## STATE OF NEW HAMPSHIRE <br> SITE EVALUATION COMMITTEE

October 12, 2017-9:00 a.m. DAY 46
49 Donovan Street Morning Session ONLY Concord, New Hampshire
\{Electronically filed with SEC on 10-27-17\}

IN RE: SEC DOCKET NO. 2015-06 Joint Application of Northern Pass Transmission, LLC, and Public Service Company 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:
Chrmn. Martin P. Honigberg Public Utilities Comm. (Presiding as Presiding Officer)

Dir. Craig Wright, Designee Dept. of Environ. Serv. Christopher Way, Designee Dept. of Business \& Economic Affairs
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: Steven E. Patnaude, LCR No. 052

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[WITNESS PANEL: Buscher|Palmer|Owens]

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| $P$ | $R$ | $C$ | $E$ | $D$ | $I$ |
| :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- |

CHAIRMAN HONIGBERG: Good morning, everyone. It's Day 46. A new day, a new panel of witnesses.

Is there anything we needed to do before we swear that panel in? [No verbal response.]

CHAIRMAN HONIGBERG: All right. Mr.
Patnaude, would you please do the honors.
(Whereupon Michael Buscher,
James Palmer, and Jeremy Owens were duly sworn by the court Reporter.)

CHAIRMAN HONIGBERG: Ms. Connor, you may proceed.

MS. CONNOR: Thank you.
MICHAEL BUSCHER, SWORN
JAMES PALMER, SWORN
JEREMY OWENS, SWORN
DIRECT EXAMINATION

BY MS. CONNOR:
Q Gentlemen, would you please introduce yourself to the Committee.

A (Buscher) Good morning. My name is Michael
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Buscher. I am the Owner and Principal
Landscape [sic] with T.J. Boyle Associates?
A (Palmer) Dr. James Palmer. I'm the Senior
Landscape Architect with T.J. Boyle Associates.
A (Owens) Jeremy Owens, also a Landscape
Architect at T.J. Boyle Associates.
Q Thank you. Gentlemen, am I correct that you filed prefiled testimony in this matter dated

December 30th, 2016, which we've marked as
"Counsel for the Public Exhibit 138"?
A (Buscher) Yes. That's correct.
Q And do you have that prefiled testimony in
front of you?
A (Buscher) Yes, we do.
Q All right. Also, you, in conjunction with your prefiled testimony, submitted your report dated December 29th, 2016. And that has been marked
"Counsel for the Public Exhibit 4", including
Appendixes A through E. Do you have that in
front of you?
A (Buscher) Yes, we do.
Q All right. And, then, in January of
2018 [2017?], you filed Appendix F, Scenic
Resource Description Evaluation, with
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corrections to your visual impact review, Appendixes $H$ and $G$. Do you have those in front of you?

A (Buscher) Yes.
Q Mr. Buscher, Dr. Palmer, and Mr. Owens, do you swear by, adopt and affirm that your prefiled testimony, your VIA review, your supplemental prefiled testimony, and your VIA review corrections are true and accurate?
(Buscher) Yes, we do.
All right. In your preparations for today, are there any further corrections that you would like to make to any of your prefiled testimony or your reports?

A (Buscher) Yes, we do. I believe Mr. Palmer can expand upon it.

A (Palmer) In our report, we made a statement about the reliability of the visual effect ratings that were done by the three landscape architects with DeWan \& Associates. And, at the time that that analysis was conducted, we did not realize that there were instances where a zero was entered as a value, but a rating had not been conducted. And, so, those -- that's
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been corrected in the data.
And there are also nine instances where scenic resources that the report states are not going to have visibility were included. And, logically, if there's no visibility, then all three raters should have rated "zero", which increases reliability among the raters. And, in their process, those things wouldn't have gone forward in the first place. They would have been removed in the first step of their analysis.

So, if we remove those nine, make those two different types of corrections to the data, and rerun the analysis of reliability, it changes from "0.857", which is above good and just short of a high professional standard, to 6-- "0.613", which does not even meet the standard of "good".

Q And this change in computation between Mr. DeWan's ratings being good to less than good is at page what of your report?

A (Palmer) Forty-six (46).
Okay. Am I correct that -- well, let me ask it a different way. Does this correction to your
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report in any way change your final conclusions or opinions?

A (Palmer) No.
A (Buscher) No, it does not.
A (Palmer) No.
Q Okay. Since the time that you have filed your prefiled testimony and your reports, the Applicants have produced supplemental testimony, and they have also presented experts on the stand. Have you had an opportunity to review Mr. DeWan's supplemental testimony and reports?

MR. NEEDLEMAN: Mr. Chair?
CHAIRMAN HONIGBERG: Mr. Needleman.
MR. NEEDLEMAN: At this point, I'd like to object to this line of questioning, regarding soliciting what sounds like surrebuttal testimony. And, if $I$ may have a minute, $I$ 'll explain why.

CHAIRMAN HONIGBERG: Okay.
MR. NEEDLEMAN: The procedural order in this case doesn't provide for surrebuttal testimony. It called for simultaneous filing of supplemental testimony by all parties.
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Mr. DeWan and Ms. Kimball filed their testimony on April 17 th, six months ago. If Counsel for the Public wanted her experts to respond to that testimony, she should have filed a motion for leave to do so.

In the Antrim case, the Presiding Officer observed that, when CFP wanted to file a similar response, the Presiding Officer said that they should have filed a motion seeking leave to respond or sought to introduce it in direct testimony. The Presiding Officer didn't say that such as motion would have been granted, nor did he state what the test would be.

In this case, allowing this kind of surrebuttal testimony is inconsistent with Site 202.22(b), which talks about the prefiling of testimony consistent with a procedural order.

Just the other day, in response to
something that Mr. Cunningham said, the Chair
said "that's why we do prefiled testimony at administrative hearings, so we know what witnesses are going to testify about."

Permitting oral rebuttal testimony
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runs counter to that approach and denies the Applicant notice and an opportunity to prepare cross-examination. Such testimony is plainly more than housekeeping, and it essentially constitutes unfair surprise, because it requires the Applicant, who is the only party here with the burden of proof, to have to respond on very short notice to repeated surrebuttal testimony. We think that that approach denies us our due process rights, and is fundamentally inconsistent with the procedural order in place and how the proceedings have been conducted.

CHAIRMAN HONIGBERG: All right.
Without having heard a question, I'm going to overrule the objection as a blanket objection to every question that Ms. Connor might seek to ask.

I think we all agreed, you agreed the other day, that, if there were new things that came up during a witness's examination that happened here live, that the parties would be allowed to ask about that. We haven't heard what Ms. Connor was going to ask. So, I don't
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know which of the two types of questions she was going to ask. If it's pure surrebuttal, we'll hear your objection, and they'll get a chance to respond. If it's identified as something that's been new, and I suspect Ms. Connor is going to be able to say "well, you're aware that they said $X, Y$, or $Z$, do you have a response to that?" And we'll take it up then as the questions come up.

Ms. Connor, you may proceed.

## BY THE WITNESS:

A (Buscher) So, we have had the opportunity to review the supplemental testimony and report.

BY MS. CONNOR:
Q Have you also had an opportunity to review the supplemental testimony of Mr. Bowes?

A (Buscher) Yes.
Q Okay. And are you prepared to address the new information in that supplemental testimony?

A (Buscher) Yes.
Q Okay. In Mr. DeWan's April 17th, 2017 supplemental testimony, he states that his new testimony is directed at addressing inaccuracies in the visual impact assessment
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prepared by your office. Did you prepare a VIA?

A (Buscher) We did not.
Q What did you prepare?
A (Buscher) We were retained by the counsel for the Public to do a review of the VIA that was supplied by the Applicant within the Petition to the state of New Hampshire.

Q How is a review different from a VIA?
A (Buscher) A VIA has a very clear set of requirements that are laid out in the $S E C$ rules. And we were looking at whether the information provided by the Applicant met those requirements. So, we weren't specifically held by those rules. We were trying to see if the materials given to the SEC were adequate and appropriate for the $S E C$ to make a judgment regarding unreasonable impacts to aesthetics and scenic resources. I'd like to pull up Table 1, which is at APP53801. In Mr. DeWan's supplemental testimony, he references new work he undertook with respect to the 171 sites he discarded from his VIA, because he assigned the resources a
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low cultural value. Am I correct that that's what this table is?

A (Buscher) Yes. I believe that's correct.
Q Mr. DeWan's new review follows what methodology?

A (Buscher) It's actually unclear what methodology has been followed in this assessment. In fact, there actually seems to be very little assessment, other than the very last column on the right, which is called
"Additional Analysis", which is limited to a one or two sentence of descriptive assessment. And there's actually no ratings given to these, to the impact of the scenic resources, which is required under the SEC rules, as to whether impacts would be low, medium, or high.

MS. CONNOR: Okay. Can we blow up some of the additional analysis, so that it's actually legible?

BY MS. CONNOR:
Q In terms of any of the statewide snowmobile trails, what analysis was provided in terms of their review in this new table?

MR. NEEDLEMAN: Objection. Based on
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everything $I$ said previously.
CHAIRMAN HONIGBERG: All right
Ms. Connor.
MS. CONNOR: This is, as I understand it, from the transcript of October 16th, 2017. If a witness wants to respond to something that was in the Applicants' rebuttal testimony or something that happened on the stand, Counsel for the Public is to do it during direct examination, because friendly cross has been restricted. So, it was my understanding that this was the time to address those issues.

CHAIRMAN HONIGBERG: It is the time to address those issues. Mr. Needleman has made what $I$ would interpret as a new objection or a renewed objection -- no, let me put it a different way. He has objected based on the position he articulated and did not stand down from during the discussion the other day. I know what my opinion was the other day, and that's -- you've just essentially quoted from it.

I want to take it up. I want to have an argument right now about it. I want to hear
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from you as to why he's wrong in what he just said about responding to new information in supplemental testimony that was filed in accordance with the deadlines.

Mr. Pappas, it looked like you wanted to address this.

MR. PAPPAS: I will start. Thank you.

First, I may start by saying, as Presiding Officer, you have the authority to decide how these proceedings and introducing evidence. Since I don't think the procedural order controls, I think you, as Presiding Officer, get to make that decision.

The only opportunity, given simultaneous filing, to address new analysis or new information in supplemental testimony is now during direct. There is no other opportunity to do so. So, now it seems to me, as you said before, is the appropriate time.

The same holds true for new things that come up during the hearing. The only opportunity to address those is during the direct of our witnesses.
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CHAIRMAN HONIGBERG: I think, Mr. Needleman, that the second category, you agree, correct, that if it was -- if something new came up on the stand when your witnesses were testifying, there is an opportunity for Counsel for the Public and other witnesses to respond to that? Do you agree with that?

MR. NEEDLEMAN: I agree -- I agree with that, Mr. Chair. But it seems like we have a significant difference of opinion about what "new" means.

CHAIRMAN HONIGBERG: That may be true as well. But, in terms of, if we all agreed it was new, now is the time to do it, and they would have a right to do it.

MR. NEEDLEMAN: And if $I$ may?
CHAIRMAN HONIGBERG: Maybe.
MR. NEEDLEMAN: Okay.
CHAIRMAN HONIGBERG: It may make sense to wait.

MR. NEEDLEMAN: Okay.
CHAIRMAN HONIGBERG: So, I'd rather
not talk about that element of it, Mr. Pappas.
I think we're talking about the supplemental,
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things that are in the supplemental testimony.
MR. PAPPAS: So, as I indicated,
given the fact that there's simultaneous filing of supplemental testimony, if that supplemental testimony contains new analysis, the only opportunity to address that is during our direct. If it is -- if it's -- and, so, I think, because the supplemental testimony did, in fact, include new analysis and new information, if we can't address it during our direct, then we were denied the opportunity to address it, and all the parties were denied the opportunity to address it.

So, I think that is the time to do it. I don't think it's time -- certainly, motions can be filed. But it seems to me that is not appropriate in this proceeding. Supplemental testimony was filed in the middle of April, within days of the hearings starting, and the hearings and the proceedings since that time are at a pretty brisk pace. So, I don't think motion practice, once the hearings start, would have been the efficient or appropriate way to do it. Seems to me the appropriate way
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to do it is, if it's new analysis or new information in supplemental testimony, you address it on direct.

The Applicant can hear it on direct. The Applicant is unlikely to go today, based on all the parties in this case, and $I$ think the Applicant has sufficient time to respond. And it's responding to their own new analysis and new information. So, it's not new analysis that they should be unfamiliar with. So, I don't -- I think they have ample opportunity to address it and respond during their cross. And that's typically what happens in trial anyways, is you hear it on the witness stand and you address it.

And, so, $I$ think that they have sufficient notice and opportunity to respond. I don't think there's a due process problem. I think, frankly, there's a due process problem if we are not allowed to address it, because we would have no opportunity to address it. So, I think both parties can address it. And I think this applies, frankly, for all the witnesses, not just ours.
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CHAIRMAN HONIGBERG: Mr. Needleman.
MR. NEEDLEMAN: Mr. Chair, when Mr.
Pappas says "this is the only opportunity to do this on direct", that's wrong. That's the same argument that Ms. Maloney made in Antrim. And the answer there was the same answer here. Which is, number one, you have an opportunity to address it if you want, at the discretion of the Chair, through an offer of proof, which is what she did there.

Number two, you can certainly address it in the context of the brief, which is really the appropriate point, because there has got to be an endpoint to the endless circle of back-and-forth.

And, number three, if they really felt compelled to address it at this point, they could have filed a motion sometime in the last six months. And we could have worked this out. And, at a bare minimum, if you were going to permit them to go forward, we would have asked that they do it through prefiled testimony, just like everyone else, so we could see it.
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MR. PAPPAS: One quick point.
CHAIRMAN HONIGBERG: Yes.
MR. PAPPAS: My reading of Antrim is
it was not during Counsel for the Public's
direct, it was through -- during Counsel for the Public's redirect when this came up. And, at redirect, the Chair said it was too late; if you wanted to do it, do it during direct.

CHAIRMAN HONIGBERG: Does anyone else want to have a go at this briefly?
[No verbal response.]

CHAIRMAN HONIGBERG: All right. Hang on one second.
(Chairman Honigberg conferring with Atty. Iacopino.)

CHAIRMAN HONIGBERG: All right. The objection is overruled. You can proceed. But I think, for each question, each area of questioning, you're going to want to identify what it is you're asking to respond to, as you did here. So, I'm not saying you didn't here. But, in the other areas as well, you're going to want to do that, because I think

Mr. Needleman is going to want to and should
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renew his objections to each line as to -- and the grounds he's articulating.

Okay.
MS. CONNOR: Understood. Thank you.
I don't recall if there was a question still pending when we started.

WITNESS BUSCHER: You began, and I can't remember if you finished the question. MS. CONNOR: All right.

WITNESS BUSCHER: You talked about --
MS. CONNOR: I will try to phrase another question here.

BY MS. CONNOR:
Q We are looking at Table 1, which is from Mr. DeWan's Supplemental Report and testimony, where he took another look at the resources that had been discarded for local cultural value. And the "Additional Analysis" that we have blown up, does it go beyond -- does it in any way differ from his initial testimony where these resources were discarded because they weren't designated resources?

A (Buscher) To be honest, I can't remember the exact phrasing he used in his initial analysis.
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But I'll say it, like for -- I think I see five instances for five different resources, the analysis constitutes a single statement that says "Motorized trail. Snowmobile trails are frequently located within transmission corridors." And that's the extent of the analysis.

Q Does this review of these 171 scenic resources with low cultural value comply with the VIA requirements?

A (Buscher) The basic function of the VIA requirements is to provide a rating of low, medium, or high, as far as the scenic impact on each resource, and this does not do that.

Q During Mr. DeWan's testimony on Day 31, Page 38 of the transcript, he admitted that the SEC rules do not contain a cultural value filter, but his "approach was to look, shall we say, to the endgame, and try to identify those places that had high significance".

Is that appropriate or inappropriate?
MR. NEEDLEMAN: Objection. The fact that he said it during testimony doesn't make it new. That was contained in his VIA, and
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that information was available to them a long time ago.

CHAIRMAN HONIGBERG: Ms. Connor.
MS. CONNOR: I disagree. He never indicated in his Report that he was going to not follow the $S E C$ rules to get to the endgame.

CHAIRMAN HONIGBERG: I think your question was "was that appropriate?" So, it seems the question may have a different problem.

MS. CONNOR: All right. I can certainly rephrase the end of the question. What I'm trying to have the panel address is his testimony on the stand.

CHAIRMAN HONIGBERG: That's what I understood you wanted to address. And "is it appropriate?" or "was it appropriate?" may not actually get you there.

BY MS. CONNOR:
Q Bearing in mind the quote that $I$ just read from Mr. DeWan from Day 31, when he was on the stand, can you respond to that testimony?

MR. NEEDLEMAN: Same objection.
CHAIRMAN HONIGBERG: Overruled. You
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can answer.

## BY THE WITNESS:

A (Buscher) So, beyond what we discussed in our Report, I think the phrase that Mr. DeWan used, "to get to the endgame", is a real inappropriate way to approach this Project.

To just give an example, it is very conceivable that something that, as Mr. DeWan classified as having low cultural value, could, in fact, have an impact that is so egregious that it can also be considered "unreasonable", even though it was low cultural value.

BY MS. CONNOR:
Q Another new area of work undertaken by Mr. DeWan in his supplemental testimony included the review of 282 new eligible historic resources. This is going to be Table 2, I believe. There it is.

Does this supplemental list, which discarded the resources of all private homes, comply with the SEC rules?

MR. NEEDLEMAN: Mr. --
CHAIRMAN HONIGBERG: Other than it
calling for a legal conclusion, you want to
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offer another objection? Well, with that objection, it would be sustained. It's sustained.

MR. NEEDLEMAN: I'll leave it there. MS. CONNOR: Okay.

BY MS. CONNOR:
Q Let's focus in on "New Hampshire Department of Transportation Bridge", which is the second one. Mr. DeWan, in his Supplemental Report, stated that this resource was not subject to further analysis because "Drivers pass over the bridge at a speed of 40 miles per hour for a total of 4 to 5 seconds" --

CHAIRMAN HONIGBERG: Slow down.
MS. CONNOR: Sorry.
BY MS. CONNOR:
"Drivers pass over the bridge at a speed of 40 miles per hour for a total of 4 to five seconds...Based on the speed of the traveling motorist, the railroad bridge [is] in the foreground of the view, [and] the project will not have an adverse impact on the bridge." I am reading from Page 14 of Mr. DeWan's supplemental addendum to his report.
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Are you familiar with this location?

A (Buscher) Yes.
Q Can we actually pull up the picture of the bridge, which $I$ believe is Exhibit --

MS. CONNOR: You have the exhibit
number? Want to go with the ELMO? It is "Counsel for the Exhibit" -- "Counsel for the Public Exhibit 470". There we go.

BY MS. CONNOR:
Q You familiar with this location?
A (Buscher) Yes.
Q Am I correct that the bridge is accessible to the public by rail and by snowmobile access?

MR. NEEDLEMAN: Mr. Chair, I'm not going to keep doing this. Same objection. First of all, it relates to the supplemental testimony, and they could have given notice. But, now, we're not even talking about exhibits that were introduced by Mr. DeWan. We're now going back to Counsel for the Public exhibits.

CHAIRMAN HONIGBERG: Ms. Connor.
MS. CONNOR: I simply put up the bridge for illustration. I am addressing Exhibit -- Table 2, Mr. DeWan's new analysis of
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historic scenic resources not addressed in his original Report.

CHAIRMAN HONIGBERG: I understand that's what you were doing. But you put the picture up and said "Are you familiar with this?" And it sounded like you were about to launch into a discussion of it.

Why don't we focus on the analysis in the Supplemental Report, and overrule the objection to that extent.

MS. CONNOR: Very well.
BY MS. CONNOR:
Q Does Mr. DeWan's supplemental reporting on the impact this project -- of this project may have on this bridge address the aesthetics?

A (Buscher) No. I do not believe it does. Why not?
(Buscher) Well, if $I$ recall correctly from the cross-examination of Mr. DeWan, he first noted that this isn't a scenic resource, because it doesn't have public access to it. It's my understanding that there is a tourism train that runs in the fall over this bridge. That would be considered a scenic resource. As
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well, this bridge is incorporated into a snowmobile trail during the winter months. So, there's two different elements in which the public does have access to this scenic resource. In addition, the public has visual access to this scenic resource from the adjacent roadway.

As far as a tourism attraction, this is going to be one of what we would consider a node in that tourism ride, that train ride, because it creates a unique situation where you're crossing over the river itself.

Does that answer your question?
Q It does. Thank you. Mr. DeWan's supplemental
testimony, at Page 7, represents that the absence of any bare-earth analysis is
"consistent with visibility analysis everywhere we have worked".

Is that consistent with your work experience?

A (Buscher) That is not consistent with our work experience.

Q Can you explain?
A (Buscher) Well, to begin with, it's my
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understanding that Mr. DeWan provides bare-earth analysis, VIA -- or, GIS analysis for the wind projects he's worked on in the State of Maine. We've worked on well over 100 projects in which we provide GIS analyses for. And, without exception, we provide a bare-earth analysis, as well as a screen analysis, for each and every one of those projects.

Q Mr. DeWan's April 2017 supplemental testimony purports to contain a bare-earth visibility analysis. Does this analysis fulfill the VIA requirements?

MR. NEEDLEMAN: Objection.
CHAIRMAN HONIGBERG: Sustained.
Calls for a legal conclusion.
MS. CONNOR: All right. Can we pull
up the April 2017 supplemental table at
APP53885?
BY MS. CONNOR:
Q Do you recognize this as Mr. DeWan's supplemental bare-earth analysis, with respect to a portion of the Project?

A (Buscher) Yes.
Q Does Mr. DeWan's supplemental testimony contain
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any analysis explaining this chart?
A (Buscher) Not that $I$ am aware of.
Q From this chart, is there any way to determine what bare-earth analysis he intended to present?

A (Buscher) My review of this is he's responding specifically to criticism that that was -- that a bare-earth analysis was not provided at the time of the filing. I could go on to talk about the ineffectiveness of providing this analysis during supplemental testimony. So, in his supplemental testimony, he's provided the maps, but no analysis?

A (Buscher) That's correct.
Q Can you interpret what the purple is on any of these maps?

A (Buscher) That's the area where they indicate would have visibility based on topographic screening or landform screening only.

Q Moving on, in his April 2017 supplemental
testimony, at Page 29, Mr. DeWan represents that your office erred when it concluded public roadways could be a scenic resource. Can you explain why you included those roads?
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A (Buscher) We reviewed the -- I'm going to look at the definition of "scenic resources" in the Site rules.

MR. IACOPINO: 102.45.
WITNESS BUSCHER: That's correct.
Thank you.
BY THE WITNESS:
A (Buscher) Mr. DeWan notes that, for a road to be considered a scenic resource, it needs to be designated. The definition and categories of "scenic resource", on $102.45(a)$, specifically includes "designated" components. It then goes on to include, on number -- on item (c), "scenic drives". To us, it was very clear that a "scenic drive" is not a "scenic byway", because that would fall under the "designated" category.

And it is completely appropriate to look at visual impacts from any roadway that would be considered to have a scenic quality, which I would contest includes the majority of roads in New Hampshire.

BY MS. CONNOR:
Q Mr. DeWan further testified, at Page 29 of his
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supplemental testimony, that in his
"professional opinion, the common practice, e.g., in Maine, Vermont, and New York, requires the identification and evaluation of roads that have been officially designated", but not non-designated.

Is that consistent with your common experience in these states?

A (Buscher) Entirely not consistent with our experience.

Can you explain that?
(Buscher) Well, I'll first talk about Vermont. Roads are probably the most essential component of conducting a VIA. We look at every, and are required, to look at every single road, specifically, roads that a corridor is going to cross. We have similar experience in doing VIAs in New York. And $I$ would contest the same thing is clear in the State of Maine, under Rule 315. It does not designate that only scenic byways should be reviewed.

Q At Page 30 of his supplemental testimony, Mr. DeWan contends that your office erred when it concluded that private properties could
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[WITNESS PANEL: Buscher|Palmer|Owens]
qualify as a scenic resource. Can you explain why you included those?

A (Buscher) As Mr. DeWan testified on $I$ believe it was the first day of his cross-examination, that there's a component of visual access that's important. Private properties, such as historic resources, one of the reasons why they're given that classification is because of the character created by those resources to the adjacent roadways. So, the visual access is an important thing. Not to include them strictly because of limitation of physical access, I think is completely inappropriate.

Q At Page 31 of Mr. DeWan's supplemental testimony, he states that T.J. Boyle's final conclusions are based "on an unsound methodology". Can you address his criticism? A (Buscher) Well, I can't stress this enough. We did not perform a visual impact analysis for this Project. We were here to provide a review function to try to indicate whether or not the materials supplied by the Applicant fulfilled the $S E C$ rules and the requirements.

The methodology that we employed $I$ feel is
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[WITNESS PANEL: Buscher|Palmer|Owens]
completely appropriate. We did some example checking, such as our review of the scenic resources. There was no -- we don't contest that that was any means of a cohesive representation of all scenic resources or the scenic resources with the high impacts, the highest impacts. That was simply a sampling of scenic resources that we felt we had enough information that we could do an evaluation from. So, I just disagree with Mr. DeWan's statement.

I don't know if there's anything, Jim or Jeremy, --

A (Owens) You said "cohesive". I think you might have meant "comprehensive".

A (Buscher) Comprehensive.
Q Moving on to public perception and reaction to transmission projects, Mr. DeWan, when he was testifying, repeatedly referenced a study in Maine, the "Baskahegan Lake Study"?

A (Palmer) "Baskahegan".
Q Thank you very much. Are you familiar with that study?

A (Palmer) Yes.
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[WITNESS PANEL: Buscher|Palmer|Owens]

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Q Did the results of that study support Mr. DeWan's conclusion that this Project will have no unreasonable adverse impact on the public's future use and enjoyment of New Hampshire's scenic resources?

A (Palmer) No, for several reasons. There's actually two Baskahegan studies. As part of permitting a project, developers set up a fund to do recreation research and monitoring, which I think is a great thing to be done. I would encourage the SEC to do that. And the first study was just interviewing people on Baskahegan Lake to find out why they were there, what they were doing.

And the finding, in relation to wind turbines, was that wind turbines were not mentioned at all. Which is perhaps surprising, since about nine miles away, on the horizon, there's a whole bunch of wind turbines that are very, very visible. People complained about things like litter and houses on the shoreline, more immediate things.

There was a follow-up study that did ask questions, specifically about continued use and
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enjoyment. And it found that about 85 percent of the people knew already that the wind project was there. And, so, they knew what they were going to experience. All of those people had already made a decision that the wind project was not going to be so great that they were not going to be able to come there anymore.

So, the study itself was not useful. That is, they -- what they needed was a baseline before the wind project had been built, to find out what's the change in visitorship. So, the study wasn't designed to answer the question that's being claimed.

On top of that, $I$ would say that the study is all about wind projects, not about transportation projects. And I think that we've shown earlier that the general public thinks that transportation projects have a greater negative impact than wind projects do, at least in a couple of the intercept studies that were conducted in Maine.

And, on top of that, I would add that there's going to be some variation from place
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to place. So, Baskahegan Lake is not a scenic resource by the Maine Wind Energy Act. So, it's sort of a strange place to have done this study in the first place there. It's not a place that could be impacted under the Maine law.

Q Are there other studies that are more useful and more relevant with regard to Mr. DeWan's conclusion as to whether this Project will have an unreasonable adverse impact on the public's future use and enjoyment of scenic resources? (Palmer) Well, if you're talking about lakes, there is an independent study that was done for the state of New Hampshire to evaluate the scenic contribution -- or, the Contribution to the Economy in NH and Scenic Quality, so the so-called "New Hampshire Lake Study". And that study happened to ask three or four questions about scenic quality, and, if there was a big change, how would that affect your continued use of the lake that the interview was conducted on. So, all of these interviews were conducted at lakes. They're not a random sample of people that you're talking to on the
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[WITNESS PANEL: Buscher|Palmer|Owens]
telephone. These are all people in the process of using the lake. And there was an indication that it would have a pretty significant effect.

The weakness of the study is that it's not related to a specific impact. There's not simulations of what that impact would be. It's a general statement. But it's pretty clear that people, through all the activities that were being surveyed, fishing, swimming, boating, --

MR. NEEDLEMAN: Mr. Chair?

## CONTINUED BY THE WITNESS:

A (Palmer) -- were all impacted -CHAIRMAN HONIGBERG: Hang on. Mr. Needleman.

MR. NEEDLEMAN: I've been reminded that the New Hampshire Lake Study I believe was in the T.J. Boyle Initial Report. So, now we're just hearing a reiteration of material that was already presented by them.

CHAIRMAN HONIGBERG: I think the answer had gone on probably beyond the scope of the question, too. Why don't we refocus the questions and answers, Ms. Connor.
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MS. CONNOR: I will.
BY MS. CONNOR:
Q Dr. Palmer, when you were addressing
Mr. DeWan's use of the Baskahegan Lake study, you indicated that it was, in your opinion, not appropriate based upon a "transportation application". Did you mean "transmission application"?

A (Palmer) Yes. That's correct.
Q Thank you. In Mr. DeWan's April 2017
supplemental testimony, he criticized Dr.
Palmer's work based upon a Transportation
Research Board project in 2013. He indicated that -- actually, he didn't criticize, he cited it as support for his decision to complete a VIA without directly involving actual user groups.

Dr. Palmer, is that an accurate use of the work that you did in that text?

A (Palmer) No. It's not at all. The finding of the study was quite the reverse. That, overall, professional judgment reliability was low, particularly since it's normal that there would only be one professional making the
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judgment. And earlier I talked about the reliability of the ratings for DeWan's studies, which had three raters, but it was still below what would be hoped for.

So, there is a whole field of evaluating landscapes that's based on ratings, that is the intercept studies is an example. And those studies are much more reliable, and they have many more subjects. The findings of the TRB study was that we should be making greater use of public involvement in that way. Intercept studies being probably the best way.

Q In his supplemental testimony, at Page 34, Mr. DeWan claims that the community workshops which you designed were biased. Can you address that criticism?

A (Palmer) I'm not quite sure what he means by "biased". That there were limitations in the development of the forms in those studies. That is, there was space on one side of a sheet of paper. So, that was the constraint. And what the purpose of the workshops was to identify scenic resources and what people did at those scenic resources, and whether -- what
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role scenery played in that activity.
And I don't know where he believes that there's any bias in any of those questions. So, I'm baffled by that assertion. We weren't judging impact, in other words.

Q During the examination of Mr. DeWan, on Page -on Day 35, Page 44 to 45 , he was asked why he didn't conduct an intercept study. And, in response, he testified "when we've done these in Maine, in most instances, we've had the advantage of being able to talk with the peer reviewer. And, in many cases, that was Mr. Palmer." Is that correct?

A (Palmer) Yes. That's correct.
Q So, as I understand it, one of -- Mr. DeWan has told this panel that one of the reasons he didn't do an intercept study is because you weren't available to assist in making sure the study was objective?

MR. NEEDLEMAN: Objection. That was not what it meant.

CHAIRMAN HONIGBERG: I think we're speculating about what he meant. And I'm not sure he's competent to answer that question.
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[WITNESS PANEL: Buscher|Palmer|Owens]

MS. CONNOR: All right. I will
rephrase it.
BY MS. CONNOR:
Q Are there other individuals, besides yourself, Dr. Palmer, who are qualified to act as a peer reviewer for intercept studies?

A (Palmer) So, we've done, I don't know, maybe 15 intercept studies --

CHAIRMAN HONIGBERG: Hang on, Dr.
Palmer. That's a yes or no question.

## BY THE WITNESS:

A (Palmer) Yes.
BY MS. CONNOR:
Q So, that was not a limitation on doing an intercept study?

A (Palmer) I don't think so.
Q Dr. Palmer, did you have any input in the community workshop questionnaires, which were done by your office in this case, to ensure that they were objective?

A (Palmer) Yes.
MR. NEEDLEMAN: Objection.
CHAIRMAN HONIGBERG: Sustained.
BY MS. CONNOR:
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Q In his Supplemental Report, Mr. DeWan explains or he testifies that he disagrees with the 29 adverse impacts you describe in Appendix $F$ of your Report. I want to review just four of the 29 that he specifically addressed in his rebuttal. I want to start with Big Dummer Pond. And I'd like to pull up the photosimulation of that to address his criticism in his Supplemental Report. That would be APP28342. Has that picture appeared on your screen?

A (Buscher) Yes, it has.
Q Mr. DeWan's supplemental testimony, at Page 38, represents that your conclusion that the Project "would have a negative impact on the future use and enjoyment of this pond is unfounded", because of the road/pond's seasonal use, the existence of a generator lead line, wind turbines, and forestry. Can you address that criticism?

MR. NEEDLEMAN: Objection. So, Mr. Chair, this relates directly to the detailed analysis that these people already did. And, so, now they're being asked to just
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[WITNESS PANEL: Buscher|Palmer|Owens]
amplify on their existing analysis.
CHAIRMAN HONIGBERG: It does sound like we're going in that direction. This is one they have already analyzed, right?

MS. CONNOR: It is, Your Honor, but -- Chair --

CHAIRMAN HONIGBERG: Again, I'll take the promotion.
[Laughter.]
MS. CONNOR: Quite the habit here. I am specifically lifting a quote directly out of Mr. DeWan's supplemental testimony, where he said that this panel's work, with regard to this particular project, was erroneous. And I want the panel to have an opportunity to address those criticisms.

CHAIRMAN HONIGBERG: It seems like what they're going to do is repeat or amplify what's in their original testimony. I don't think that the -- I don't see them doing anything else with this answer. I'm going to sustain the objection.

But, if you want to make an offer of proof as to what they would be allowed to
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say -- what they would say if they were allowed to answer the question, we'll get it on the record so you've made your record.

MR. NEEDLEMAN: Mr. Chair?
CHAIRMAN HONIGBERG: Yes,
Mr. Needleman.
MR. NEEDLEMAN: Could Mr. Pappas and
I approach for a moment?
CHAIRMAN HONIGBERG: You may. [Bench conference.]

CHAIRMAN HONIGBERG: I need to put something on the record, because of the -there's only five members of the subcommittee here today.

For people who don't know, the room that's off to the Committee's right, that is our staging area, has both speakers and the video screens that all of us can see, the ones above your head and the ones that we have up here. So, members of the Subcommittee, who have to step away for a few minutes, can go in there to do whatever they may need to do, while also listening and being able to see what's on the screens.
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[WITNESS PANEL: Buscher|Palmer|Owens]

Just going to get -- because I've been asked to do that, put that on the record.

Where were we? Oh, I invited you to make an offer of proof, because I've sustained the objection.

MS. CONNOR: All right. On Page 37 of Mr. DeWan's supplemental testimony, when he leads into this area, he's talking about the fact that he has reanalyzed these locations that $I$ wish to address. In terms of an offer of proof, if the panel was given an opportunity, they would specifically address that, not their prior testimony, but a response to Mr. DeWan's specific issues with regard to why this would not have an adverse impact.

On Page 38, Mr. DeWan talks about the "negative effect on the future use and enjoyment of this pond is unfounded". He specifically cites a study that Dr. Palmer was involved in as support for that. Dr. Palmer has not had an opportunity to address how that study is being misquoted with respect to support of the Project.

CHAIRMAN HONIGBERG: Okay. That's a
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[WITNESS PANEL: Buscher|Palmer|Owens]
different -- that's different. That's a different question.

On the first question, and the
representation you made about what they would do, you've made whatever record it is you want to make.

If you want to ask Dr. Palmer a question about citations to his study that he believes are erroneous or mischaracterized, that's a different question.

Apparently, $I$ didn't sustain the first objection. So, that objection is sustained. And you've made your offer of proof that you wanted.

BY MS. CONNOR:
Q I will move onto the second part of his new analysis, him being Mr. DeWan. In his supplemental testimony, at Page 38, Mr. DeWan cites a study that Dr. Palmer was involved for the Forest Service. And he writes "based on Dr. Palmer's research, the sight of the structures on the hillside above the pond will not have a significant effect on their desire to fish, nor will the Project have an
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unreasonable adverse effect on aesthetics."
Dr. Palmer, does the study that you were involved with for the Forest Service support the proposition that Mr. DeWan has cited it for?

A (Palmer) I'd say it's a weak connection. That study was done at two view -- it was an intercept study at two viewpoints in the White Mountain National Forest, asking people about alternatives for doing clear-cutting at those views. And they were asked what recreation activities they participated in, and so you could get some sense of sensitivity of hikers who also -- they're hikers, because they're at these viewpoints, who also fished. And whether the ones that fished and those that didn't fish have different sensitivity.

So, a much stronger study would be the New Hampshire Lake Study, because that's asking people on lakes what they do on lakes, and how they would react to change. So, that the study in the White Mountains is referenced because it's one of the few studies that talks about the relationship of scenic quality and
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recreation. But it's the wrong context.
Q Thank you. I'd like to pull up SE-3e from Counsel for the Public Exhibit 138, Appendix F. This is Little Diamond Pond, in Stewartstown. Mr. DeWan, in his supplemental testimony, at Page 51 to 52, states "the visual arc of the proposed structures as seen from the surface of Little Diamond Pond is approximately 22.5 degrees. Which amounts to just 6 percent of a fisherman's 360-degree view", and therefore will not have an adverse impact on this resource.

Can you respond to that new analysis?
MR. NEEDLEMAN: Objection. I think calling it "new" doesn't make it new.

MS. CONNOR: That's specifically how he described it, as a "new analysis", based upon their adverse impact findings on 29 resources.

CHAIRMAN HONIGBERG: All right. It's overruled. You can respond. Off the record. [Brief off-the-record discussion ensued.]

CHAIRMAN HONIGBERG: All right. You
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can respond.

## BY THE WITNESS:

A (Buscher) So, Mr. DeWan takes that 22 and a half degrees and makes a comparison over the percentage of a 360 -degree view. I guess I would -- $I$ would note that, from the shore, where this -- where Mr. DeWan's photograph was taken, that was used in the simulation, is in the direction where views are going to be focused from. And a normal view actually encompasses 37 degrees. So, 22 and a half out of 37 degrees is a significantly higher portion than six percent. Approaching two-thirds of the entire view that people are going to be focused on will include views of this Project. A (Owens) Can I add to that? I was the one who took this photograph, when I visited. And I had to ask some people that were on the shoreline fishing if they didn't -- if they would mind moving to the side while I took a photo briefly. And, from that shoreline, the only view is the one that $I$ took the picture of. So, they were facing that direction the entire time when they were fishing from that
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[WITNESS PANEL: Buscher|Palmer|Owens]
location.
A (Buscher) So, I'll correct my statement, that this was our photosimulation.

BY MS. CONNOR:
Q In Mr. DeWan's supplemental testimony with regard to this site, he goes on to note that your adverse impact judgment, based upon the structures that are going to go across the ridgeline "should not have an unreasonable effect on the public's desire to fish". Can you address that statement?

MR. NEEDLEMAN: Same objection.
We're back to just their initial analysis and expanding on it.

CHAIRMAN HONIGBERG: And what did
Mr. DeWan say again?
MS. CONNOR: Mr. DeWan said that T.J.
Boyle's adverse impact finding with respect to this site "should not have an unreasonable effect on the public's desire to fish".

CHAIRMAN HONIGBERG: Sustained.
BY MS. CONNOR:
Q Does Mr. DeWan's conclusion about the adverse
impact with regard to the public's desire to
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[WITNESS PANEL: Buscher|Palmer|Owens]
fish address all user groups?
A (Buscher) No, it does not.
Q I want to move to DE-2e, which is exhibit -from Exhibit $F$, Counsel for the Public 138. That's not it. That's it.

In Mr. DeWan's Supplemental Report, he rejects your conclusion that this Project would have an unreasonable adverse impact on the Deerfield Center Historic District because "there is one limited area where the transmission structure will be visible (in front of Deerfield Town Hall). The majority of Deerfield Center and its historic resources will not be affected", Page 48.

Can you respond to that criticism with regard to your conclusion on Deerfield Center?

MR. NEEDLEMAN: Objection. Just adding to their initial analysis. CHAIRMAN HONIGBERG: Ms. Connor. MS. CONNOR: I will make an offer of proof that, in response to that question, the panel wants to address the dilution argument. The fact that, in response to this, Mr. DeWan is suggesting that there is no unreasonable
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impact, because he's looking at all of
Deerfield Center, as opposed to the area where, in fact, there is a visual impact.

CHAIRMAN HONIGBERG: Okay. So,
you're assuming the objection was sustained, which is probably correct. So, I guess you've made your record, and we can move on.

BY MS. CONNOR:
Q Let's go to BR-1c, which is Appendix $F$ to Counsel for the Public 138, which is Peaked Hill, in Bristol, New Hampshire. In supplemental testimony, at Page 52, Mr. DeWan challenges your conclusion that the Project is going to have an unreasonable adverse impact on this scenic resource, because "the primary visual impact is at the point where the transmission corridor crosses Peaked Hill Road. At this location, open views of the transmission line to passing motorists would last for several seconds."

Can you address that criticism?
MR. NEEDLEMAN: The same objection.
Adding to their initial analysis.
CHAIRMAN HONIGBERG: Sustained.
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[WITNESS PANEL: Buscher|Palmer|Owens]

MS. CONNOR: I will try to rephrase it.

BY MS. CONNOR:
Q With respect to this particular location, Mr. DeWan, in his supplemental testimony, has criticized your adverse impact finding because he has stated that an adverse impact is going to require an exposure over time. Can you address that criticism?

MR. NEEDLEMAN: Same objection. It's a different path, but the same endpoint.

CHAIRMAN HONIGBERG: Sustained.
BY MS. CONNOR:
Q Based upon your experience, does the public require an extended exposure to a transmission line in order to have an adverse impact?

MR. NEEDLEMAN: Same objection, to the extent it's focusing on this resource.

CHAIRMAN HONIGBERG: I'm not sure that it was. But, Ms. Connor, why isn't that a general question that's part of their prefiled testimony?

MS. CONNOR: Because I'm trying address Mr. DeWan's specific criticism of their
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[WITNESS PANEL: Buscher|Palmer|Owens]
conclusion. And his criticism was that you can't have an adverse impact on a scenic resource if it's only for a few seconds. And I wanted them to have an opportunity to address why that is not their opinion.

CHAIRMAN HONIGBERG: All right.
Well, I'll let them answer that. I'll overrule the objection and allow them to answer that question.

## BY THE WITNESS:

A (Buscher) Jim, do you want to --
A (Palmer) Yes. So, there's a whole area of cognitive research that is called -- that involves very brief exposures, it's called a "gist". And, in about a twentieth of a second you will form an aesthetic opinion that is very similar to the opinion that you will have if you've been given however long you want to look at a view. So, you don't need ten seconds, or five seconds, or even a full second to form an aesthetic opinion.

In many of their road crossings, for instance, are going to be repeatedly visited by people, so that the exposure is significant --
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[WITNESS PANEL: Buscher|Palmer|Owens]
the aesthetic impact of the exposure is significant.

BY MS. CONNOR:
Q I'm going to move on to the supplemental testimony addressing mitigation. In Mr. Bowes' supplemental prefiled testimony, Page 4, he states that "untreated conductors...initially have a higher reflectivity than the non-specular conductors" proposed by your office. But he claims the untreated conductors achieve similar reflective -- reflectivity within a few years. Do you agree with that?

A (Buscher) We do not. Based on our observation, that is not accurate.

Q What have you observed, based upon your experience, with regard to untreated versus treated conductors?

A (Buscher) That treated conductors are immediately less visible, and there's several situations where we've had projects with non-specular conductors installed adjacent to existing lines that have been there for multiple decades. And the difference in
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[WITNESS PANEL: Buscher|Palmer|Owens]
appearance is quite apparent. That the conductors that have non-specular treatment are much less apparent, much less visible, and much less reflectivity.

Is there any reason not to use non-specular conductors?

MR. NEEDLEMAN: Objection. General statement.

CHAIRMAN HONIGBERG: Ms. Connor, this sounds like their direct.

MS. CONNOR: I'll move on.
BY MS. CONNOR:
Q Mr. Bowes, at Page 5 of his supplemental testimony, also disputes that visual buffers or screen plantings are feasible because such plantings might "be incompatible with the landowner's objective". In your experience, has that been a concern?

A (Buscher) You're saying that it's not feasible because of the underlying --

Q Correct.
A (Buscher) Well, first of all, we don't know whether it's feasible or not feasible, because there has been no evidence given if adjacent
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[WITNESS PANEL: Buscher|Palmer|Owens]
landowners have been approached.
Our experience is that a lot of these -- a lot of mitigation planning might go into the town right-of-ways. And it's been our experience that impacted towns are more than willing to work with a transmission utility to try to reduce the visual impacts, and also that adjacent landowners are typically very willing to. There are definitely going to be some situations where there's some that aren't. But we haven't been given that information to know whether or not they are.

A (Palmer) I might add that, what we're talking about here is the impact to public views, and the Applicants' responsibility to mitigate those views. It's not the landlord's response -- or, the landowner's responsibility to approve or not approve those mitigation to public views.

At Page 6 of his supplemental testimony, Mr. Bowes also rejected your recommendation that the Applicant consider applying a Natina finish on the lattice structures, because he states the application of this finish is not possible
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[WITNESS PANEL: Buscher|Palmer|Owens]
within New England.
Is that your understanding?

MR. NEEDLEMAN: Objection. Are these
witnesses qualified to talk about these technical issues?

CHAIRMAN HONIGBERG: Ms. Connor.

MS. CONNOR: They are.
MR. NEEDLEMAN: It sounds like they're aesthetic witnesses, not engineers.

CHAIRMAN HONIGBERG: Let's --

MS. CONNOR: Do you want me to back up?

CHAIRMAN HONIGBERG: Just a little.

MS. CONNOR: Sure.

BY MS. CONNOR:
Q In your report, you recommended as a mitigation
measure that the Applicant apply a Natina
finish. Are you familiar with the Natina finish product?

A (Buscher) Yes.
Q And, based upon -- and is that from prior projects?

A (Buscher) No. It was really with us investigating potential mitigation efforts with
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[WITNESS PANEL: Buscher|Palmer|Owens]
this Project. To be honest, we have not -we've not worked on a project in recent history that uses lattice structures.

Q And is it your -- can you describe your understanding of what the Natina finish is?

MR. NEEDLEMAN: So, same objection. It doesn't sound like they have the basis to do it. And, moreover, to the extent that they do, they already did it in their report.

MS. CONNOR: I'm having to walk a fine line here between laying a foundation and trying not to go over old material.

CHAIRMAN HONIGBERG: Well, lay a
foundation for their knowledge and experience about this particular product. I haven't heard it yet. In fact, I think they just said they have not worked on a project that has the types of structures that would carry it, which doesn't help your case or help your cause in this immediate instance.

Back up and see if you can establish that they have the requisite knowledge to answer a question about it.

MS. CONNOR: Certainly.
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BY MS. CONNOR:
Q Can you explain your experience with the Natina finish, which you had made a recommendation of on this Project?

A (Palmer) We've contacted the company, talked to their representatives. I think the product can be sprayed on, like a paint, on a structure that's already been built. But the recommended way to apply the product is essentially right after the galvanizing of the structure. So, that wouldn't be done here in any case. It would be done wherever the galvanizing company is. That's what we were told by the product manufacturer.

MR. NEEDLEMAN: Mr. Chair, this is not going to their experience. This is now going to the substance of the question. CHAIRMAN HONIGBERG: It is. And it doesn't sound like they have any personal knowledge about this. Everything they know, they learned by calling the manufacturer, based on that last question and answer.

MS. CONNOR: That is true. But I guess I dispute that they can be qualified to
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[WITNESS PANEL: Buscher|Palmer|Owens]
talk about a product based upon their understanding and their interaction with the manufacturer of that product.

CHAIRMAN HONIGBERG: Okay. I mean, and certainly experts could rely on that type of information. But that's not what we were talking about here. You were talking -- you looked like you were going to be asking them about the advisability of using it here, and they have no experience with it.

MS. CONNOR: I believe that Mr. Palmer was about to testify, based upon his conversation with the manufacturer, as to how it could be applied and how it could be used in this setting.

CHAIRMAN HONIGBERG: And it all
sounds like it comes from -- now we're back to this is their original prefiled testimony. Let's go back. What were you hooking this onto again?

MS. CONNOR: I was hooking --
CHAIRMAN HONIGBERG: What did
Mr. Bowes say that you need them to respond to?
MS. CONNOR: Mr. Bowes said "it was
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not possible to use Natina in New England".
CHAIRMAN HONIGBERG: And based on
their -- and what you believe they will
testify, if asked, is that, based on their conversations with the manufacturer, "yes, it could"?

MS. CONNOR: Yes.
CHAIRMAN HONIGBERG: All right.
You've made your record. I'm sustaining the objection.

BY MS. CONNOR:
Q Mr. Bowes, in his supplemental testimony, at Page 7, states that "any other route or alignment", other than the one that has been proposed, "is not practicable".

What factors would make all alternatives routes impractical?

MR. NEEDLEMAN: Objection. This is an issue that was discussed extensively in the context of the Application long before any supplemental testimony was filed. And it's just a general question regarding alternatives. CHAIRMAN HONIGBERG: Ms. Connor. MS. CONNOR: Yes. These witnesses,
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if given an opportunity to testify, would lay the --

CHAIRMAN HONIGBERG: Well, you're not making an offer of proof yet.

MS. CONNOR: Okay.
CHAIRMAN HONIGBERG: I'm just trying to decide whether to sustain the objection.

MS. CONNOR: I believe that this
panel is simply trying to respond to Mr. Bowes' criticism of their mitigation method testimony in their reports, specifically what he was addressing. And they haven't had an opportunity to do that.

CHAIRMAN HONIGBERG: Was he talking about feasibility with respect to aesthetics? Or was he talking about feasibility with respect to the Project's actual ability to use alternative routes?

MS. CONNOR: He was addressing the aesthetics aspect of that, because Mr. DeWan did not.

MR. IACOPINO: Is this from the supplemental testimony?

MS. CONNOR: Yes, it is.
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CHAIRMAN HONIGBERG: Can you refresh all of our memories about the question and answer that Mr. Bowes -- from Mr. Bowes' testimony?

MS. CONNOR: Yes. In his supplemental testimony, at Page 7, he was -- he indicated that, basically, that no other route or alignment was practical. Practical.

CHAIRMAN HONIGBERG: What was the question that he was answering? No, Mr. Bowes. You have Mr. Bowes' testimony in front of you, I don't.

MS. CONNOR: "What other avoidance, minimization, and mitigation measures did the Applicants further consider?"

CHAIRMAN HONIGBERG: And his answer was?

MS. CONNOR: Do you want me to read the whole answer?

CHAIRMAN HONIGBERG: Yes, please, because it's going to give us the context to understand what he was saying.

MS. CONNOR: "Although the review of potential route alternatives for this Project
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is not properly before the Site Evaluation Committee for consideration" --

CHAIRMAN HONIGBERG: Slow down just a hair.

MS. CONNOR: -- "in this proceeding, the Applicants received considerable feedback from certain parties, including from experts retained by Counsel for the Public, regarding siting the Project in a different location or using a different alignment within the corridor. All such alignments were previously considered during the initial design phase and it was determined the proposed route and alignment is the least impactful, most practical solution that could be achieved using the land rights that the Applicants acquired or could acquire. In addition, potential alignment options were limited by the existing structures in the right-of-way and specific electrical requirements, such as clearances, structure heights, span lengths, etcetera, as governed by the National Electric Safety Code. The Applicants have proposed a route and alignment that can be achieved based on site
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control and design and cost considerations. Any other route or alignment simply is not operable practicable."

CHAIRMAN HONIGBERG: I don't think Mr. Bowes was in any way testifying about aesthetics.

MR. NEEDLEMAN: Mr. Chair, I'm also going to note that he specifically says "all such alignments were previously considered". And in Section 5.2.2 of the original T.J. Boyle Report, I think they addressed all this. CHAIRMAN HONIGBERG: Ms. Connor. MS. CONNOR: In Mr. DeWan's supplemental testimony, at Page 26 , when he was addressing T.J. Boyle's comments in this area, he indicated that these issues were being addressed solely in the supplemental prefiled testimony of Mr. Bowes, as opposed to him, which is why then $I$ went back to Mr. Bowes. CHAIRMAN HONIGBERG: And what was Mr. DeWan responding to then? Because this sounds like a completely different set of questions and answers. MS. CONNOR: Mr. DeWan was asked to
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address the minimization, avoidance, and mitigation measures considered but rejected by the Applicant and raised by this panel. And that's -- and Mr. DeWan passed it over to Mr. Bowes. And that's why $I$ was asking this panel about Mr. Bowes, since Mr. DeWan said "I'm not going to testify about it."

CHAIRMAN HONIGBERG: That's not
what's happening here. Mr. Bowes was saying "yes, we looked at all the other possible routes, and we couldn't do them." I mean, he may be wrong, and you all may disagree with that, but that's what Mr. Bowes was talking about. This panel is not here to talk about other routes, other route designs. That's what Mr. Bowes was talking about.

BY MS. CONNOR:
Q In your past experience working with transmission lines, have you been involved in the siting of the line?

MR. NEEDLEMAN: Objection. This is generic testimony.

CHAIRMAN HONIGBERG: They can answer that question.
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## BY THE WITNESS:

A (Buscher) Yes, we have.
BY MS. CONNOR:
Q Why?
MR. NEEDLEMAN: Same objection.
CHAIRMAN HONIGBERG: Why have they been involved?

MS. CONNOR: Let me rephrase that.
BY MS. CONNOR:
Q What is the advantage of being involved at the front end?

MR. NEEDLEMAN: Same objection. This is all subject of initial testimony.

CHAIRMAN HONIGBERG: Sustained. (Short pause.)

CHAIRMAN HONIGBERG: Ms. Connor, you want to take a ten-minute break, because we're at about that time anyway?

MS. CONNOR: Sure. Thank you. (Recess taken at 10:20 a.m. and the hearing resumed at 10:36 a.m.)

CHAIRMAN HONIGBERG: Ms. Connor, you
may proceed.
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MS. CONNOR: Thank you.
BY MS. CONNOR:
Q When Mr. DeWan was on the witness stand on Day 31, he was asked about mitigation measures, and he deferred to Mr. Bowes. In your experience, what role have you played in addressing mitigation?

MR. NEEDLEMAN: Objection. Standard question.

CHAIRMAN HONIGBERG: Sounds like the same -- the same topic we were just on before the break, Ms. Connor.

MS. CONNOR: Your Honor, I'm specifically trying to address the aesthetics expert's role in mitigation, and Mr. DeWan deferred to Mr. Bowes. This was a limited question, directed at the role of aesthetics experts in addressing mitigation.

CHAIRMAN HONIGBERG: Was Mr. Bowes asked about the role of aesthetics experts in determining mitigation of alternative routes?

MS. CONNOR: He was simply asked about mitigation measures in general.

CHAIRMAN HONIGBERG: And did his
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answer invoke the aesthetics experts? I don't recall that it did. I believe all he was talking about, from what you read to us, was that, in trying to respond to criticisms from others, including Counsel for the Public's experts, they had looked at other routes. That's what $I$ recall from what you read.

MS. CONNOR: Right. Well, actually,
what $I$ was referencing on Day 31 was Mr. DeWan's testimony, where I asked him about mitigation, and Attorney Needleman objected and wouldn't let him answer that, referencing the fact that it was already in through Mr. Bowes's testimony. And $I$ wanted to address the fact that this panel's experience is that they address mitigation, not the engineers.

CHAIRMAN HONIGBERG: I'm going to sustain the objection. If you want to make an offer of proof, which you may have just done, then we're going to move on after that.

MS. CONNOR: Okay. I'm going to try one other way to address this.

BY MS. CONNOR:
Q And that is, do you -- based upon your past
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experience with Mr. DeWan on other projects, has he been involved in -- actively involved in the mitigation measure of the project?

MR. NEEDLEMAN: Same objection. And I don't even know if that's tied to any testimony or why it would be relevant.

CHAIRMAN HONIGBERG: Ms. Connor.
MS. CONNOR: It would be relevant in that the role of the aesthetics expert is traditionally to address mitigation measures, because that's part of the VIA under the rules.

CHAIRMAN HONIGBERG: I'm going to sustain the objection. If you want to make an offer of proof as to what these gentlemen would testify to, if they were allowed to testify, you can do that.

MS. CONNOR: If these gentlemen were allowed to testify, they would represent that Mr. DeWan has been actively involved in mitigation measures in his role as a VIA expert in countless other projects, but, in this case, was not.

CHAIRMAN HONIGBERG: Okay.
MS. CONNOR: Okay. I have no further
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questions.
CHAIRMAN HONIGBERG: According to my list, it's the Municipal Group. Who's going to be going?

MS. PACIK: Our questions have been covered by Counsel for the Public. Thank you.

CHAIRMAN HONIGBERG: All right. Next is the Grafton County Commissioners. Is Ms. Saffo here? I don't see her. [No indication given.]

CHAIRMAN HONIGBERG: All right.
Society for the Protection of New Hampshire Forests, Mr. Reimers?

MR. REIMERS: Our questions have been covered. Thank you.

CHAIRMAN HONIGBERG: AMC/CLF, Mr. Plouffe, I saw him. Do you have questions?

MR. PLOUFFE: No questions, Mr.
Chairman.
CHAIRMAN HONIGBERG: Dummer, Stark,
Northumberland, Ms. Percy?
[No indication given.]
CHAIRMAN HONIGBERG: No? I don't see her.
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Whitefield, Dalton, Bethlehem,
Mr. Brekke?
[No indication given.]

CHAIRMAN HONIGBERG: No?
ADMIN. MONROE: He's here.

CHAIRMAN HONIGBERG: Let's go off the record.

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& \text { [Brief off-the-record discussion } \\
& \text { ensued.] }
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CHAIRMAN HONIGBERG: So, we're back on the record. Mr. Brekke, do you have questions?

MR. BREKKE: Yes, I do.
CHAIRMAN HONIGBERG: All right. Why don't you come forward then. Or, you can do it from there, if you'd like.

This is off the record. [Brief off-the-record discussion ensued.]

MR. BREKKE: Okay. Good morning. I'd like to begin by reviewing a few of your answers in your prefiled testimony.

## CROSS-EXAMINATION

BY MR. BREKKE:
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Q In your prefiled testimony, and I don't have, unless somebody can assist me, I don't have the expertise or a laptop to bring it up on the screen. But this is the prefiled testimony of the Aesthetics Group from Counsel for the Public, if you can look that up on your computers.

MR. PAPPAS: If you can tell us what page, she may --

MR. BREKKE: Well, beginning on Page 11 of their --

MS. MERRIGAN: Dawn, can $I$ have the monitor please?

MR. BREKKE: The pretrial direct, yes. Page 11, beginning on Page 11. Okay. Could you scroll that up please to Page 10?

I apologize for this. Our one laptop in the house is gone with my wife to Ohio.

BY MR. BREKKE:
Q Okay. It's actually on Page 10. It looks like Line 16. The question is "Please describe your conclusions as to why the Project will result in an unreasonable adverse effect on aesthetics." And below that you cited three
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points, each citing several bullet points.
On the next page, I'd like to identify two of those points. The first is the "Height of the Proposed Structure". And that says "The height of the proposed structures is out of scale in comparison to similar size transmission lines. This is likely as a result of attempting to incorporate an additional transmission line within the corridors that do not have adequate width."

And the second one, on the heading "Acquire a wider corridor", which should be down two pages please. Okay, there it is. You had said "The height of the proposed structures could be reduced if the corridor were widened." Okay, $I$ just want to lay that as a background. MR. BREKKE: And now I need to call up another document please. This is -- should be at the bottom of the prefiled testimony as Exhibit CFP-Boyle-4, "Review of the NPT VIA". CHAIRMAN HONIGBERG: Let's go off the record for a second. [Brief off-the-record discussion ensued.].
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MR. BREKKE: Thank you for your
patience.
BY MR. BREKKE:
Q Okay. In the prefiled testimony, Exhibit Boyle-4, "Review of the NPT VIA", on Page 174, Section 4.4.4, "Corridor Configuration Alternatives", under Paragraph 4.4.4.2 it says acquiring a wider corridor to reduce structure height.

One more text item, and then I'll get to my question. On Page 184, in Section 5.2.2, "Avoidance or Minimization through Corridor Configuration" under "Acquire a wider corridor", the text is "The height of the proposed structures could be reduced if the corridor were widened". In other words, my words are "wider right-of-ways allow for lower towers".

Now, my question, finally. I'd like to know what your basis is for these statements that a "narrower right-of-way prompts taller tower structures"?

A (Buscher) Well, there's two different components to that. First of all, there are
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several situations where the configuration of the line is required to be in a vertical configuration. That means the conductors need to be stacked on top of each other. And, to do that, considering your lowest conductor is going to have the same clearance requirement, you have to add additional height to go up in that vertical configuration.

The second is based on our familiarity with working on similar size transmission line projects, and that the heights of these structures are commonly over 100 feet, which is very tall for a 345 kV AC line or the alternative 340 DC line.

And our conclusion is that, to meet clearances with vegetation along the side of the right-of-way, and with lines within the right-of-way, that additional height has been required.

Q Okay. So, these are guidelines or design practices or rules that exist for a designer to follow?

A (Buscher) With the practical limitations when doing transmission line design.
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Q So, is this mandated by law, New Hampshire law, for example?

A (Buscher) I believe it's federal.
Q Okay. Thank you. The next visual aid would be the proposed maps for the Project, on Page 43. Okay. Thank you.

This is the right-of-way abutting my property, which is 250 feet wide.

MR. BREKKE: Could you zoom in a little bit please?

MS. MERRIGAN: Where do you want to zoom in?

MR. BREKKE: Straight in the center, anywhere in the center. That's good.

BY MR. BREKKE:
Q Okay. Using as an example DC-642, the right-of-way is 250 feet wide, as indicated by the key that's at the bottom of the slide. And the towers along this right-of-way, proposed towers are 85 and 90 feet. So, is it the width of the right-of-way corridor, the 250 feet, that dictates the 85 to 90 feet towers?

A (Buscher) I wouldn't be able to respond to that for this specific location.
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Q Okay. Thank you. Well, then, my next question was, if that was the minimum structure height, but could you be able to answer that?

A (Buscher) I wouldn't.
Q Okay. All right. One more example, on Page 34.

MR. BREKKE: Go to the next page please. Could you go to 31?

MS. MERRIGAN: For the record, this would actually be Applicants Exhibit -- part of Applicants Exhibit 2 .

BY MR. BREKKE:
Q Okay. Using Towers DC-588 and D142-425, on the section again in Whitefield of a 250-foot right-of-way, these towers are shown as 60-foot towers. So, if 60-foot towers in a 250 -foot right-of-way is okay, then a possible mitigation measure not mentioned in your record could be lower structures regardless of right-of-way width. Is that a fair statement?

A (Buscher) Yes. We regularly testify -- comment that "lower towers would be an appropriate mitigation strategy".

Q Was that included in your review of the VIA
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then?
A (Buscher) Yes.
Q That lower towers -- you mentioned that the tower height, from the testimony I read previously, was "due to the right-of-way width", which implied to me that the size of the right-of-way forced taller towers?

CHAIRMAN HONIGBERG: Mr. Brekke, the questions you're asking here seem to be all about these witnesses' prefiled testimony. And the scope of what you should be covering with them is not their prefiled testimony, because we have that in front of us, and we have read it, and it's already part of the record. What is it you want to know from these gentlemen?

MR. BREKKE: The point $I$ was trying to make is that the mention of "right-of-way width", if you can place 80 -foot towers and 60-foot towers in the same right-of-way width, it was not clear to me, in their testimony, that that was something that was acceptable.

In other words, the way they describe the width of the right-of-way, that seemed to
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determine the height of the towers. Am I -and my point here is --

CHAIRMAN HONIGBERG: So, is your -so, something about the report is unclear to you, you want to understand whether it's the width that determines the height, which I think you may have already asked them?

MR. BREKKE: Yes. But I didn't see it in the report as not being related to each other in that way.

That's the question $I$ wanted to bring out. I needed clarification on that.

CHAIRMAN HONIGBERG: Do you need these aesthetics experts to talk about that further?

MR. BREKKE: The reason I'm asking the aesthetics experts is because it wasn't in their report.

CHAIRMAN HONIGBERG: Perhaps because they're aesthetics experts, and not engineers or electrical experts. But --

MR. BREKKE: But I respect --
CHAIRMAN HONIGBERG: But I've
forgotten now, unfortunately, what the question
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was. But do you guys remember the question?
[No verbal response.]

CHAIRMAN HONIGBERG: No, I'm sorry. Why don't you re-ask the question that's pending.

MR. BREKKE: All right.
BY MR. BREKKE:
Q Okay. If 60-foot towers in a 250-foot right-of-way is okay, then a possible mitigation measure that was not mentioned in your report could be lower structures regardless of right-of-way width. And I asked if that was a fair statement?

A (Buscher) My assumption is that the towers are at the lowest height that is possible, based on their engineers' understanding of the constraints. There are several factors that I am aware of in dealing with other transmission line projects, and $I$ don't know the specifics of every location.

Q Okay.
A (Buscher) If they can just lower them and meet all the requirements, then, yes, that would definitely be an appropriate mitigation
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strategy.
Q Okay. But that wasn't mentioned that way in your Report. That's what I'm questioning. I didn't see that in your Report.

A (Buscher) I know that we talk about lowering heights quite often. To be honest, we just assumed, for a variety of reasons, that these were already at the lowest heights possible.

Q Based on right-of-way width?
A (Buscher) Based on our general familiarity with the engineering and design of transmission lines.

Q Okay. All right. I'm almost finished here. But what I'm not clear about is, if we can put 60 -- if they can put $60-$ foot towers in a 250-foot wide right-of-way in one place, and, based on what you just told me, they should be able to do that anywhere else?
(Buscher) There are a variety of factors that I can talk about. Depends on how many lines are in that right-of-way, what other obstructions are in the right-of-way, the spacing of the structures within the right-of-way. There's several different techniques you can use to
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lower transmission structure heights. It would definitely be a strategy for the Applicant to review and understand. And we did have some -I believe some direct back-and-forth regarding that specific issue between the different original prefiled testimony and supplemental testimonies.

MR. BREKKE: Okay. Thank you.
That's all I have.
CHAIRMAN HONIGBERG: All right. We can circle back. Is Ms. Percy here, Mr. Cunningham?

MR. CUNNINGHAM: She is not, Mr.
Chairman.
CHAIRMAN HONIGBERG: Okay. Who over
here had questions and wants to go next?
ADMIN. MONROE: Ms. Townsend.
CHAIRMAN HONIGBERG: Ms. Townsend.
And while she's doing that, I understand that the Deerfield abutters have no questions. Right, Mr. Cote?

MR. COTE: That is correct.
CHAIRMAN HONIGBERG: And is anyone
here from Mr. Palmer's group? Do you have
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questions, Mr. Chase?
ADMIN. MONROE: Lakes.
MR. LAKES: I have no questions at this time.

MS. TOWNSEND: Good morning. I'm Heather Townsend.

WITNESS BUSCHER: Good morning.
MS. TOWNSEND: And I am the temporary
spokesperson for the Ashland to Deerfield
Non-Abutting Property Owners.
BY MS. TOWNSEND:
Q And I'd like to start with a question about markers on lines for birds. I wonder if you are aware that, in the environmental panel, Dr. Barnum testified that, if bird strikes were found on the Pemi, that they might install visual markers, to head off the birds from striking, especially since, in those locations, there would be multiple lines, with a guide -a guard line above, that would be a special hazard.

And I wondered if you took those bird markers into account in your aesthetics analysis?
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A (Buscher) We were not aware of that testimony.
Q How would that influence your analysis?
A (Buscher) It would be an element that would create more noticeability of the conductors. So, we would have considered that. We would have wanted to have more details on what those markers would look like.

CHAIRMAN HONIGBERG: But just a sec. Mr. Buscher, if you could move a little bit closer to the microphone and keep your voice up. The folks in the back are having a little trouble hearing you.

WITNESS BUSCHER: Sure. Sorry about that.

BY MS. TOWNSEND:
Q Okay. And could you comment on the impact that it would have on people recreating on the river, who would be going directly under those lines?

A (Buscher) Without doing a full evaluation of it, my instinct would be, and being one of the field observers that paddled down to one of the crossings, is, before the line -- the structures become into view, and your
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visibility is limited to only the conductors, obviously, something that makes those conductors more apparent is going to make the general appearance and existence of that line become clearer to users of the river in a much more advance situation or timing.

Q Okay. And could you comment on what might be the effect to people who have views of the river from their place of residence nearby? In terms of -- in this case, in terms of duration?

A (Buscher) Similarly, it's going to be a, you know, it's going to create noticeability of the Project.

Q Okay. I don't recall having seen in your report any mention of the effect of sound on aesthetics. And $I$ wondered if $I$ just missed it or if that was something you intentionally left out?

A (Buscher) We deal solely with visual impacts. We don't do sound assessments.

Q Okay. What type of analysis, in your professional opinion, would be necessary to understand the impact of a continuous sound on people who are recreating in a place they
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expect to be silent? Who would do that kind of analysis?

A (Buscher) It's a specialized field. And that is an analysis that is done for projects. And it is a separate review from the visual impact to aesthetics.

Q Okay. When -- okay, I'm going to refer to some testimony that Mr. DeWan gave, and where he was talking about whether they had been on the river in doing their analysis. Gretchen Draper asked the question "did you go out on the river?" And he said "no", he didn't. And most of his visual -- okay, hang on a second. Most of his simulations were from at least five feet above the river. And $I$ wonder if you could comment on --

CHAIRMAN HONIGBERG: I think we need the ELMO.

BY MS. TOWNSEND:
Q And $I$ wonder if you can explain to me your decision to take this analysis from the level of the water?

A (Buscher) We're still waiting for the images to appear on our screen to be able to --
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Q Oh, okay.
A (Buscher) Okay. We're here. I'm sorry, could you repeat the question?

Q First, could you just read which analysis this is?

A (Buscher) These are simulations that $I$ believe our office prepared. Right?

A (Witness Palmer nodding in the affirmative).
A (Owens) Yes.
Q Yes. And read into the record what the numbers are please?

A (Buscher) The numbers are "NH-3b", and the number is hidden from me on the -- "NH-3d". Okay. And which crossing is this? (Buscher) This is the Pemi crossing. And it's near, $I$ don't know, is it --
Q New Hampton and Hill?
A (Buscher) New Hampton, you come down from Bristol, I believe.

Q Okay. And, so, I was wondering about your choice of the location of the viewer in this? Is it at the level of the water?

A (Buscher) It was -- I actually took these photos. And $I$ was sitting in a kayak when $I$
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took these photos.
Q Thank you for going out on the river. Why did you make that choice?

A (Buscher) That's the way that users are really going to experience it. It was -- it's not that we don't sometimes abbreviate our access to a river crossing. For this particular situation, it was hard to access otherwise. And it is probably the most appropriate way to understand the experience from a user.

Thank you. And can you explain a little bit, you spoke in your report about user expectation for views, and how someone doing different forms of recreation might be influenced, might have a different take than somebody who was, say, passing by on a road. Could you explain to me what those differences were?

MR. NEEDLEMAN: Objection. This is just calling for elaboration of their testimony and report.

CHAIRMAN HONIGBERG: Ms. Townsend.
MS. TOWNSEND: I'm trying to
understand how the use of the view from a kayak gave him a different insight into the use of
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[WITNESS PANEL: Buscher|Palmer|Owens]
the river.
CHAIRMAN HONIGBERG: It's kind of what his original report was all about, wasn't it? His assessment of the view of the proposed line.

MS. TOWNSEND: I feel like I have a very localized question here.

CHAIRMAN HONIGBERG: And that may be true. But he did his assessment as he did his assessment, and whatever it is it is.

I guess I'm going to let you ask this question, but I'm not sure that this is -- I'm fairly certain that this is right up against the line, again, of going back into his -- into their original testimony and report, which is not appropriate for this kind of further examination.

But I'll let you ask that question that you've asked.

MS. TOWNSEND: If I could just point
out that the reason why I'm asking this
question in the first place is because
Mr. DeWan gave testimony for the first time
that he had not gone out on the river during
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Ms. Draper's questioning. So, that is the new information. Does that make a difference?

CHAIRMAN HONIGBERG: I mean, you can't ask the question any more than I'm going to let you ask the question. So, --

MS. TOWNSEND: Thank you.
BY MS. TOWNSEND:
Q Okay. How do you understand the difference of a recreational user, as opposed to someone who is, say, going by in a car, of a specific view?

A (Buscher) So, just to begin, there's obviously, some differences in the physical mode of transportation, and the timing and experience associated with that. If you're paddling down a river, you're, obviously, going at a much slower rate. Your duration within the visual exposure to that portion of the Project is going be extended. Your choice to conduct that activity is going to be most likely more associated with a recreation or a desire to enjoy that resource. Whereas, driving, it might be to enjoy that resource, but it just might be to get from Point $A$ to Point $B$. Okay. Thank you answering that question. I'd
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[WITNESS PANEL: Buscher|Palmer|Owens]
like to move on to a question about Intermap data and the dates at which the data was collected.

We learned in Mr. DeWan's testimony, with Ms. Kimball, that up to 2.7 miles is Intermap data, and that that was most likely collected before 2008. And then we learned that the New Hampshire Land Cover data, which they used for the rest of the analysis outside of 2.7 , was from 2001. I wonder if you were aware of those dates?

A (Buscher) I'm going to defer to either Jeremy or Jim, either one of you.

Q While you're thinking about that, I'm just going to read into the record that this is from the Day 34 Morning Session of DeWan and Kimball, Page 74, 72, and 73, is where those references appear.

A (Palmer) In general, I'm familiar when the data were collected, yes.

Q The dates at which the data were collected?
A (Palmer) Uh-huh. In general. I mean, the more important part is that the NEXTMap data were collected in the months of August and early
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[WITNESS PANEL: Buscher|Palmer|Owens]

September. Time of year is probably more important than the year itself.

Q Okay. On Page 67 of that same session, Day 34 , Mr. DeWan was asked whether his position was that existing conditions does not include the probability of any change in the vegetation besides normal maturity and decline? And he said "Common professional practice is to take a look at existing conditions and do an evaluation on what is known of the existing landscape. If we knew for a fact that there was going to be harvesting, that might be a different situation."

I'm just wondering if you can explain to me your understanding of what an "existing situation" is when the data that is being used to describe it is from 2001 and 2008 , and it is now 2017?

A (Palmer) Well, the photograph is what the simulation is being done on. So, that's more recent.

Oh. We can take the photograph away. This is a more general question.

A (Palmer) Well, the more -- are you talking
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[WITNESS PANEL: Buscher|Palmer|Owens]
about the NEXTMap data accuracy in this? I mean, the existing condition that they simulated is based on photographs that were taken more recently.

Q Go on.
A (Buscher) So, there's a limitation to the data that you can use. If there -- you know, obviously, you should be using the most detailed and most recent data that's available. There is a more recent national land cover dataset, or that is my understanding. I think Jeremy and Jim could -- they're more the GIS gurus in our office. That was done back in 2011, isn't that correct, Jeremy?

A (Owens) I believe so. And around the time that our reports were prepared, that was what was generally available.

A (Buscher) But, again, you know, we don't want to use a less accurate elevation dataset that might be more recent. The NEXTMap data is fairly detailed.

Q Uh-huh. So, I'm going to reframe my question. Because what $I^{\prime} m$-- what seems surprising to me, from this testimony of Mr. DeWan, is that
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[WITNESS PANEL: Buscher|Palmer|Owens]
he is "limited to existing conditions", can't look into the future at all of how things might change in an agricultural or a tree farming area. And, yet, he's looking at data which is many years old. And $I$ wondered if you could comment on your take on "existing condition", the standard, the professional standard for "existing conditions"?

A (Buscher) Well, I think that's one of the reasons why the SEC rules adopted a component that discusses bare-earth visibility, because that allows you to anticipate changes to the landscape. And I would agree with Mr. DeWan and for this Project, there is an area where it's going through areas that are under forest management and harvesting. So, there is going to be an evolving viewshed associated with the Project that will be dynamic. And it's entirely reasonable to look at the bare-earth viewshed for those reasons.

Q So, you disagree with him that there is -- too many negatives here, but you think that it is an evolving landscape, and therefore bare-earth is necessary in a region where there is a lot
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of tree farming and agricultural change?
A (Buscher) Yes. There is a variety of reasons to use a bare-earth analysis.

Q Okay. So, it says here "Bare-Earth Analysis of Bridgewater"?

A (Buscher) It appears to be so.
Q Can you describe the topographical features that are allowing there to be a view of the Project all the way up Bridgewater Hill?

A (Palmer) Could you point to Bridgewater Hill on that map?

Q Oh, I'm so sorry. Bridgewater Hill.
A (Palmer) Just stick your finger on it. Great. Thank you.

A (Buscher) My assumption, without being able to --
[Court reporter interruption.]

## BY THE WITNESS:

A (Buscher) My assumption or a quick evaluation looking at this, given that there is quite a bit of Project area, almost a third of the state, is that there's a heightened elevation in that area, which allows the Project to be visible from that location.
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[WITNESS PANEL: Buscher|Palmer|Owens]

BY MS. TOWNSEND:
Q And Mr. DeWan's contention was that he could not include scenic views or historic properties that were -- that he was not seeing using his 2001 coverage data, and that he should dismiss -- he needn't look into those properties. What is your view of that?

A (Buscher) If my recollection is correct, they made -- they did say that they -- that they did consider bare ground conditions, not with the GIS analysis, and it's not clear how they accommodated that. But he did note that it was inappropriate -- there was common criticisms of our use of beginning with the bare-earth analysis, and that it would result in an overwhelming amount of visibility and consequent assessment of those areas.

Q I'm sorry, could you repeat the last sentence?
A (Buscher) The consequential amount of visibility that is the resulting product when running a bare-earth visibility analysis, -Q Yes.

A (Buscher) -- that it is too broad to incorporate into the VIA.
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[WITNESS PANEL: Buscher|Palmer|Owens]

Q That's his contention?
A (Buscher) I'm paraphrasing.
Q Right. And, therefore, he ruled out scenic and historic properties if the -- instead of going from the bare-earth analysis, and then looking to see what was nearby in the viewshed, he instead went -- just left that aside in a byway, and went on to his analysis of land coverage data, and only looked to those points that he thought would have visibility based on that data. Is that fair to say?
(Buscher) I think it's fair to say that he did not continue any type of evaluation of scenic resources that were precluded from screened visibility.

Using that years old data, correct?
(Buscher) That's correct.
Okay. What route would you have taken?
Instead of going -- leaving that on the byway?
MR. NEEDLEMAN: Objection. This is
calling for a rehash of the approach they already took. CHAIRMAN HONIGBERG: Ms. Townsend. MS. TOWNSEND: I think that the
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[WITNESS PANEL: Buscher|Palmer|Owens]
information about the date of the data is new, and therefore warrants a different question, than simply how they originally -- okay. I can rephrase the question and it might help. BY MS. TOWNSEND:

Q If, while you were analyzing DeWan's approach, you were aware of exactly how old the information was that he was using to disregard historic and scenic properties, would it have influenced your analysis?

MR. NEEDLEMAN: Mr. Chair, same objection. Everyone knew, when Mr. DeWan filed his documents, what data he was using. And, in fact, these experts used the same data. CHAIRMAN HONIGBERG: Ms. Townsend. MS. TOWNSEND: I'm not certain that that was the case, because it only came up in a technical session, and then came before the Committee in questioning of Mr. DeWan. CHAIRMAN HONIGBERG: When was the technical session? It was before they filed their testimony, was it not?

MS. TOWNSEND: It was never -- the
technical sessions aren't part of the record.
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[WITNESS PANEL: Buscher|Palmer|Owens]

CHAIRMAN HONIGBERG: The question was
"when were the technical sessions?

MS. TOWNSEND: With regard to?
CHAIRMAN HONIGBERG: Where you said
this came up. It was, I believe, could be
wrong, but $I$ believe it was before the
witnesses -- these witnesses filed testimony.
MS. TOWNSEND: I'll move on.
CHAIRMAN HONIGBERG: Okay.
MS. TOWNSEND: Because I can't
guarantee.
BY MS. TOWNSEND:

Q I want to turn to the question of how
wilderness areas were rated in Mr. DeWan's
system. It came up in his testimony on Day 34
that --
MS. TOWNSEND: Can I take a
two-minute break?

CHAIRMAN HONIGBERG: Uh-huh.

MS. TOWNSEND: Okay. Thank you. (Short pause.)

MS. TOWNSEND: Okay. I'm back.
BY MS. TOWNSEND:

Q So, in his testimony on the 34 th -- on Day 34,
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Mr. Dewan acknowledged that, for a resource where there was no human development, that would receive a score of "zero" for positive human development. Were you aware of that in doing your analysis?

A (Palmer) Yes.
A (Buscher) Yes.
Q Okay. And $I$ wonder if you could -- if could you tell me that -- whether you think that a wildernessed [sic] view, a view that has no positive human development, is very unique in New Hampshire or whether that is something that you find in many places in the state?

A (Palmer) Are you using "wilderness" in its technical designated sense or are you using it just to refer to wild places? I'm sorry. I'm using it in the sense of a view from which you are not seeing human development.

A (Palmer) Then, could you repeat the question please.

So, maybe it would help if $I$ referred more specifically to the quote that Mr. DeWan gave. The question was, "So, a lack of human
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[WITNESS PANEL: Buscher|Palmer|Owens]
development is never a positive feature in any of the views or viewscapes that you have been asked to evaluate in the course of this proceeding?" And he answered "I wouldn't phrase it that way. I would say that lack of human development is reflected in other portions of this chart." "Question: Could you show me where these points could be earned by a view that literally showed no signs to the casual viewer that a human had done anything there?" DeWan responded: "Sure. It could be an example of uniqueness." "Question: Unique means the only one, does it not?" DeWan: "Or it could be scarce throughout the region." "Question: Are pristine views scarce throughout the regions you have been evaluating?" "But, if by "pristine" you mean not showing any human development, that would be quite unusual."

Was that your experience of the points of analysis that -- the views that you took into account when analyzing Mr. DeWan's analysis? MR. NEEDLEMAN: I'm going to object, Mr. Chair. It sounds like we're rehashing
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their analysis of what they did with respect to Mr. DeWan.

CHAIRMAN HONIGBERG: Ms. Townsend.
MS. TOWNSEND: I don't think that it's rehashing, because we're talking about something very specific, a certain type of view that, within his scoring system, receives zero points, when others that have human development get points. And I'm trying to understand. So, this is new information that we got during testimony about his perspective on how his sort of justification for how that -- how those views do get points. And I would like to have the opportunity, since this is my only opportunity to ask questions of this panel, to ask for their take on his justification. CHAIRMAN HONIGBERG: Mr. Needleman. MR. NEEDLEMAN: Mr. Chair, that information was in his report. They had the opportunity to ask these questions at technical sessions, and they had the opportunity to respond to it in their supplemental testimony. There is nothing new.

CHAIRMAN HONIGBERG: Yes. I'm going
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[WITNESS PANEL: Buscher|Palmer|Owens]
to sustain the objection. If you want to make an offer of proof and say what you think they would say if you had an opportunity to ask them the question, you can do that.

MS. TOWNSEND: Okay.
CHAIRMAN HONIGBERG: So, we'll
understand what it is you want -- you would have wanted us to hear.

MS. TOWNSEND: I believe that they would have said that his analysis did not sufficiently weight views that had no human development in them. And that his justification for that as being "unique" was pretty uniquely inappropriate for New Hampshire.

BY MS. TOWNSEND:
I have just one more question. And it is about a situation where there is human development. And you don't -- well, I'll start with the testimony, which is the starting point. Mr. DeWan commented that there was a bridge abutment in the view at the Pemigewasset at Sahegenet Falls in the course of testifying. I'm going to read you a little bit of it to set
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[WITNESS PANEL: Buscher|Palmer|Owens]
context.
"Did you ever discuss this location with anyone? No, we did not. If you did try to ask someone, who would you ask? Well, I think the first thing we would do is consult with the local historical society. Before that, we would probably look online to see what references there were available. Question: Did you talk to the local historical society? Answer: We did not."

This is a place that Mr. DeWan actually gave no points for human development, although he acknowledges that there is a bridge abutment there. I wonder if you could explain how you understand the proper course of, events if you -- if you are aware of a historic resource or something that might be an historic resource, what would be -- what would you expect the sequence to be of learning about that?

A (Buscher) For this Project, the first thing we would do is see if that came up on our evaluation of identifying scenic resources, if it's already within an existing database, and
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[WITNESS PANEL: Buscher|Palmer|Owens]
that would have been the first way it would have been identified to us.

Outside of that, we're probably going to be visiting this location. We're going to notice it. And we're going to then take note of it and look further into it. We might also look into local town planning documents, and we would also rely upon work being done by other consultants that we're coordinating with, such as historic consultants. We would attempt to get a nomination form if it was, in fact, on a register. Or we would assume that a historic consultant would be looking at its eligibility, as part of their assessment of the Project, and we would be using the information provided by that consultant.

Q And, if $I$ understand correctly, you also did consultations through having listening sessions with what locals consider to be historic resources?

A (Buscher) You're referring to the public workshop meetings hosted by Counsel for the Public?

Q Yes.
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[WITNESS PANEL: Buscher|Palmer|Owens]

A (Buscher) Yes. That's correct.
Q Okay. So, from your perspective, a proper aesthetic analysis would include a conversation with locals, where there was a question of what an object was or whether it was an historic resource?

A (Buscher) Working with the local communities is always a good way to approach a project.

Would you make yourself aware of towns that had historic societies?

A (Buscher) Yes.
Would you approach those historical societies? (Buscher) Depending. We might also work with our -- because we wouldn't want to duplicate effort. So, if a historic consultant is also on the project, which would be the case for a project like this, we'd probably work in unison with that consultant.

Q In the situation where, which actually has happened, where resources were identified in -through town documents, but never were sought as to their location, would you expect to, where you don't know where that resource is, to ask somebody where that resource is? Where
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[WITNESS PANEL: Buscher|Palmer|Owens]
it's actually in town planning documents, but maybe it hasn't appeared in a state listing, would you actually try to seek the location of those named historic resources by talking to somebody?

A (Buscher) Yes.
Q Thank you. Just one more question about the railroad. I was really pleased to hear you mention your take on its value as a resource, a scenic resource, given that there's snowmobile trails and that there's a foliage tour. Does it make any difference to your analysis to know that the railroad is also state-owned?

A (Buscher) As far as the strict definition of "scenic resources" there is a component that talks about being funded by public money.

MS. TOWNSEND: All right. Thanks very much.

CHAIRMAN HONIGBERG: So, is there any other intervenor group that has questions that we haven't gotten to yet, other than Ms. Percy? Is she here yet?

MR. CUNNINGHAM: No.
CHAIRMAN HONIGBERG: Off the record.
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[WITNESS PANEL: Buscher|Palmer|Owens]

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[Brief off-the-record discussion ensued.]

CHAIRMAN HONIGBERG: We're going to break for lunch. Give Ms. Percy a chance to get here. We'll resume before one o'clock, and we're going to shoot for ten minutes to one.

MR. CUNNINGHAM: Thank you, Mr.
Chairman. Getting worried about her.

CHAIRMAN HONIGBERG: Off the record. (Lunch recess taken at 11:46 a.m. and concludes Day 46

Morning Session. The hearing continues under separate cover in the transcript noted as Day 46 Afternoon Session ONLY.)
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## C E R T I FICATE

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

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

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