

24 A (Palmer) Yes, I do.

1 Q Mr. Buscher, do you recognize it?

2 A (Buscher) I do recognize it. It's been a while
3 since I read it.

4 Q Okay. Let's go over, I think it's page 2, Dawn.

5 And Mr. Palmer, do you remember when you
6 wrote this article?

7 A (Palmer) I do.

8 Q When was that?

9 A (Palmer) Well, I can't tell you the time but I
10 can remember -- I'm sorry. I don't remember
11 when, but I do remember writing it.

12 Q And I misspoke. You didn't write it, did you?
13 I think you were interviewed for it? Or did you
14 write it?

15 A (Palmer) Well, it was some questions and I wrote
16 out responses and emailed it in, and they asked
17 some more questions and asked for some
18 illustrations. So it was an online interview.

19 Q And Mr. Buscher, do you recognize that
20 photograph there?

21 A (Buscher) Sure.

22 Q What is that?

23 A It's a view taken from the road looking towards
24 the corridor through what, the Shaw's parking

1 lot to the side and parking lot in front.

2 Q Right. And that's Loudon Road, right?

3 A (Buscher) That's correct.

4 Q And according to Mr. Palmer, in that yellow, he
5 says, "This first image below is a landscape
6 most Americans would agree is not scenic, an
7 open field of asphalt visually enclosed by a
8 shopping center, transmission lines and trees,"
9 right?

10 A (Palmer) Correct.

11 Q So I guess, Mr. Buscher, if Mr. Palmer had no
12 trouble concluding relatively quickly that this
13 was not scenic, how is it that it not only
14 remains scenic in your analysis but you actually
15 even find that there's an unreasonable adverse
16 effect here?

17 A (Owens) Well, first of all, it's identified by
18 the City of Concord as a gateway with specific
19 goals to improve the visual aesthetics. So,
20 number one, we're looking at this as a
21 designated resource because it clearly states
22 that in planning documents for the City of
23 Concord.

24 Q Is it your testimony that the City of Concord

1 designated this area as a scenic resource?

2 A (Buscher) It's my contention that they
3 designated it as a gateway for improved
4 aesthetics. Yes, I would consider that a scenic
5 resource. I don't think the City of Concord, I
6 would have to review the text, used the specific
7 words "scenic resource."

8 Q So I take it then that you disagree with
9 Mr. Palmer when he says this is not scenic.

10 A (Buscher) I would -- we've had conversations
11 about this, and I think that there is definitely
12 a lower scenic quality at this location, but
13 because we not only sometimes think about the
14 existing character, but we also think about the
15 planned character of an area.

16 Q Well, he says most Americans would agree it is
17 not scenic. So sounds to me like you don't
18 agree with most Americans.

19 A (Buscher) Again, I'm going to, when we are doing
20 our assessment for this Project, we're not only
21 considering the existing conditions but also the
22 planned conditions or the planned character of
23 the area.

24 Q Would it surprise you if the expert in the

1 Merrimack Valley Project screened out resources
2 based on scenic quality in a manner similar to
3 Mr. DeWan?

4 A (Buscher) Wouldn't surprise me.

5 Q Would it surprise you if the expert in Antrim,
6 Mr. Raphael did the same thing?

7 A (Buscher) It would surprise me.

8 Q And I guess you would say they were both wrong
9 for doing that.

10 A (Buscher) Given my familiarity with Mr.
11 Raphael's work in other places, I would think
12 it's definitely contrary to some of his other
13 assessment work.

14 Q Okay. Let's move on to the next topic. You and
15 Mr. DeWan both talk about the concept of
16 distance zones; is that right?

17 A (Palmer) Yes.

18 Q And my understanding is that distance zones are
19 used as a frame of reference to discuss
20 landscape attributes or scenic effect of human
21 activities on the landscape. Is that generally
22 right?

23 A (Palmer) They're a way to sort of simplify
24 characterization of the kind of detail that we

1 can see.

2 Q And in the EIS I think you used distance zones,
3 right?

4 A (Palmer) In the visual assessment for the DOE,
5 correct.

6 Q And there were 7 of them I think, right? It was
7 immediate, foreground, near middle ground, far
8 middle ground, near background, far background,
9 and distant.

10 A (Palmer) Correct. So distant would be past.

11 Q Greater than 10 miles?

12 A (Palmer) Greater than 10 miles.

13 Q So that one doesn't really matter for our
14 purposes. Far background is five to ten so
15 we're talking about really six distance zones
16 for purposes of the Site Evaluation Committee?

17 A (Palmer) That's correct.

18 Q Okay. So in the final Environmental Impact
19 Statement in your Visual Impact Assessment
20 Technical Report, you said that the zone of
21 visual influence extended out to 10 miles
22 through the far background, right?

23 A (Palmer) That's correct.

24 Q And then you said, "However, the possibility of

1 severe visual impacts was anticipated to
2 primarily occur when visible in the immediate
3 foreground and near middle ground, parentheses,
4 0.0 to 1.5 miles, comma, except under special
5 conditions," close quote, right?

6 A (Palmer) Because those are the areas where
7 there's the greatest potential visual magnitude
8 of the Project. In other words, if you're near
9 a structure, it's going to occupy a large part
10 of your field of view.

11 Q So I want to start with what you termed the far
12 middle ground which is I think 1.5 to 3 miles,
13 right? Is that correct?

14 A (Palmer) Could be. I'd have to check. Do you
15 have that page to show us?

16 Q You don't remember?

17 A (Palmer) No.

18 Q Okay. Well, I'll pull it up in a minute. And
19 in fact, why don't we do it now because I want
20 to quote from it. So Applicant's Exhibit 106,
21 which is the Draft EIS, and I'm going to ask you
22 about the final one in a minute, but we're
23 looking at the Draft first. Page 20.

24 And, Dawn, can you highlight the "it is

1 recognized" language? Middle of that first full
2 paragraph.

3 So do you see where I am right after it
4 says in the ZVI, comma, though?

5 A (Palmer) Yes. I see that.

6 Q And then you say it is recognized that the
7 potential for visual impacts from the proposed
8 structures is increasingly unlikely beyond 1.5
9 miles. Right?

10 A (Palmer) That's what the text says.

11 Q Now, this statement struck me as significant
12 when I read it, but I noticed that you dropped
13 it from your analysis in the Final Environmental
14 Impact Statement Technical Report.

15 A (Palmer) That's correct.

16 Q And we asked you about this statement at the
17 tech session before the Final EIS was issued; do
18 you remember that?

19 A (Palmer) I do.

20 Q So did you dropping this statement from the
21 final version have anything to do with us
22 focusing on it at the tech session?

23 A (Palmer) We heard comments about that in several
24 places. The tech session was one, but also in

1 public hearings.

2 Q What kind of comments did you hear that would
3 have caused you to drop it?

4 A (Palmer) It was that the comment may be
5 appropriate for structures but was not
6 appropriate for the cleared right-of-way which
7 can be visible and have a significant,
8 potentially significant change over much further
9 distances.

10 Q So is the comment then still appropriate for
11 structures?

12 A (Palmer) Yes. I think that starting at a mile
13 and a half and then going to maybe three miles,
14 my expectation would be that the potential for
15 severe impacts greatly reduces. You would have
16 to be in situations where you're probably
17 elevated and maybe the lighting is such that the
18 structures are highlighted past three miles.

19 A (Owens) Or you're seeing multiple structures in
20 a row that come together and take up more.

21 A (Palmer) So things like you get reflection off
22 of the structures of the conductors would be
23 visible five or six miles but yeah.

24 Q So let me just make sure I get this right. You

1 originally said it is recognized that the
2 potential for visual impacts from the proposed
3 structures is increasingly unlikely beyond 1.5
4 miles.

5 A (Palmer) Right.

6 Q There's nothing in there about the corridor
7 which is what I thought you said.

8 A (Palmer) No. I'm sorry. There's another, I
9 think that there's a place where we are actually
10 defining these distance zones, you'll probably
11 bring that up in a bit, that talk about the
12 corridor and the structures. I think that's
13 what was revised.

14 Q I guess my question is, do you stand by this
15 statement or do you no longer stand by it?

16 A (Palmer) No. I stand by the statement that it
17 begins at around this distance and the potential
18 decreases. Starting here.

19 Q Okay. So I'm going to ask you to help me
20 synthesize this now because I want to go to the
21 Final EIS which is Applicant's Exhibit 205 at
22 page 37. And now there's a good summary for you
23 of all these distances if you need to have your
24 recollection refreshed, and I want to focus on

1 this far middle ground again, the 1.5 to 3, and
2 have you take a chance to read that paragraph
3 for a minute.

4 A (Palmer) This is a different part of the report,
5 correct?

6 Q This is the Final EIS.

7 A (Palmer) Yes, but a different part.

8 Q But, again, both talking about distance zones,
9 and, in particular, the far middle ground,
10 right?

11 A (Palmer) Yes. Correct.

12 Q Okay. So take a minute to read that, and then I
13 have a question for you.

14 A (Palmer) Okay.

15 Q So in that very first sentence, there are very
16 few visible details at this distance and there
17 is a growing sense that the Project is distant.
18 I assume since that's in the Final EIS you still
19 stand by that.

20 A (Palmer) That's correct. In this distance zone,
21 that's what's happening.

22 Q All right.

23 A (Palmer) For a transmission line.

24 Q Okay. And I think you said in the Final EIS

1 Tech Report that when you're out in the field,
2 it's not possible to see conductors from a
3 thousand feet away unless they're catching light
4 just the right way to produce glare. Does that
5 sound familiar?

6 A (Palmer) Yes. Well, because of the thickness of
7 the conductor or they could be overlapping or
8 something like that. But in general, they're
9 not thick enough, yes.

10 A (Owens) But they are paired sometimes so you
11 essentially double that intensity that you see
12 which you can see from further than a thousand
13 feet.

14 Q So continuing on with Applicant's 205 at page
15 33, here you say, "It is expected that the
16 potential for adverse impacts in most areas are
17 significantly reduced beyond 1.5 miles from a
18 structure because of land cover screening,"
19 right?

20 A (Palmer) That's what it says.

21 Q So now we have land cover screening coming into
22 the analysis here, and this seems to comport
23 with what you said earlier about this
24 diminishing likelihood of adverse impacts from

1 structures at this distance, right?

2 A (Palmer) That's correct.

3 Q Do you have any idea how many of the 7,419
4 resources in your initial inventory are in each
5 of the distance zones?

6 A (Palmer) I do not.

7 Q Do you have any sense at all of how much of
8 those resources are between 1.5 and 3 miles?

9 A (Palmer) I do not.

10 Q So going back to what you just said a moment ago
11 regarding resources at this distance, whatever
12 that number is, we can now say using your
13 language that the potential for adverse impacts
14 at most of those resources are significantly
15 reduced, right?

16 A (Palmer) That's what I would anticipate.
17 However, the rules require the identification of
18 resources out to 10 miles.

19 Q Understood.

20 A (Palmer) Okay.

21 Q Let's go to the near background. 3.3-5 miles.
22 And we'll start with the Final EIS which is,
23 again, Applicant's 205, and we'll go to page 37.
24 Take a minute to read it, please. Let me know

1 when you're set.

2 A (Palmer) Yes.

3 Q Okay. So that last sentence is what I want to
4 focus on. You say, "Under most conditions, a
5 transmission line could not dominate a view from
6 this distance," right? Three to five miles?

7 A (Palmer) The structures. That's correct.

8 Q Okay.

9 A (Palmer) Yes. Under most conditions. That's
10 correct.

11 Q And then go to page 51. And I'm looking at the
12 second sentence here. Here you say beyond, and
13 this distance is three miles here, so beyond
14 three miles, and you can confirm that if you'd
15 like, the proposed Project is visually part of
16 the background and will only have modest visual
17 presence, correct?

18 A (Palmer) That's what it says.

19 Q So do you have any idea how many of the
20 7,000-plus structures are in this 3- to 5-mile
21 zone? I take it you don't.

22 A (Palmer) That's correct.

23 Q But we can agree that whatever that number is,
24 using your language, under most conditions

1 beyond three miles the transmission line
2 couldn't dominate the view at those resources.

3 A (Palmer) It's not that it couldn't, but it would
4 be much less -- it would be unlikely, yes.

5 Q Well, you said on page 37 could not dominate a
6 view from this distance. You didn't qualify it.
7 Are you now qualifying it?

8 A (Palmer) Did I say the structures would not
9 dominate the view or the transmission line
10 wouldn't, which includes the right-of-way,
11 wouldn't dominate the view?

12 Q Let's go back to 37 so you can get it correct
13 and see what you said.

14 A (Palmer) Um-hum.

15 Q You said under most conditions a transmission
16 line could not dominate a view from this
17 distance.

18 A (Palmer) So under most conditions it couldn't.
19 But under potentially some conditions, it might.

20 Q Understood. You agree with me that the purpose
21 of producing photo simulations is generally to
22 provide a representative sampling of potential
23 effects?

24 A (Palmer) The purpose of visual simulations is to

1 show the proposed condition from a viewpoint,
2 and the viewpoints get chosen for different
3 kinds of reasons. Typically, they're chosen
4 because they show the Project in a prominent
5 impact position, worst case scenarios.

6 Q Okay. As far as you know, did you during the
7 course of doing your work here do any photo
8 simulations from beyond three miles?

9 A (Palmer) Yes.

10 Q Where?

11 A (Buscher) So as part of the DOE process we
12 looked at several different Project
13 alternatives.

14 Q I may be able to shortcut this. I'm referring
15 to the SEC process.

16 A (Buscher) So, first of all, we did very, very
17 few simulations specifically for the SEC
18 process. We incorporated simulations that were
19 provided as part of the DOE process.

20 Q All right. So for purposes of your SEC
21 analysis, did you do any photo simulations
22 beyond three miles or did you incorporate into
23 your SEC analysis any photo simulations from
24 beyond three miles?

1 A (Owens) I would have to check back and see what
2 the distance zones are for some of those. Some
3 are, for instance, Apple Hill Farm has both
4 close proximity and distant proximity, and we
5 didn't identify that full range. So I'm
6 thinking that that one would be beyond three but
7 I might be wrong, and I'd have to go back to
8 answer that question specifically.

9 Q So as you sit here today, is it fair to say you
10 can't think of any beyond maybe the possibility
11 of Apple Hill Farm?

12 A (Palmer) We typically labeled our simulations by
13 the closest structure. So we don't really know
14 what the distance of the farthest structure is.

15 Q But, again, going back to my question as you sit
16 here today, you can't think of any, right? They
17 may be there.

18 A (Buscher) I think what we're saying is we would
19 need to go back and take a look.

20 Q Okay.

21 A (Buscher) I think we said that.

22 Q And doing those simulations would be important
23 because those would provide these representative
24 samples that you were talking about, right?

1 A (Buscher) That's correct.

2 Q So any sort of absence of simulations at that
3 distance or a paucity of simulations at that
4 distance would at least suggest that you didn't
5 perceive there to be a risk of great effects at
6 that distance.

7 A (Buscher) Again, we did not do an analysis.
8 Can't make that any more clear. We were
9 retained to do a review of the analysis provided
10 to the SEC by the Applicant.

11 Q Let's talk about one more distance zone which is
12 the far background. I think you told us earlier
13 that you were present when Attorney Connor was
14 questioning Mr. DeWan and Ms. Kimball on the
15 afternoon of August 31st. Does that sound
16 right?

17 A (Palmer) Yes. I think that that's true.

18 Q And she was asking them about visibility beyond
19 certain distances. Do you have any recollection
20 of that?

21 A (Palmer) Maybe if you keep going it will help.

22 Q All right. Mr. DeWan said that in the 2016
23 supplement to their VIA that, quote, "Once you
24 get beyond a certain distance, it's virtually

1 impossible to have a visual impact on a
2 resource," close quote. Do you remember him
3 saying that?

4 A (Palmer) I remember him saying a statement
5 similar to that, right.

6 Q And he further explained what you meant in his
7 February 2016 Supplement and his Supplemental
8 Prefiled Testimony; do you recall that?

9 A (Palmer) I don't recall exactly what he said,
10 but I think I'm familiar with his position.

11 Q Ms. Connor was, I think, critical of Mr. DeWan
12 for those statements so what I want to do is I
13 want to look at what you said about these
14 issues. So let's pull up Applicant's Exhibit
15 106 again which is the Draft Environmental
16 Impact Statement. And we'll look at page 29.
17 And I guess we're into the far background.

18 So here you said even on the clearest days,
19 humidity reduces a visual contrast to such an
20 extent that structures and the cleared corridor
21 are difficult to distinguish as other than a
22 vague smudge on the landscape.

23 Do you remember saying that in the draft?

24 A (Palmer) That's what it says in the draft, yes.

1 Q And, in fact, Mr. DeWan then cited this quote in
2 his February 2016 filing with the Committee,
3 right?

4 A (Palmer) I guess. Okay. Yup.

5 Q But this quote was then removed from the Final
6 EIS, right? We'll go to that in a minute.

7 A (Palmer) I can't say that it was removed. It
8 was revised, I think.

9 Q It was revised. Fair enough.

10 A (Palmer) Yes.

11 Q Was it revised because Mr. DeWan cited it?

12 A (Palmer) It was revised because we had feedback
13 during meetings about the impacts of structures
14 from a great distance, and we had one simulation
15 at about 6.7 miles, I think, where the
16 right-of-way was quite clear. It wasn't a
17 smudge.

18 Q So what exactly was that feedback? Who gave it
19 to you?

20 A (Palmer) I don't know. It was in public
21 meetings. It was in a public meeting.

22 A (Owens) I can say I also gave some feedback in
23 internal discussions in our office about that
24 particular subject as well.

1 Q So, Mr. Owens, you didn't see the draft before
2 it was published? You only reviewed it after it
3 was published?

4 A (Owens) I helped edit parts of that report so --

5 Q So you waited until after it was published to
6 provide the feedback?

7 A (Owens) No. I gave feedback pretty much the
8 whole time, but, I mean, essentially we had
9 discussions about topics at various times
10 throughout the entire Project and some of that
11 revolved around theoretical issues that maybe
12 one or more of us had in the office with certain
13 statements like that.

14 A (Buscher) And that's part of the benefit of
15 having a draft.

16 Q Let's go to the Final Environmental Impact
17 Statement, Exhibit 205, page 38, far background.

18 So I think you said a moment ago,
19 Mr. Palmer, that you revised it. So this is the
20 revised version, right?

21 A (Palmer) Yes. I think so.

22 Q Take a second to look at that.

23 A (Palmer) Okay.

24 Q What you did here, I think, was you changed this

1 regarding the corridor, but you didn't make any
2 change regarding structures, right?

3 A (Palmer) I think at this distance that it's
4 accurate from the field work that we have done
5 and the simulations that we created which are
6 based on CAD information placed in these, scaled
7 CAD information placed in the photographs, that
8 we felt comfortable about the vague smudges in
9 relation to structures. The comments that we
10 had were specifically about the corridor and in
11 particularly about one simulation where we had a
12 corridor at 6.7 miles and it wasn't a vague
13 smudge. So we corrected the language to
14 separate those two.

15 A (Owens) Also some Projects have different size
16 corridors. We've worked on projects that are as
17 much as 250 feet wide at least in terms of the
18 right-of-way, projects that maybe only half of
19 that had cleared corridor, and then they would
20 add another line in the second half, essentially
21 widening that corridor. Two hundred and fifty
22 feet wide of a corridor under snow conditions is
23 pretty readily apparent at distances greater
24 than five miles.

1 Q But just to be clear, we agree that, quote,
2 "structures may be difficult to distinguish as
3 other than evaluating smudges in the landscape,"
4 close quote, at this five- to 10-mile distance,
5 right?

6 A (Palmer) Yes. And, again, looking closely at
7 how the simulation where the corridor was 6.7
8 miles, that's the beginning, the closest part,
9 in evaluating the CAD, the placement of the CAD
10 structures and the scale and those sorts of
11 things, that led to this change.

12 A (Buscher) I actually don't think it was just the
13 simulation. I also think it was the visibility
14 of an existing line in that corridor that we're
15 not simulating that was observed. I think I
16 actually took that photograph.

17 A (Palmer) Yes. It is a thing that we talked
18 about in the office a fair amount.

19 Q And just one other question.

20 So however many scenic resources on your
21 list of 7,419 are in this 5- to 10-mile zone,
22 whatever that number is, for those resources,
23 structures viewed from those resources would
24 just be a vague smudge on the landscape, right?

1 A (Palmer) Under most conditions, that's correct.

2 A (Buscher) If you're asking that we think that
3 there is a factor employed when doing an
4 assessment on an identified resource does
5 distance have an effect on the impact? Is that
6 what you're asking?

7 Q No. I'm asking if for all the resources within
8 5 to 10 miles based on Mr. Palmer's language we
9 can fairly conclude that structures may be
10 difficult to distinguish as other than vague
11 smudges on the landscape. Sounds like he said
12 yes.

13 A (Palmer) Yes.

14 A (Buscher) That was Mr. Palmer's language, and I
15 agree that there is a diminishing effect with
16 distance. I don't know if I would necessarily
17 characterize it as a smudge on the landscape.

18 Q So you and Mr. Palmer now disagree on this.

19 A (Buscher) I think we could disagree easily on
20 specific verbiage, yes.

21 A (Owens) And also it depends on what you mean by
22 structure. Some people would consider a
23 substation a structure so that may have more
24 than a smudge.

1 Q I'm just reading what Mr. Palmer said.

2 A (Palmer) So I'm not thinking about substations.
3 I'm thinking about the structures of the line,
4 and I'm not thinking of conditions where there's
5 glare or -- I mean all of those, those are the
6 exceptional conditions, but, in general, I would
7 agree with what you're trying to say here.

8 Q Okay. I was going to stop there, but I'm
9 confused now about glare. I think what we heard
10 before is that glare basically is not an issue
11 beyond a thousand feet and I think Mr. Owens
12 said --

13 A (Palmer) Oh, no. No, no, no. Where did that
14 come from? That is definitely not us.

15 Q Well, let's hang on a minute. Dawn, if you can
16 find that more quickly than I can, let me know.
17 FEIS Technical Report at page 34. Page 78916.

18 So you wrote the Technical Report, right?

19 A (Palmer) So we're talking about the sentence
20 that says, "However, field observations will
21 demonstrate that it is not possible to see
22 conductors from a thousand feet away unless
23 they're catching the light just right to produce
24 glare"?

1 Q Yes.

2 A (Palmer) Yes, well, you can only see a conductor
3 because of the width of the conductor, a couple
4 inches. At a thousand feet that sort of
5 disappears unless you've got two conductors
6 overlapping and then the apparent diameter is
7 bigger than that.

8 A (Owens) Or more. Sometimes up to four
9 conductors.

10 A (Palmer) And so it drops away unless they are
11 catching the light just right to produce glare.
12 Then you can see it for miles away.

13 Q Okay. Understood. Mr. Chair. I think I'm --

14 A (Palmer) Thank you for clarifying that.

15 Q Well, I appreciate it. I didn't understand it.

16 I'll make a quick public service
17 announcement. Someone left their glasses up
18 here.

19 PRESIDING OFFICER HONIGBERG: And we needed
20 that on the record. So is that it for today?

21 MR. NEEDLEMAN: I think so.

22 PRESIDING OFFICER HONIGBERG: We'll adjourn
23 for the day. We'll be back together again on
24 Monday.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

(Hearing recessed at 4:58 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, 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.

Dated at West Lebanon, New Hampshire, this 22nd day of October, 2017.

Cynthia Foster, LCR