1	STATE OF NEW HAMPSHIRE
2	SITE EVALUATION COMMITTEE
3	October 12, 2017 - 9:00 a.m. DAY 46
4	49 Donovan Street Morning Session ONLY Concord, New Hampshire
5	concord, new namponite
6	{Electronically filed with SEC on 10-27-17}
7	IN RE: SEC DOCKET NO. 2015-06
8	Joint Application of Northern Pass Transmission, LLC, and
9	Public Service Company of New Hampshire d/b/a Eversource
0	Energy for a Certificate of Site and Facility.
1	(Hearing on the merits)
2	PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:
3	Chrmn. Martin P. Honigberg Public Utilities Comm. (Presiding as Presiding Officer)
4 5	Dir. Craig Wright, Designee Dept. of Environ. Serv. Christopher Way, Designee Dept. of Business & Economic Affairs
6	William Oldenburg, Designee Dept. of Transportation Patricia Weathersby Public Member
7	raditora meadhersby rabite member
8	
9	ALSO PRESENT FOR THE SEC:
0	Michael J. Iacopino, Esq., Counsel for SEC (Brennan, Caron, Lenehan & Iacopino)
2	Pamela G. Monroe, SEC Administrator
3	(No Appearances Taken)
4	COURT REPORTER: Steven E. Patnaude, LCR No. 052

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19		
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23		
24		

1	PROCEEDING
2	CHAIRMAN HONIGBERG: Good morning,
3	everyone. It's Day 46. A new day, a new panel
4	of witnesses.
5	Is there anything we needed to do
6	before we swear that panel in?
7	[No verbal response.]
8	CHAIRMAN HONIGBERG: All right. Mr.
9	Patnaude, would you please do the honors.
10	(Whereupon <b>Michael Buscher</b> ,
11	James Palmer, and Jeremy Owens
12	were duly sworn by the Court
13	Reporter.)
14	CHAIRMAN HONIGBERG: Ms. Connor, you
15	may proceed.
16	MS. CONNOR: Thank you.
17	MICHAEL BUSCHER, SWORN
18	JAMES PALMER, SWORN
19	JEREMY OWENS, SWORN
20	DIRECT EXAMINATION
21	BY MS. CONNOR:
22	Q Gentlemen, would you please introduce yourself
23	to the Committee.
24	A (Buscher) Good morning. My name is Michael

```
1
         Buscher. I am the Owner and Principal
 2
         Landscape [sic] with T.J. Boyle Associates?
 3
    Α
         (Palmer) Dr. James Palmer. I'm the Senior
 4
         Landscape Architect with T.J. Boyle Associates.
 5
         (Owens) Jeremy Owens, also a Landscape
 6
         Architect at T.J. Boyle Associates.
 7
         Thank you. Gentlemen, am I correct that you
    0
 8
         filed prefiled testimony in this matter dated
         December 30th, 2016, which we've marked as
9
10
         "Counsel for the Public Exhibit 138"?
11
         (Buscher) Yes. That's correct.
    Α
12
         And do you have that prefiled testimony in
13
         front of you?
14
         (Buscher) Yes, we do.
15
         All right. Also, you, in conjunction with your
    Q
16
         prefiled testimony, submitted your report dated
17
         December 29th, 2016. And that has been marked
18
         "Counsel for the Public Exhibit 4", including
         Appendixes A through E. Do you have that in
19
20
         front of you?
21
         (Buscher) Yes, we do.
22
         All right. And, then, in January of
23
         2018 [2017?], you filed Appendix F, Scenic
24
         Resource Description Evaluation, with
```

```
1
         corrections to your visual impact review,
 2
         Appendixes H and G. Do you have those in front
 3
         of you?
 4
    Α
         (Buscher) Yes.
 5
         Mr. Buscher, Dr. Palmer, and Mr. Owens, do you
 6
         swear by, adopt and affirm that your prefiled
 7
         testimony, your VIA review, your supplemental
         prefiled testimony, and your VIA review
 8
         corrections are true and accurate?
9
10
         (Buscher) Yes, we do.
    Α
11
         All right. In your preparations for today, are
12
         there any further corrections that you would
13
         like to make to any of your prefiled testimony
14
         or your reports?
15
    Α
         (Buscher) Yes, we do. I believe Mr. Palmer can
16
         expand upon it.
17
         (Palmer) In our report, we made a statement
18
         about the reliability of the visual effect
19
         ratings that were done by the three landscape
20
         architects with DeWan & Associates. And, at
         the time that that analysis was conducted, we
21
22
         did not realize that there were instances where
23
         a zero was entered as a value, but a rating had
24
         not been conducted. And, so, those -- that's
```

1 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).
- Q Okay. Am I correct that -- well, let me ask it a different way. Does this correction to your

1 report in any way change your final conclusions or opinions? 2 3 Α (Palmer) No. (Buscher) No, it does not. 4 Α 5 (Palmer) No. Okay. Since the time that you have filed your 6 Q 7 prefiled testimony and your reports, the 8 Applicants have produced supplemental testimony, and they have also presented experts 9 10 on the stand. Have you had an opportunity to review Mr. DeWan's supplemental testimony and 11 12 reports? 13 MR. NEEDLEMAN: Mr. Chair? 14 CHAIRMAN HONIGBERG: Mr. Needleman. 15 MR. NEEDLEMAN: At this point, I'd 16 like to object to this line of questioning, 17 regarding soliciting what sounds like 18 surrebuttal testimony. And, if I may have a 19 minute, I'll explain why. 20 CHAIRMAN HONIGBERG: Okay. 21 MR. NEEDLEMAN: The procedural order 22 in this case doesn't provide for surrebuttal 23 testimony. It called for simultaneous filing 24 of supplemental testimony by all parties.

Mr. DeWan and Ms. Kimball filed their testimony on April 17th, 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

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

1 know which of the two types of questions she 2 was going to ask. If it's pure surrebuttal, 3 we'll hear your objection, and they'll get a chance to respond. If it's identified as 4 5 something that's been new, and I suspect 6 Ms. Connor is going to be able to say "well, 7 you're aware that they said X, Y, or Z, do you have a response to that?" And we'll take it up 8 9 then as the questions come up. 10 Ms. Connor, you may proceed. BY THE WITNESS: 11 12 (Buscher) So, we have had the opportunity to 13 review the supplemental testimony and report. 14 BY MS. CONNOR: 15 Have you also had an opportunity to review the 16 supplemental testimony of Mr. Bowes? 17 Α (Buscher) Yes. 18 Q Okay. And are you prepared to address the new 19 information in that supplemental testimony? 20 (Buscher) Yes. Okay. In Mr. DeWan's April 17th, 2017 21 22 supplemental testimony, he states that his new 23 testimony is directed at addressing

{SEC 2015-06} [Day 46/Morning Session ONLY] {10-12-17}

inaccuracies in the visual impact assessment

```
WITNESS PANEL: Buscher | Palmer | Owens ]
 1
         prepared by your office. Did you prepare a
 2
         VIA?
 3
    Α
         (Buscher) We did not.
         What did you prepare?
 4
    Q
 5
         (Buscher) We were retained by the Counsel for
 6
         the Public to do a review of the VIA that was
 7
         supplied by the Applicant within the Petition
 8
         to the State of New Hampshire.
         How is a review different from a VIA?
 9
10
         (Buscher) A VIA has a very clear set of
11
         requirements that are laid out in the SEC
12
                 And we were looking at whether the
         rules.
13
         information provided by the Applicant met those
14
         requirements. So, we weren't specifically held
15
         by those rules. We were trying to see if the
16
         materials given to the SEC were adequate and
17
         appropriate for the SEC to make a judgment
18
         regarding unreasonable impacts to aesthetics
19
         and scenic resources.
20
         I'd like to pull up Table 1, which is at
21
         APP53801.
                    In Mr. DeWan's supplemental
22
         testimony, he references new work he undertook
23
         with respect to the 171 sites he discarded from
```

his VIA, because he assigned the resources a

```
[WITNESS PANEL: Buscher|Palmer|Owens]
 1
         low cultural value. Am I correct that that's
         what this table is?
 2
 3
         (Buscher) Yes. I believe that's correct.
    Α
         Mr. DeWan's new review follows what
 4
    Q
 5
         methodology?
 6
         (Buscher) It's actually unclear what
 7
         methodology has been followed in this
         assessment. In fact, there actually seems to
 8
9
         be very little assessment, other than the very
10
         last column on the right, which is called
11
         "Additional Analysis", which is limited to a
12
         one or two sentence of descriptive assessment.
13
         And there's actually no ratings given to these,
14
         to the impact of the scenic resources, which is
15
         required under the SEC rules, as to whether
16
         impacts would be low, medium, or high.
17
                   MS. CONNOR: Okay. Can we blow up
18
         some of the additional analysis, so that it's
19
         actually legible?
20
    BY MS. CONNOR:
21
         In terms of any of the statewide snowmobile
22
         trails, what analysis was provided in terms of
23
         their review in this new table?
```

MR. NEEDLEMAN:

Objection.

Based on

```
1
         everything I said previously.
 2
                   CHAIRMAN HONIGBERG: All right
 3
         Ms. Connor.
                   MS. CONNOR: This is, as I understand
 4
 5
         it, from the transcript of October 16th, 2017.
 6
         If a witness wants to respond to something that
 7
         was in the Applicants' rebuttal testimony or
         something that happened on the stand, Counsel
 8
         for the Public is to do it during direct
9
10
         examination, because friendly cross has been
         restricted. So, it was my understanding that
11
         this was the time to address those issues.
12
13
                   CHAIRMAN HONIGBERG: It is the time
14
         to address those issues. Mr. Needleman has
15
         made what I would interpret as a new objection
16
         or a renewed objection -- no, let me put it a
17
         different way. He has objected based on the
18
         position he articulated and did not stand down
19
         from during the discussion the other day. I
20
         know what my opinion was the other day, and
21
         that's -- you've just essentially quoted from
22
         it.
23
                    I want to take it up. I want to have
```

an argument right now about it. I want to hear

1 from you as to why he's wrong in what he just 2 said about responding to new information in 3 supplemental testimony that was filed in accordance with the deadlines. 4 5 Mr. Pappas, it looked like you wanted 6 to address this. 7 MR. PAPPAS: I will start. Thank 8 you. 9 First, I may start by saying, as 10 Presiding Officer, you have the authority to decide how these proceedings and introducing 11 12 evidence. Since I don't think the procedural 13 order controls, I think you, as Presiding 14 Officer, get to make that decision. 15 The only opportunity, given 16 simultaneous filing, to address new analysis or 17 new information in supplemental testimony is 18 now during direct. There is no other 19 opportunity to do so. So, now it seems to me, 20 as you said before, is the appropriate time. 21 The same holds true for new things

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.

22

23

24

1	CHAIRMAN HONIGBERG: I think,
2	Mr. Needleman, that the second category, you
3	agree, correct, that if it was if something
4	new came up on the stand when your witnesses
5	were testifying, there is an opportunity for
6	Counsel for the Public and other witnesses to
7	respond to that? Do you agree with that?
8	MR. NEEDLEMAN: I agree I agree
9	with that, Mr. Chair. But it seems like we
10	have a significant difference of opinion about
11	what "new" means.
12	CHAIRMAN HONIGBERG: That may be true
13	as well. But, in terms of, if we all agreed it
14	was new, now is the time to do it, and they
15	would have a right to do it.
16	MR. NEEDLEMAN: And if I may?
17	CHAIRMAN HONIGBERG: Maybe.
18	MR. NEEDLEMAN: Okay.
19	CHAIRMAN HONIGBERG: It may make
20	sense to wait.
21	MR. NEEDLEMAN: Okay.
22	CHAIRMAN HONIGBERG: So, I'd rather
23	not talk about that element of it, Mr. Pappas.
24	I think we're talking about the supplemental,

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

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.

1 CHAIRMAN HONIGBERG: Mr. Needleman. 2 MR. NEEDLEMAN: Mr. Chair, when Mr. 3 Pappas says "this is the only opportunity to do 4 this on direct", that's wrong. That's the same 5 argument that Ms. Maloney made in Antrim. And 6 the answer there was the same answer here. 7 Which is, number one, you have an opportunity to address it if you want, at the discretion of 8 the Chair, through an offer of proof, which is 9 10 what she did there. 11 Number two, you can certainly address 12 it in the context of the brief, which is really 13 the appropriate point, because there has got to 14 be an endpoint to the endless circle of 15 back-and-forth. 16 And, number three, if they really 17 felt compelled to address it at this point, 18 they could have filed a motion sometime in the 19 last six months. And we could have worked this 20 out. And, at a bare minimum, if you were going 21 to permit them to go forward, we would have 22 asked that they do it through prefiled 23 testimony, just like everyone else, so we could

24

see it.

```
1
                   MR. PAPPAS: One quick point.
 2
                   CHAIRMAN HONIGBERG: Yes.
 3
                   MR. PAPPAS: My reading of Antrim is
         it was not during Counsel for the Public's
 4
 5
         direct, it was through -- during Counsel for
 6
         the Public's redirect when this came up. And,
 7
         at redirect, the Chair said it was too late; if
         you wanted to do it, do it during direct.
 8
9
                   CHAIRMAN HONIGBERG: Does anyone else
10
         want to have a go at this briefly?
11
                         [No verbal response.]
12
                   CHAIRMAN HONIGBERG: All right.
                                                     Hang
13
         on one second.
14
                         (Chairman Honigberg conferring
15
                        with Atty. Iacopino.)
16
                   CHAIRMAN HONIGBERG: All right.
                                                     The
17
         objection is overruled. You can proceed.
                                                     But
18
         I think, for each question, each area of
19
         questioning, you're going to want to identify
20
         what it is you're asking to respond to, as you
21
         did here. So, I'm not saying you didn't here.
22
         But, in the other areas as well, you're going
23
         to want to do that, because I think
24
         Mr. Needleman is going to want to and should
```

```
1
         renew his objections to each line as to -- and
 2
         the grounds he's articulating.
 3
                   Okay.
 4
                   MS. CONNOR: Understood. Thank you.
 5
         I don't recall if there was a question still
 6
         pending when we started.
 7
                   WITNESS BUSCHER: You began, and I
         can't remember if you finished the question.
 8
 9
                   MS. CONNOR: All right.
10
                   WITNESS BUSCHER: You talked about --
11
                   MS. CONNOR: I will try to phrase
12
         another question here.
13
    BY MS. CONNOR:
14
         We are looking at Table 1, which is from
15
         Mr. DeWan's Supplemental Report and testimony,
16
         where he took another look at the resources
17
         that had been discarded for local cultural
18
         value. And the "Additional Analysis" that we
19
         have blown up, does it go beyond -- does it in
20
         any way differ from his initial testimony where
21
         these resources were discarded because they
22
         weren't designated resources?
23
         (Buscher) To be honest, I can't remember the
    Α
24
         exact phrasing he used in his initial analysis.
```

```
But I'll say it, like for -- I think I see five
 1
         instances for five different resources, the
 2
 3
         analysis constitutes a single statement that
         says "Motorized trail. Snowmobile trails are
 4
 5
         frequently located within transmission
         corridors." And that's the extent of the
 6
 7
         analysis.
         Does this review of these 171 scenic resources
 8
9
         with low cultural value comply with the VIA
10
         requirements?
         (Buscher) The basic function of the VIA
11
    Α
12
         requirements is to provide a rating of low,
13
         medium, or high, as far as the scenic impact on
14
         each resource, and this does not do that.
15
         During Mr. DeWan's testimony on Day 31, Page 38
    Q
16
         of the transcript, he admitted that the SEC
17
         rules do not contain a cultural value filter,
18
         but his "approach was to look, shall we say, to
19
         the endgame, and try to identify those places
20
         that had high significance".
21
              Is that appropriate or inappropriate?
22
                   MR. NEEDLEMAN: Objection. The fact
23
         that he said it during testimony doesn't make
24
                  That was contained in his VIA, and
         it new.
```

[WITNESS PANEL: Buscher|Palmer|Owens] 1 that information was available to them a long 2 time ago. 3 CHAIRMAN HONIGBERG: Ms. Connor. MS. CONNOR: I disagree. He never 4 5 indicated in his Report that he was going to not follow the SEC rules to get to the endgame. 6 7 CHAIRMAN HONIGBERG: I think your question was "was that appropriate?" So, it 8 9 seems the question may have a different 10 problem. 11 MS. CONNOR: All right. I can 12 certainly rephrase the end of the question. 13 What I'm trying to have the panel address is 14 his testimony on the stand. 15 CHAIRMAN HONIGBERG: That's what I 16 understood you wanted to address. And "is it 17 appropriate?" or "was it appropriate?" may not 18 actually get you there. 19 BY MS. CONNOR: 20 Bearing in mind the quote that I just read from 21 Mr. DeWan from Day 31, when he was on the 22 stand, can you respond to that testimony? 23 MR. NEEDLEMAN: Same objection.

CHAIRMAN HONIGBERG: Overruled.

You

[WITNESS PANEL: Buscher|Palmer|Owens]

1 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:

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

```
[WITNESS PANEL: Buscher|Palmer|Owens]
 1
         offer another objection? Well, with that
 2
         objection, it would be sustained. It's
 3
         sustained.
                   MR. NEEDLEMAN: I'll leave it there.
 4
 5
                   MS. CONNOR: Okay.
    BY MS. CONNOR:
 6
 7
         Let's focus in on "New Hampshire Department of
         Transportation Bridge", which is the second
 8
9
         one. Mr. DeWan, in his Supplemental Report,
10
         stated that this resource was not subject to
11
         further analysis because "Drivers pass over the
         bridge at a speed of 40 miles per hour for a
12
         total of 4 to 5 seconds" --
13
14
                   CHAIRMAN HONIGBERG: Slow down.
15
                   MS. CONNOR: Sorry.
16
    BY MS. CONNOR:
17
         "Drivers pass over the bridge at a speed of 40
18
         miles per hour for a total of 4 to five
19
         seconds...Based on the speed of the traveling
20
         motorist, the railroad bridge [is] in the
21
         foreground of the view, [and] the project will
22
         not have an adverse impact on the bridge."
23
         am reading from Page 14 of Mr. DeWan's
```

supplemental addendum to his report.

```
1
              Are you familiar with this location?
 2
    Α
         (Buscher) Yes.
 3
         Can we actually pull up the picture of the
    Q
         bridge, which I believe is Exhibit --
 4
 5
                   MS. CONNOR: You have the exhibit
 6
         number? Want to go with the ELMO? It is
 7
         "Counsel for the Exhibit" -- "Counsel for the
         Public Exhibit 470". There we go.
 8
    BY MS. CONNOR:
9
10
         You familiar with this location?
11
         (Buscher) Yes.
12
         Am I correct that the bridge is accessible to
13
         the public by rail and by snowmobile access?
14
                   MR. NEEDLEMAN: Mr. Chair, I'm not
15
         going to keep doing this. Same objection.
16
         First of all, it relates to the supplemental
17
         testimony, and they could have given notice.
18
         But, now, we're not even talking about exhibits
19
         that were introduced by Mr. DeWan. We're now
20
         going back to Counsel for the Public exhibits.
21
                   CHAIRMAN HONIGBERG: Ms. Connor.
22
                   MS. CONNOR: I simply put up the
23
         bridge for illustration. I am addressing
24
         Exhibit -- Table 2, Mr. DeWan's new analysis of
```

```
1
         historic scenic resources not addressed in his
 2
         original Report.
 3
                   CHAIRMAN HONIGBERG: I understand
         that's what you were doing. But you put the
 4
         picture up and said "Are you familiar with
 5
 6
         this?" And it sounded like you were about to
 7
         launch into a discussion of it.
                   Why don't we focus on the analysis in
 8
9
         the Supplemental Report, and overrule the
10
         objection to that extent.
11
                   MS. CONNOR: Very well.
12
    BY MS. CONNOR:
13
         Does Mr. DeWan's supplemental reporting on the
14
         impact this project -- of this project may have
15
         on this bridge address the aesthetics?
16
    Α
         (Buscher) No. I do not believe it does.
17
         Why not?
    Q
18
         (Buscher) Well, if I recall correctly from the
19
         cross-examination of Mr. DeWan, he first noted
20
         that this isn't a scenic resource, because it
21
         doesn't have public access to it. It's my
22
         understanding that there is a tourism train
23
         that runs in the fall over this bridge. That
24
         would be considered a scenic resource.
```

```
1
         well, this bridge is incorporated into a
         snowmobile trail during the winter months.
 2
                                                       So,
         there's two different elements in which the
 3
         public does have access to this scenic
 4
 5
         resource. In addition, the public has visual
 6
         access to this scenic resource from the
 7
         adjacent roadway.
 8
              As far as a tourism attraction, this is
         going to be one of what we would consider a
 9
10
         node in that tourism ride, that train ride,
11
         because it creates a unique situation where
12
         you're crossing over the river itself.
13
              Does that answer your question?
14
         It does. Thank you. Mr. DeWan's supplemental
15
         testimony, at Page 7, represents that the
16
         absence of any bare-earth analysis is
17
         "consistent with visibility analysis everywhere
         we have worked".
18
19
              Is that consistent with your work
20
         experience?
21
         (Buscher) That is not consistent with our work
22
         experience.
23
         Can you explain?
24
          (Buscher) Well, to begin with, it's my
```

```
1
         understanding that Mr. DeWan provides
 2
         bare-earth analysis, VIA -- or, GIS analysis
 3
         for the wind projects he's worked on in the
         State of Maine. We've worked on well over 100
 4
 5
         projects in which we provide GIS analyses for.
 6
         And, without exception, we provide a bare-earth
 7
         analysis, as well as a screen analysis, for
         each and every one of those projects.
 8
         Mr. DeWan's April 2017 supplemental testimony
9
    Q
10
         purports to contain a bare-earth visibility
11
         analysis. Does this analysis fulfill the VIA
12
         requirements?
13
                   MR. NEEDLEMAN: Objection.
14
                    CHAIRMAN HONIGBERG: Sustained.
15
         Calls for a legal conclusion.
16
                   MS. CONNOR: All right. Can we pull
17
         up the April 2017 supplemental table at
18
         APP53885?
19
    BY MS. CONNOR:
20
         Do you recognize this as Mr. DeWan's
         supplemental bare-earth analysis, with respect
21
22
         to a portion of the Project?
23
         (Buscher) Yes.
    Α
24
         Does Mr. DeWan's supplemental testimony contain
```

```
1
         any analysis explaining this chart?
         (Buscher) Not that I am aware of.
 2
    Α
 3
         From this chart, is there any way to determine
    Q
 4
         what bare-earth analysis he intended to
 5
         present?
 6
         (Buscher) My review of this is he's responding
 7
         specifically to criticism that that was -- that
         a bare-earth analysis was not provided at the
 8
         time of the filing. I could go on to talk
 9
10
         about the ineffectiveness of providing this
11
         analysis during supplemental testimony.
12
         So, in his supplemental testimony, he's
    Q
13
         provided the maps, but no analysis?
14
         (Buscher) That's correct.
15
         Can you interpret what the purple is on any of
    Q
16
         these maps?
17
         (Buscher) That's the area where they indicate
18
         would have visibility based on topographic
19
         screening or landform screening only.
20
         Moving on, in his April 2017 supplemental
21
         testimony, at Page 29, Mr. DeWan represents
22
         that your office erred when it concluded public
23
         roadways could be a scenic resource. Can you
24
         explain why you included those roads?
```

```
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

1 supplemental testimony, that in his 2 "professional opinion, the common practice, 3 e.g., in Maine, Vermont, and New York, requires the identification and evaluation of roads that 4 5 have been officially designated", but not 6 non-designated. 7 Is that consistent with your common experience in these states? 8 9 (Buscher) Entirely not consistent with our Α 10 experience. 11 Can you explain that? 12 (Buscher) Well, I'll first talk about Vermont. 13 Roads are probably the most essential component 14 of conducting a VIA. We look at every, and are 15 required, to look at every single road, 16 specifically, roads that a corridor is going to 17 cross. We have similar experience in doing VIAs in New York. And I would contest the same 18 19 thing is clear in the State of Maine, under 20 Rule 315. It does not designate that only 21 scenic byways should be reviewed. 22 At Page 30 of his supplemental testimony, 23 Mr. DeWan contends that your office erred when 24 it concluded that private properties could

```
1
         qualify as a scenic resource. Can you explain
         why you included those?
 2
 3
    Α
         (Buscher) As Mr. DeWan testified on I believe
 4
         it was the first day of his cross-examination,
 5
         that there's a component of visual access
 6
         that's important. Private properties, such as
 7
         historic resources, one of the reasons why
         they're given that classification is because of
 8
9
         the character created by those resources to the
10
         adjacent roadways. So, the visual access is an
11
         important thing. Not to include them strictly
12
         because of limitation of physical access, I
13
         think is completely inappropriate.
14
         At Page 31 of Mr. DeWan's supplemental
15
         testimony, he states that T.J. Boyle's final
16
         conclusions are based "on an unsound
17
         methodology". Can you address his criticism?
18
    Α
         (Buscher) Well, I can't stress this enough. We
19
         did not perform a visual impact analysis for
20
         this Project. We were here to provide a review
21
         function to try to indicate whether or not the
22
         materials supplied by the Applicant fulfilled
23
         the SEC rules and the requirements.
24
              The methodology that we employed I feel is
```

```
1
         completely appropriate. We did some example
         checking, such as our review of the scenic
 2
 3
         resources. There was no -- we don't contest
 4
         that that was any means of a cohesive
 5
         representation of all scenic resources or the
 6
         scenic resources with the high impacts, the
 7
         highest impacts. That was simply a sampling of
 8
         scenic resources that we felt we had enough
         information that we could do an evaluation
 9
10
         from. So, I just disagree with Mr. DeWan's
11
         statement.
12
              I don't know if there's anything, Jim or
13
         Jeremy, --
14
         (Owens) You said "cohesive". I think you might
15
         have meant "comprehensive".
16
    Α
         (Buscher) Comprehensive.
17
         Moving on to public perception and reaction to
    Q
18
         transmission projects, Mr. DeWan, when he was
19
         testifying, repeatedly referenced a study in
         Maine, the "Baskahegan Lake Study"?
20
21
         (Palmer) "Baskahegan".
22
         Thank you very much. Are you familiar with
23
         that study?
24
         (Palmer) Yes.
    Α
```

```
1
    Q
         Did the results of that study support
 2
         Mr. DeWan's conclusion that this Project will
 3
         have no unreasonable adverse impact on the
 4
         public's future use and enjoyment of New
 5
         Hampshire's scenic resources?
 6
         (Palmer) No, for several reasons. There's
    Α
 7
         actually two Baskahegan studies. As part of
         permitting a project, developers set up a fund
 8
         to do recreation research and monitoring, which
9
10
         I think is a great thing to be done. I would
11
         encourage the SEC to do that. And the first
12
         study was just interviewing people on
13
         Baskahegan Lake to find out why they were
14
         there, what they were doing.
15
              And the finding, in relation to wind
16
         turbines, was that wind turbines were not
17
         mentioned at all. Which is perhaps surprising,
18
         since about nine miles away, on the horizon,
19
         there's a whole bunch of wind turbines that are
20
         very, very visible. People complained about
21
         things like litter and houses on the shoreline,
22
         more immediate things.
23
              There was a follow-up study that did ask
24
         questions, specifically about continued use and
```

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

to place. So, Baskahegan Lake is not a scenic

```
2
         resource by the Maine Wind Energy Act. So,
 3
         it's sort of a strange place to have done this
         study in the first place there. It's not a
 4
 5
         place that could be impacted under the Maine
 6
         law.
 7
         Are there other studies that are more useful
 8
         and more relevant with regard to Mr. DeWan's
9
         conclusion as to whether this Project will have
10
         an unreasonable adverse impact on the public's
11
         future use and enjoyment of scenic resources?
12
         (Palmer) Well, if you're talking about lakes,
    Α
13
         there is an independent study that was done for
14
         the State of New Hampshire to evaluate the
15
         scenic contribution -- or, the Contribution to
16
         the Economy in NH and Scenic Quality, so the
17
         so-called "New Hampshire Lake Study". And that
18
         study happened to ask three or four questions
19
         about scenic quality, and, if there was a big
20
         change, how would that affect your continued
21
         use of the lake that the interview was
22
         conducted on. So, all of these interviews were
23
         conducted at lakes. They're not a random
24
         sample of people that you're talking to on the
```

```
1
         telephone. These are all people in the process
 2
         of using the lake. And there was an indication
 3
         that it would have a pretty significant effect.
              The weakness of the study is that it's not
 4
 5
         related to a specific impact. There's not
         simulations of what that impact would be. It's
 6
 7
         a general statement. But it's pretty clear
         that people, through all the activities that
 8
         were being surveyed, fishing, swimming,
 9
10
         boating, --
11
                   MR. NEEDLEMAN: Mr. Chair?
12
    CONTINUED BY THE WITNESS:
         (Palmer) -- were all impacted --
13
14
                   CHAIRMAN HONIGBERG: Hang on.
15
         Mr. Needleman.
                   MR. NEEDLEMAN: I've been reminded
16
17
         that the New Hampshire Lake Study I believe was
18
         in the T.J. Boyle Initial Report. So, now
19
         we're just hearing a reiteration of material
20
         that was already presented by them.
21
                   CHAIRMAN HONIGBERG: I think the
22
         answer had gone on probably beyond the scope of
23
         the question, too. Why don't we refocus the
24
         questions and answers, Ms. Connor.
```

1 MS. CONNOR: I will. BY MS. CONNOR: 2 3 Dr. Palmer, when you were addressing Mr. DeWan's use of the Baskahegan Lake study, 4 5 you indicated that it was, in your opinion, not 6 appropriate based upon a "transportation 7 application". Did you mean "transmission 8 application"? That's correct. 9 (Palmer) Yes. 10 Thank you. In Mr. DeWan's April 2017 11 supplemental testimony, he criticized Dr. 12 Palmer's work based upon a Transportation 13 Research Board project in 2013. He 14 indicated that -- actually, he didn't 15 criticize, he cited it as support for his 16 decision to complete a VIA without directly 17 involving actual user groups. 18 Dr. Palmer, is that an accurate use of the 19 work that you did in that text? 20 (Palmer) No. It's not at all. The finding of 21 the study was quite the reverse. That, 22 overall, professional judgment reliability was 23 low, particularly since it's normal that there 24 would only be one professional making the

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?
- 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

```
1
         role scenery played in that activity.
              And I don't know where he believes that
 2
 3
         there's any bias in any of those questions.
         So, I'm baffled by that assertion. We weren't
 4
 5
         judging impact, in other words.
         During the examination of Mr. DeWan, on Page --
 6
    Q
 7
         on Day 35, Page 44 to 45, he was asked why he
 8
         didn't conduct an intercept study. And, in
9
         response, he testified "when we've done these
10
         in Maine, in most instances, we've had the
11
         advantage of being able to talk with the peer
12
         reviewer. And, in many cases, that was
13
         Mr. Palmer." Is that correct?
14
         (Palmer) Yes. That's correct.
15
         So, as I understand it, one of -- Mr. DeWan has
    Q
16
         told this panel that one of the reasons he
17
         didn't do an intercept study is because you
18
         weren't available to assist in making sure the
19
         study was objective?
20
                   MR. NEEDLEMAN: Objection.
                                                That was
21
         not what it meant.
22
                   CHAIRMAN HONIGBERG: I think we're
23
         speculating about what he meant. And I'm not
24
         sure he's competent to answer that question.
```

```
1
                   MS. CONNOR: All right. I will
 2
         rephrase it.
    BY MS. CONNOR:
 3
         Are there other individuals, besides yourself,
 4
    Q
 5
         Dr. Palmer, who are qualified to act as a peer
 6
         reviewer for intercept studies?
 7
         (Palmer) So, we've done, I don't know, maybe 15
    Α
 8
         intercept studies --
9
                    CHAIRMAN HONIGBERG: Hang on, Dr.
10
         Palmer. That's a yes or no question.
    BY THE WITNESS:
11
12
         (Palmer) Yes.
    BY MS. CONNOR:
13
14
         So, that was not a limitation on doing an
15
         intercept study?
16
    Α
         (Palmer) I don't think so.
17
         Dr. Palmer, did you have any input in the
    Q
18
         community workshop questionnaires, which were
19
         done by your office in this case, to ensure
20
         that they were objective?
21
         (Palmer) Yes.
22
                    MR. NEEDLEMAN: Objection.
23
                    CHAIRMAN HONIGBERG: Sustained.
24
    BY MS. CONNOR:
```

42

1 Q In his Supplemental Report, Mr. DeWan explains 2 or he testifies that he disagrees with the 29 3 adverse impacts you describe in Appendix F of your Report. I want to review just four of the 4 5 29 that he specifically addressed in his 6 rebuttal. I want to start with Big Dummer 7 Pond. And I'd like to pull up the photosimulation of that to address his 8 9 criticism in his Supplemental Report. That 10 would be APP28342. Has that picture appeared 11 on your screen? 12 (Buscher) Yes, it has. Α 13 Mr. DeWan's supplemental testimony, at Page 38, 14 represents that your conclusion that the 15 Project "would have a negative impact on the 16 future use and enjoyment of this pond is 17 unfounded", because of the road/pond's seasonal 18 use, the existence of a generator lead line, 19 wind turbines, and forestry. Can you address 20 that criticism? 21 MR. NEEDLEMAN: Objection. 22 Mr. Chair, this relates directly to the 23 detailed analysis that these people already 24 did. And, so, now they're being asked to just

```
1
         amplify on their existing analysis.
                   CHAIRMAN HONIGBERG: It does sound
 2
 3
         like we're going in that direction. This is
         one they have already analyzed, right?
 4
 5
                   MS. CONNOR: It is, Your Honor,
 6
         but -- Chair --
 7
                   CHAIRMAN HONIGBERG: Again, I'll take
         the promotion.
 8
9
                         [Laughter.]
10
                   MS. CONNOR: Quite the habit here.
11
         am specifically lifting a quote directly out of
         Mr. DeWan's supplemental testimony, where he
12
13
         said that this panel's work, with regard to
         this particular project, was erroneous. And I
14
15
         want the panel to have an opportunity to
16
         address those criticisms.
17
                   CHAIRMAN HONIGBERG: It seems like
18
         what they're going to do is repeat or amplify
19
         what's in their original testimony. I don't
20
         think that the -- I don't see them doing
         anything else with this answer. I'm going to
21
         sustain the objection.
22
23
                   But, if you want to make an offer of
24
         proof as to what they would be allowed to
```

```
1
         say -- what they would say if they were allowed
 2
         to answer the question, we'll get it on the
 3
         record so you've made your record.
                   MR. NEEDLEMAN: Mr. Chair?
 4
 5
                   CHAIRMAN HONIGBERG: Yes,
 6
         Mr. Needleman.
 7
                   MR. NEEDLEMAN: Could Mr. Pappas and
         I approach for a moment?
 8
                   CHAIRMAN HONIGBERG: You may.
 9
10
                         [Bench conference.]
11
                    CHAIRMAN HONIGBERG: I need to put
         something on the record, because of the --
12
13
         there's only five members of the Subcommittee
14
         here today.
15
                   For people who don't know, the room
16
         that's off to the Committee's right, that is
17
         our staging area, has both speakers and the
18
         video screens that all of us can see, the ones
19
         above your head and the ones that we have up
20
         here. So, members of the Subcommittee, who
21
         have to step away for a few minutes, can go in
22
         there to do whatever they may need to do, while
23
         also listening and being able to see what's on
24
         the screens.
```

1 Just going to get -- because I've 2 been asked to do that, put that on the record. 3 Where were we? Oh, I invited you to 4 make an offer of proof, because I've sustained 5 the objection. 6 MS. CONNOR: All right. On Page 37 7 of Mr. DeWan's supplemental testimony, when he leads into this area, he's talking about the 8 9 fact that he has reanalyzed these locations 10 that I wish to address. In terms of an offer 11 of proof, if the panel was given an 12 opportunity, they would specifically address 13 that, not their prior testimony, but a response 14 to Mr. DeWan's specific issues with regard to 15 why this would not have an adverse impact. 16 On Page 38, Mr. DeWan talks about the 17 "negative effect on the future use and 18 enjoyment of this pond is unfounded". He 19 specifically cites a study that Dr. Palmer was 20 involved in as support for that. Dr. Palmer has not had an opportunity to address how that 21 22 study is being misquoted with respect to 23 support of the Project.

Okay.

That's a

CHAIRMAN HONIGBERG:

24

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

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?

(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

```
1
         recreation. But it's the wrong context.
 2
    Q
         Thank you. I'd like to pull up SE-3e from
 3
         Counsel for the Public Exhibit 138, Appendix F.
         This is Little Diamond Pond, in Stewartstown.
 4
 5
         Mr. DeWan, in his supplemental testimony, at
 6
         Page 51 to 52, states "the visual arc of the
 7
         proposed structures as seen from the surface of
         Little Diamond Pond is approximately 22.5
 8
9
         degrees. Which amounts to just 6 percent of a
10
         fisherman's 360-degree view", and therefore
11
         will not have an adverse impact on this
12
         resource.
13
              Can you respond to that new analysis?
14
                   MR. NEEDLEMAN: Objection. I think
15
         calling it "new" doesn't make it new.
16
                   MS. CONNOR: That's specifically how
17
         he described it, as a "new analysis", based
18
         upon their adverse impact findings on 29
19
         resources.
20
                   CHAIRMAN HONIGBERG: All right.
21
         overruled. You can respond. Off the record.
22
                         [Brief off-the-record discussion
23
                        ensued.]
24
                   CHAIRMAN HONIGBERG: All right.
```

You

1 can respond.

### BY THE WITNESS:

2

3 Α (Buscher) So, Mr. DeWan takes that 22 and a half degrees and makes a comparison over the 4 5 percentage of a 360-degree view. I guess I 6 would -- I would note that, from the shore, 7 where this -- where Mr. DeWan's photograph was taken, that was used in the simulation, is in 8 the direction where views are going to be 9 10 focused from. And a normal view actually 11 encompasses 37 degrees. So, 22 and a half out 12 of 37 degrees is a significantly higher portion 13 than six percent. Approaching two-thirds of 14 the entire view that people are going to be 15 focused on will include views of this Project. 16 Α (Owens) Can I add to that? I was the one who 17 took this photograph, when I visited. And I 18 had to ask some people that were on the 19 shoreline fishing if they didn't -- if they 20 would mind moving to the side while I took a 21 photo briefly. And, from that shoreline, the 22 only view is the one that I took the picture 23 of. So, they were facing that direction the 24 entire time when they were fishing from that

```
1
         location.
         (Buscher) So, I'll correct my statement, that
 2
 3
         this was our photosimulation.
    BY MS. CONNOR:
 4
 5
         In Mr. DeWan's supplemental testimony with
 6
         regard to this site, he goes on to note that
 7
         your adverse impact judgment, based upon the
 8
         structures that are going to go across the
         ridgeline "should not have an unreasonable
 9
10
         effect on the public's desire to fish".
11
              Can you address that statement?
12
                   MR. NEEDLEMAN: Same objection.
13
         We're back to just their initial analysis and
14
         expanding on it.
15
                   CHAIRMAN HONIGBERG: And what did
16
         Mr. DeWan say again?
17
                   MS. CONNOR: Mr. DeWan said that T.J.
18
         Boyle's adverse impact finding with respect to
         this site "should not have an unreasonable
19
20
         effect on the public's desire to fish".
21
                   CHAIRMAN HONIGBERG: Sustained.
22
    BY MS. CONNOR:
23
         Does Mr. DeWan's conclusion about the adverse
24
         impact with regard to the public's desire to
```

```
fish address all user groups?
 1
         (Buscher) No, it does not.
 2
    Α
 3
         I want to move to DE-2e, which is exhibit --
    Q
         from Exhibit F, Counsel for the Public 138.
 4
         That's not it. That's it.
 5
 6
              In Mr. DeWan's Supplemental Report, he
 7
         rejects your conclusion that this Project would
         have an unreasonable adverse impact on the
 8
         Deerfield Center Historic District because
 9
10
         "there is one limited area where the
         transmission structure will be visible (in
11
12
         front of Deerfield Town Hall). The majority of
         Deerfield Center and its historic resources
13
14
         will not be affected", Page 48.
15
              Can you respond to that criticism with
16
         regard to your conclusion on Deerfield Center?
17
                   MR. NEEDLEMAN: Objection. Just
18
         adding to their initial analysis.
19
                   CHAIRMAN HONIGBERG: Ms. Connor.
20
                   MS. CONNOR: I will make an offer of
         proof that, in response to that question, the
21
22
         panel wants to address the dilution argument.
23
         The fact that, in response to this, Mr. DeWan
24
         is suggesting that there is no unreasonable
```

52

```
1
         impact, because he's looking at all of
 2
         Deerfield Center, as opposed to the area where,
 3
         in fact, there is a visual impact.
                   CHAIRMAN HONIGBERG: Okay. So,
 4
 5
         you're assuming the objection was sustained,
 6
         which is probably correct. So, I guess you've
 7
         made your record, and we can move on.
    BY MS. CONNOR:
8
         Let's go to BR-1c, which is Appendix F to
9
10
         Counsel for the Public 138, which is Peaked
11
         Hill, in Bristol, New Hampshire. In
         supplemental testimony, at Page 52, Mr. DeWan
12
13
         challenges your conclusion that the Project is
14
         going to have an unreasonable adverse impact on
15
         this scenic resource, because "the primary
16
         visual impact is at the point where the
17
         transmission corridor crosses Peaked Hill Road.
18
         At this location, open views of the
19
         transmission line to passing motorists would
20
         last for several seconds."
21
              Can you address that criticism?
22
                   MR. NEEDLEMAN: The same objection.
23
         Adding to their initial analysis.
                   CHAIRMAN HONIGBERG: Sustained.
24
```

```
1
                   MS. CONNOR:
                                 I will try to rephrase
 2
         it.
    BY MS. CONNOR:
 3
 4
         With respect to this particular location,
    Q
 5
         Mr. DeWan, in his supplemental testimony, has
         criticized your adverse impact finding because
 6
 7
         he has stated that an adverse impact is going
         to require an exposure over time. Can you
 8
         address that criticism?
 9
10
                   MR. NEEDLEMAN: Same objection.
                                                     It's
11
         a different path, but the same endpoint.
12
                   CHAIRMAN HONIGBERG: Sustained.
13
    BY MS. CONNOR:
14
         Based upon your experience, does the public
15
         require an extended exposure to a transmission
16
         line in order to have an adverse impact?
17
                   MR. NEEDLEMAN: Same objection, to
         the extent it's focusing on this resource.
18
19
                   CHAIRMAN HONIGBERG: I'm not sure
20
         that it was. But, Ms. Connor, why isn't that a
21
         general question that's part of their prefiled
22
         testimony?
23
                   MS. CONNOR: Because I'm trying
24
         address Mr. DeWan's specific criticism of their
```

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 --

1 the aesthetic impact of the exposure is 2 significant. BY MS. CONNOR: 3 4 I'm going to move on to the supplemental Q 5 testimony addressing mitigation. In Mr. Bowes' 6 supplemental prefiled testimony, Page 4, he 7 states that "untreated conductors...initially have a higher reflectivity than the 8 non-specular conductors" proposed by your 9 10 office. But he claims the untreated conductors 11 achieve similar reflective -- reflectivity 12 within a few years. 13 Do you agree with that? 14 (Buscher) We do not. Based on our observation, 15 that is not accurate. 16 Q What have you observed, based upon your 17 experience, with regard to untreated versus treated conductors? 18 19 (Buscher) That treated conductors are Α 20 immediately less visible, and there's several 21 situations where we've had projects with 22 non-specular conductors installed adjacent to 23 existing lines that have been there for 24 multiple decades. And the difference in

```
appearance is quite apparent. That the
 1
 2
         conductors that have non-specular treatment are
 3
         much less apparent, much less visible, and much
         less reflectivity.
 4
 5
    Q
         Is there any reason not to use non-specular
 6
         conductors?
 7
                   MR. NEEDLEMAN: Objection. General
 8
         statement.
                   CHAIRMAN HONIGBERG: Ms. Connor, this
 9
10
         sounds like their direct.
11
                   MS. CONNOR: I'll move on.
12
    BY MS. CONNOR:
13
         Mr. Bowes, at Page 5 of his supplemental
14
         testimony, also disputes that visual buffers or
15
         screen plantings are feasible because such
16
         plantings might "be incompatible with the
17
         landowner's objective". In your experience,
18
         has that been a concern?
19
         (Buscher) You're saying that it's not feasible
    Α
20
         because of the underlying --
21
         Correct.
22
         (Buscher) Well, first of all, we don't know
23
         whether it's feasible or not feasible, because
24
         there has been no evidence given if adjacent
```

[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

```
1
         within New England.
              Is that your understanding?
 2
 3
                   MR. NEEDLEMAN: Objection. Are these
         witnesses qualified to talk about these
 4
         technical issues?
 5
 6
                   CHAIRMAN HONIGBERG: Ms. Connor.
 7
                   MS. CONNOR: They are.
 8
                   MR. NEEDLEMAN: It sounds like
         they're aesthetic witnesses, not engineers.
9
                   CHAIRMAN HONIGBERG: Let's --
10
11
                   MS. CONNOR: Do you want me to back
12
         up?
                   CHAIRMAN HONIGBERG: Just a little.
13
                   MS. CONNOR: Sure.
14
15
    BY MS. CONNOR:
16
    Q
         In your report, you recommended as a mitigation
17
         measure that the Applicant apply a Natina
18
         finish. Are you familiar with the Natina
19
         finish product?
         (Buscher) Yes.
20
21
         And, based upon -- and is that from prior
22
         projects?
23
         (Buscher) No. It was really with us
    Α
24
         investigating potential mitigation efforts with
```

```
1
         this Project. To be honest, we have not --
 2
         we've not worked on a project in recent history
 3
         that uses lattice structures.
 4
         And is it your -- can you describe your
    Q
 5
         understanding of what the Natina finish is?
                   MR. NEEDLEMAN: So, same objection.
 6
 7
         It doesn't sound like they have the basis to do
              And, moreover, to the extent that they do,
 8
         it.
         they already did it in their report.
9
10
                   MS. CONNOR: I'm having to walk a
11
         fine line here between laying a foundation and
12
         trying not to go over old material.
13
                   CHAIRMAN HONIGBERG: Well, lay a
14
         foundation for their knowledge and experience
15
         about this particular product. I haven't heard
16
         it yet. In fact, I think they just said they
17
         have not worked on a project that has the types
18
         of structures that would carry it, which
19
         doesn't help your case or help your cause in
20
         this immediate instance.
                   Back up and see if you can establish
21
22
         that they have the requisite knowledge to
23
         answer a question about it.
24
                   MS. CONNOR:
                                 Certainly.
```

## 1 BY MS. CONNOR:

- Q Can you explain your experience with the Natina finish, which you had made a recommendation of on this Project?
- (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

1	talk about a product based upon their
2	understanding and their interaction with the
3	manufacturer of that product.
4	CHAIRMAN HONIGBERG: Okay. I mean,
5	and certainly experts could rely on that type
6	of information. But that's not what we were
7	talking about here. You were talking you
8	looked like you were going to be asking them
9	about the advisability of using it here, and
L 0	they have no experience with it.
L 1	MS. CONNOR: I believe that Mr.
L 2	Palmer was about to testify, based upon his
L 3	conversation with the manufacturer, as to how
L 4	it could be applied and how it could be used in
L 5	this setting.
L 6	CHAIRMAN HONIGBERG: And it all
L 7	sounds like it comes from now we're back to
L 8	this is their original prefiled testimony.
L 9	Let's go back. What were you hooking this onto
2 0	again?
21	MS. CONNOR: I was hooking
22	CHAIRMAN HONIGBERG: What did
23	Mr. Bowes say that you need them to respond to?
2 /	MC CONNOD. Mr Bowog gold "it was

```
1
         not possible to use Natina in New England".
                   CHAIRMAN HONIGBERG: And based on
 2
 3
         their -- and what you believe they will
 4
         testify, if asked, is that, based on their
 5
         conversations with the manufacturer, "yes, it
         could"?
 6
 7
                   MS. CONNOR:
                                 Yes.
                   CHAIRMAN HONIGBERG: All right.
 8
9
         You've made your record. I'm sustaining the
10
         objection.
11
    BY MS. CONNOR:
12
         Mr. Bowes, in his supplemental testimony, at
13
         Page 7, states that "any other route or
14
         alignment", other than the one that has been
15
         proposed, "is not practicable".
16
              What factors would make all alternatives
17
         routes impractical?
18
                   MR. NEEDLEMAN: Objection. This is
19
         an issue that was discussed extensively in the
20
         context of the Application long before any
21
         supplemental testimony was filed. And it's
22
         just a general question regarding alternatives.
23
                   CHAIRMAN HONIGBERG: Ms. Connor.
                   MS. CONNOR: Yes. These witnesses,
24
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```
1
         if given an opportunity to testify, would lay
 2
         the --
 3
                   CHAIRMAN HONIGBERG: Well, you're not
 4
         making an offer of proof yet.
 5
                   MS. CONNOR: Okay.
 6
                   CHAIRMAN HONIGBERG: I'm just trying
 7
         to decide whether to sustain the objection.
                   MS. CONNOR: I believe that this
 8
9
         panel is simply trying to respond to Mr. Bowes'
10
         criticism of their mitigation method testimony
11
         in their reports, specifically what he was
12
         addressing. And they haven't had an
13
         opportunity to do that.
14
                   CHAIRMAN HONIGBERG: Was he talking
15
         about feasibility with respect to aesthetics?
16
         Or was he talking about feasibility with
17
         respect to the Project's actual ability to use
18
         alternative routes?
19
                   MS. CONNOR: He was addressing the
         aesthetics aspect of that, because Mr. DeWan
20
21
         did not.
22
                   MR. IACOPINO: Is this from the
23
         supplemental testimony?
24
                   MS. CONNOR: Yes, it is.
```

```
1
                   CHAIRMAN HONIGBERG: Can you refresh
 2
         all of our memories about the question and
 3
         answer that Mr. Bowes -- from Mr. Bowes'
 4
         testimony?
                   MS. CONNOR: Yes. In his
 5
         supplemental testimony, at Page 7, he was -- he
 6
 7
         indicated that, basically, that no other route
         or alignment was practical. Practical.
 8
                   CHAIRMAN HONIGBERG: What was the
9
10
         question that he was answering? No, Mr. Bowes.
11
         You have Mr. Bowes' testimony in front of you,
12
         I don't.
13
                   MS. CONNOR: "What other avoidance,
14
         minimization, and mitigation measures did the
15
         Applicants further consider?"
16
                   CHAIRMAN HONIGBERG: And his answer
17
         was?
18
                   MS. CONNOR: Do you want me to read
19
         the whole answer?
20
                   CHAIRMAN HONIGBERG: Yes, please,
21
         because it's going to give us the context to
22
         understand what he was saying.
23
                   MS. CONNOR:
                                "Although the review of
24
         potential route alternatives for this Project
```

is not properly before the Site Evaluation

Committee for consideration" --

1

2

3

4

5

6

7

8

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23

24

CHAIRMAN HONIGBERG: Slow down just a hair.

65

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

1	control and design and cost considerations.
2	Any other route or alignment simply is not
3	operable practicable."
4	CHAIRMAN HONIGBERG: I don't think
5	Mr. Bowes was in any way testifying about
6	aesthetics.
7	MR. NEEDLEMAN: Mr. Chair, I'm also
8	going to note that he specifically says "all
9	such alignments were previously considered".
10	And in Section 5.2.2 of the original T.J. Boyle
11	Report, I think they addressed all this.
12	CHAIRMAN HONIGBERG: Ms. Connor.
13	MS. CONNOR: In Mr. DeWan's
14	supplemental testimony, at Page 26, when he was
15	addressing T.J. Boyle's comments in this area,
16	he indicated that these issues were being
17	addressed solely in the supplemental prefiled
18	testimony of Mr. Bowes, as opposed to him,
19	which is why then I went back to Mr. Bowes.
20	CHAIRMAN HONIGBERG: And what was
21	Mr. DeWan responding to then? Because this
22	sounds like a completely different set of
23	questions and answers.
2.4	MS CONNOR: Mr DeWan was asked to

67

```
1
         address the minimization, avoidance, and
 2
         mitigation measures considered but rejected by
 3
         the Applicant and raised by this panel. And
 4
         that's -- and Mr. DeWan passed it over to
 5
         Mr. Bowes. And that's why I was asking this
         panel about Mr. Bowes, since Mr. DeWan said
 6
 7
         "I'm not going to testify about it."
                   CHAIRMAN HONIGBERG: That's not
 8
9
         what's happening here. Mr. Bowes was saying
10
         "yes, we looked at all the other possible
         routes, and we couldn't do them." I mean, he
11
12
         may be wrong, and you all may disagree with
13
         that, but that's what Mr. Bowes was talking
14
         about. This panel is not here to talk about
15
         other routes, other route designs. That's what
16
         Mr. Bowes was talking about.
17
    BY MS. CONNOR:
18
    Q
         In your past experience working with
19
         transmission lines, have you been involved in
20
         the siting of the line?
21
                   MR. NEEDLEMAN: Objection. This is
22
         generic testimony.
23
                   CHAIRMAN HONIGBERG: They can answer
24
         that question.
```

```
BY THE WITNESS:
 1
          (Buscher) Yes, we have.
 2
    BY MS. CONNOR:
 3
 4
    Q
         Why?
 5
                    MR. NEEDLEMAN: Same objection.
 6
                    CHAIRMAN HONIGBERG: Why have they
 7
         been involved?
 8
                   MS. CONNOR: Let me rephrase that.
    BY MS. CONNOR:
 9
10
         What is the advantage of being involved at the
         front end?
11
12
                   MR. NEEDLEMAN: Same objection.
                                                     This
         is all subject of initial testimony.
13
14
                    CHAIRMAN HONIGBERG: Sustained.
15
                         (Short pause.)
16
                    CHAIRMAN HONIGBERG: Ms. Connor, you
17
         want to take a ten-minute break, because we're
18
         at about that time anyway?
19
                   MS. CONNOR: Sure. Thank you.
                         (Recess taken at 10:20 a.m.
20
21
                         and the hearing resumed at
22
                         10:36 a.m.)
23
                   CHAIRMAN HONIGBERG: Ms. Connor, you
24
         may proceed.
```

```
1
                   MS. CONNOR:
                                 Thank you.
    BY MS. CONNOR:
 2
         When Mr. DeWan was on the witness stand on Day
 3
    0
         31, he was asked about mitigation measures, and
 4
 5
         he deferred to Mr. Bowes. In your experience,
 6
         what role have you played in addressing
 7
         mitigation?
 8
                   MR. NEEDLEMAN: Objection. Standard
9
         question.
10
                   CHAIRMAN HONIGBERG: Sounds like the
11
         same -- the same topic we were just on before
12
         the break, Ms. Connor.
13
                   MS. CONNOR: Your Honor, I'm
14
         specifically trying to address the aesthetics
15
         expert's role in mitigation, and Mr. DeWan
16
         deferred to Mr. Bowes. This was a limited
17
         question, directed at the role of aesthetics
18
         experts in addressing mitigation.
19
                   CHAIRMAN HONIGBERG: Was Mr. Bowes
20
         asked about the role of aesthetics experts in
21
         determining mitigation of alternative routes?
22
                   MS. CONNOR: He was simply asked
23
         about mitigation measures in general.
24
                   CHAIRMAN HONIGBERG: And did his
```

```
1
         answer invoke the aesthetics experts? I don't
         recall that it did. I believe all he was
 2
 3
         talking about, from what you read to us, was
         that, in trying to respond to criticisms from
 4
 5
         others, including Counsel for the Public's
         experts, they had looked at other routes.
 6
 7
         That's what I recall from what you read.
                   MS. CONNOR: Right. Well, actually,
 8
         what I was referencing on Day 31 was
9
10
         Mr. DeWan's testimony, where I asked him about
11
         mitigation, and Attorney Needleman objected and
12
         wouldn't let him answer that, referencing the
13
         fact that it was already in through Mr. Bowes's
14
         testimony. And I wanted to address the fact
15
         that this panel's experience is that they
16
         address mitigation, not the engineers.
17
                   CHAIRMAN HONIGBERG: I'm going to
18
         sustain the objection. If you want to make an
19
         offer of proof, which you may have just done,
20
         then we're going to move on after that.
21
                   MS. CONNOR: Okay. I'm going to try
22
         one other way to address this.
23
    BY MS. CONNOR:
```

And that is, do you -- based upon your past

24

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1
         experience with Mr. DeWan on other projects,
 2
         has he been involved in -- actively involved in
 3
         the mitigation measure of the project?
                   MR. NEEDLEMAN: Same objection.
 4
                                                     And
 5
         I don't even know if that's tied to any
         testimony or why it would be relevant.
 6
 7
                   CHAIRMAN HONIGBERG: Ms. Connor.
                   MS. CONNOR: It would be relevant in
 8
         that the role of the aesthetics expert is
9
10
         traditionally to address mitigation measures,
         because that's part of the VIA under the rules.
11
12
                   CHAIRMAN HONIGBERG: I'm going to
13
         sustain the objection. If you want to make an
14
         offer of proof as to what these gentlemen would
15
         testify to, if they were allowed to testify,
16
         you can do that.
17
                   MS. CONNOR: If these gentlemen were
18
         allowed to testify, they would represent that
19
         Mr. DeWan has been actively involved in
20
         mitigation measures in his role as a VIA expert
21
         in countless other projects, but, in this case,
22
         was not.
23
                   CHAIRMAN HONIGBERG: Okay.
24
                   MS. CONNOR:
                                 Okay. I have no further
```

```
1
         questions.
                   CHAIRMAN HONIGBERG: According to my
 2
 3
         list, it's the Municipal Group. Who's going to
         be going?
 4
 5
                   MS. PACIK: Our questions have been
         covered by Counsel for the Public. Thank you.
 6
 7
                   CHAIRMAN HONIGBERG: All right. Next
         is the Grafton County Commissioners. Is Ms.
 8
         Saffo here? I don't see her.
9
10
                         [No indication given.]
11
                   CHAIRMAN HONIGBERG: All right.
12
         Society for the Protection of New Hampshire
13
         Forests, Mr. Reimers?
14
                   MR. REIMERS: Our questions have been
15
         covered. Thank you.
16
                   CHAIRMAN HONIGBERG: AMC/CLF,
17
         Mr. Plouffe, I saw him. Do you have questions?
18
                   MR. PLOUFFE: No questions, Mr.
19
         Chairman.
20
                   CHAIRMAN HONIGBERG: Dummer, Stark,
21
         Northumberland, Ms. Percy?
22
                         [No indication given.]
23
                   CHAIRMAN HONIGBERG: No? I don't see
24
         her.
```

```
1
                    Whitefield, Dalton, Bethlehem,
 2
         Mr. Brekke?
 3
                         [No indication given.]
                    CHAIRMAN HONIGBERG: No?
 4
 5
                    ADMIN. MONROE: He's here.
 6
                    CHAIRMAN HONIGBERG: Let's go off the
 7
         record.
                         [Brief off-the-record discussion
 8
 9
                         ensued.]
10
                    CHAIRMAN HONIGBERG: So, we're back
11
         on the record. Mr. Brekke, do you have
12
         questions?
13
                    MR. BREKKE: Yes, I do.
14
                    CHAIRMAN HONIGBERG: All right. Why
15
         don't you come forward then. Or, you can do it
16
         from there, if you'd like.
17
                    This is off the record.
18
                         [Brief off-the-record discussion
19
                         ensued.]
20
                    MR. BREKKE: Okay. Good morning.
21
         I'd like to begin by reviewing a few of your
22
         answers in your prefiled testimony.
23
                      CROSS-EXAMINATION
24
    BY MR. BREKKE:
```

```
1
    Q
         In your prefiled testimony, and I don't have,
 2
         unless somebody can assist me, I don't have the
 3
         expertise or a laptop to bring it up on the
         screen. But this is the prefiled testimony of
 4
 5
         the Aesthetics Group from Counsel for the
 6
         Public, if you can look that up on your
 7
         computers.
 8
                   MR. PAPPAS: If you can tell us what
9
         page, she may --
10
                   MR. BREKKE: Well, beginning on Page
11
         11 of their --
12
                   MS. MERRIGAN: Dawn, can I have the
13
         monitor please?
14
                   MR. BREKKE: The pretrial direct,
15
               Page 11, beginning on Page 11. Okay.
         yes.
16
         Could you scroll that up please to Page 10?
17
                   I apologize for this. Our one laptop
18
         in the house is gone with my wife to Ohio.
19
    BY MR. BREKKE:
20
         Okay. It's actually on Page 10. It looks like
21
         Line 16. The question is "Please describe your
22
         conclusions as to why the Project will result
23
         in an unreasonable adverse effect on
24
         aesthetics." And below that you cited three
```

1 points, each citing several bullet points. 2 On the next page, I'd like to identify two 3 of those points. The first is the "Height of 4 the Proposed Structure". And that says "The height of the proposed structures is out of 5 6 scale in comparison to similar size 7 transmission lines. This is likely as a result of attempting to incorporate an additional 8 transmission line within the corridors that do 9 10 not have adequate width." 11 And the second one, on the heading "Acquire a wider corridor", which should be 12 13 down two pages please. Okay, there it is. You 14 had said "The height of the proposed structures 15 could be reduced if the corridor were widened." 16 Okay, I just want to lay that as a background. 17 MR. BREKKE: And now I need to call 18 up another document please. This is -- should 19 be at the bottom of the prefiled testimony as 20 Exhibit CFP-Boyle-4, "Review of the NPT VIA". 21 CHAIRMAN HONIGBERG: Let's go off the 22 record for a second. 23 [Brief off-the-record discussion

 $\{SEC\ 2015-06\}\ [Day\ 46/Morning\ Session\ ONLY]\ \{10-12-17\}$ 

ensued.].

1 MR. BREKKE: Thank you for your 2 patience. BY MR. BREKKE: 3 4 Q Okay. In the prefiled testimony, Exhibit 5 Boyle-4, "Review of the NPT VIA", on Page 174, Section 4.4.4, "Corridor Configuration 6 7 Alternatives", under Paragraph 4.4.4.2 it says acquiring a wider corridor to reduce structure 8 9 height. 10 One more text item, and then I'll get to 11 my question. On Page 184, in Section 5.2.2, 12 "Avoidance or Minimization through Corridor 13 Configuration" under "Acquire a wider 14 corridor", the text is "The height of the 15 proposed structures could be reduced if the 16 corridor were widened". In other words, my 17 words are "wider right-of-ways allow for lower 18 towers". 19 Now, my question, finally. I'd like to 20 know what your basis is for these statements that a "narrower right-of-way prompts taller 21 22 tower structures"? 23 (Buscher) Well, there's two different Α 24 components to that. First of all, there are

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

8 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.

```
1
    Q
         So, is this mandated by law, New Hampshire law,
 2
         for example?
 3
    Α
         (Buscher) I believe it's federal.
         Okay. Thank you. The next visual aid would be
 4
    Q
 5
         the proposed maps for the Project, on Page 43.
 6
         Okay. Thank you.
 7
              This is the right-of-way abutting my
         property, which is 250 feet wide.
 8
9
                   MR. BREKKE: Could you zoom in a
         little bit please?
10
11
                   MS. MERRIGAN: Where do you want to
12
         zoom in?
13
                   MR. BREKKE: Straight in the center,
14
         anywhere in the center. That's good.
15
    BY MR. BREKKE:
16
    Q
         Okay. Using as an example DC-642, the
17
         right-of-way is 250 feet wide, as indicated by
18
         the key that's at the bottom of the slide. And
19
         the towers along this right-of-way, proposed
20
         towers are 85 and 90 feet. So, is it the width
21
         of the right-of-way corridor, the 250 feet,
22
         that dictates the 85 to 90 feet towers?
23
         (Buscher) I wouldn't be able to respond to that
    Α
24
         for this specific location.
```

```
1
    Q
         Okay. Thank you. Well, then, my next question
 2
         was, if that was the minimum structure height,
 3
         but could you be able to answer that?
         (Buscher) I wouldn't.
 4
    Α
 5
    Q
         Okay. All right. One more example, on Page
 6
         34.
 7
                   MR. BREKKE: Go to the next page
                 Could you go to 31?
 8
         please.
                   MS. MERRIGAN: For the record, this
9
10
         would actually be Applicants Exhibit -- part of
11
         Applicants Exhibit 2.
12
    BY MR. BREKKE:
13
         Okay. Using Towers DC-588 and D142-425, on the
14
         section again in Whitefield of a 250-foot
15
         right-of-way, these towers are shown as 60-foot
16
         towers. So, if 60-foot towers in a 250-foot
17
         right-of-way is okay, then a possible
18
         mitigation measure not mentioned in your record
         could be lower structures regardless of
19
20
         right-of-way width. Is that a fair statement?
         (Buscher) Yes. We regularly testify -- comment
21
22
         that "lower towers would be an appropriate
23
         mitigation strategy".
24
         Was that included in your review of the VIA
```

80

1 then? 2 Α (Buscher) Yes. 3 That lower towers -- you mentioned that the Q 4 tower height, from the testimony I read 5 previously, was "due to the right-of-way 6 width", which implied to me that the size of 7 the right-of-way forced taller towers? CHAIRMAN HONIGBERG: Mr. Brekke, the 8 questions you're asking here seem to be all 9 10 about these witnesses' prefiled testimony. And 11 the scope of what you should be covering with them is not their prefiled testimony, because 12 13 we have that in front of us, and we have read 14 it, and it's already part of the record. 15 What is it you want to know from 16 these gentlemen? 17 MR. BREKKE: The point I was trying 18 to make is that the mention of "right-of-way 19 width", if you can place 80-foot towers and 20 60-foot towers in the same right-of-way width, 21 it was not clear to me, in their testimony, 22 that that was something that was acceptable. 23 In other words, the way they describe 24 the width of the right-of-way, that seemed to

```
1
         determine the height of the towers. Am I --
 2
         and my point here is --
 3
                   CHAIRMAN HONIGBERG: So, is your --
         so, something about the report is unclear to
 4
 5
         you, you want to understand whether it's the
 6
         width that determines the height, which I think
 7
         you may have already asked them?
                   MR. BREKKE: Yes. But I didn't see
 8
         it in the report as not being related to each
9
10
         other in that way.
11
                   That's the question I wanted to bring
12
               I needed clarification on that.
         out.
13
                   CHAIRMAN HONIGBERG: Do you need
14
         these aesthetics experts to talk about that
15
         further?
16
                   MR. BREKKE: The reason I'm asking
17
         the aesthetics experts is because it wasn't in
18
         their report.
19
                   CHAIRMAN HONIGBERG: Perhaps because
20
         they're aesthetics experts, and not engineers
21
         or electrical experts. But --
22
                   MR. BREKKE: But I respect --
23
                   CHAIRMAN HONIGBERG: But I've
24
         forgotten now, unfortunately, what the question
```

```
1
         was.
               But do you guys remember the question?
 2
                         [No verbal response.]
 3
                    CHAIRMAN HONIGBERG: No, I'm sorry.
 4
         Why don't you re-ask the question that's
 5
         pending.
 6
                   MR. BREKKE: All right.
 7
    BY MR. BREKKE:
         Okay. If 60-foot towers in a 250-foot
 8
9
         right-of-way is okay, then a possible
10
         mitigation measure that was not mentioned in
11
         your report could be lower structures
12
         regardless of right-of-way width. And I asked
13
         if that was a fair statement?
14
         (Buscher) My assumption is that the towers are
15
         at the lowest height that is possible, based on
16
         their engineers' understanding of the
17
         constraints. There are several factors that I
18
         am aware of in dealing with other transmission
19
         line projects, and I don't know the specifics
20
         of every location.
21
         Okay.
22
         (Buscher) If they can just lower them and meet
23
         all the requirements, then, yes, that would
24
         definitely be an appropriate mitigation
```

1 strategy. 2 Okay. But that wasn't mentioned that way in Q 3 your Report. That's what I'm questioning. I didn't see that in your Report. 4 5 (Buscher) I know that we talk about lowering 6 heights quite often. To be honest, we just 7 assumed, for a variety of reasons, that these 8 were already at the lowest heights possible. 9 Based on right-of-way width? Q 10 (Buscher) Based on our general familiarity with Α 11 the engineering and design of transmission 12 lines. 13 Okay. All right. I'm almost finished here. 14 But what I'm not clear about is, if we can put 15 60 -- if they can put 60-foot towers in a 16 250-foot wide right-of-way in one place, and, 17 based on what you just told me, they should be 18 able to do that anywhere else? 19 (Buscher) There are a variety of factors that I Α 20 can talk about. Depends on how many lines are 21 in that right-of-way, what other obstructions 22 are in the right-of-way, the spacing of the 23 structures within the right-of-way. There's 24 several different techniques you can use to

```
1
         lower transmission structure heights. It would
 2
         definitely be a strategy for the Applicant to
 3
         review and understand. And we did have some --
         I believe some direct back-and-forth regarding
 4
 5
         that specific issue between the different
 6
         original prefiled testimony and supplemental
 7
         testimonies.
                   MR. BREKKE: Okay. Thank you.
 8
         That's all I have.
9
10
                   CHAIRMAN HONIGBERG: All right.
11
         can circle back. Is Ms. Percy here, Mr.
12
         Cunningham?
13
                   MR. CUNNINGHAM: She is not, Mr.
14
         Chairman.
15
                   CHAIRMAN HONIGBERG: Okay. Who over
16
         here had questions and wants to go next?
17
                   ADMIN. MONROE: Ms. Townsend.
18
                   CHAIRMAN HONIGBERG: Ms. Townsend.
19
         And while she's doing that, I understand that
         the Deerfield abutters have no questions.
20
21
         Right, Mr. Cote?
22
                   MR. COTE: That is correct.
23
                   CHAIRMAN HONIGBERG: And is anyone
24
         here from Mr. Palmer's group? Do you have
```

```
1
         questions, Mr. Chase?
                   ADMIN. MONROE: Lakes.
 2
 3
                   MR. LAKES: I have no questions at
 4
         this time.
 5
                   MS. TOWNSEND: Good morning. I'm
 6
         Heather Townsend.
 7
                   WITNESS BUSCHER: Good morning.
                   MS. TOWNSEND: And I am the temporary
 8
         spokesperson for the Ashland to Deerfield
9
10
         Non-Abutting Property Owners.
11
    BY MS. TOWNSEND:
12
         And I'd like to start with a question about
13
         markers on lines for birds. I wonder if you
14
         are aware that, in the environmental panel, Dr.
15
         Barnum testified that, if bird strikes were
16
         found on the Pemi, that they might install
17
         visual markers, to head off the birds from
18
         striking, especially since, in those locations,
19
         there would be multiple lines, with a guide --
20
         a guard line above, that would be a special
21
         hazard.
22
              And I wondered if you took those bird
23
         markers into account in your aesthetics
24
         analysis?
```

86 [WITNESS PANEL: Buscher|Palmer|Owens] 1 Α (Buscher) We were not aware of that testimony. 2 Q How would that influence your analysis? 3 Α (Buscher) It would be an element that would 4 create more noticeability of the conductors. 5 So, we would have considered that. We would have wanted to have more details on what those 6 7 markers would look like. CHAIRMAN HONIGBERG: But just a sec. 8 Mr. Buscher, if you could move a little bit 9 10 closer to the microphone and keep your voice 11 up. The folks in the back are having a little 12 trouble hearing you. 13 WITNESS BUSCHER: Sure. Sorry about 14 that. 15 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?

16

17

18

19

20

21

22

23

24

(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

87

1 visibility is limited to only the conductors, 2 obviously, something that makes those 3 conductors more apparent is going to make the 4 general appearance and existence of that line 5 become clearer to users of the river in a much 6 more advance situation or timing. 7 Okay. And could you comment on what might be 8 the effect to people who have views of the 9 river from their place of residence nearby? 10 terms of -- in this case, in terms of duration? 11 (Buscher) Similarly, it's going to be a, you Α 12 know, it's going to create noticeability of the 13 Project. 14 Okay. I don't recall having seen in your 15 report any mention of the effect of sound on 16 aesthetics. And I wondered if I just missed it 17 or if that was something you intentionally left 18 out? (Buscher) We deal solely with visual impacts. 19 Α 20 We don't do sound assessments. 21 Okay. What type of analysis, in your 22 professional opinion, would be necessary to 23 understand the impact of a continuous sound on 24 people who are recreating in a place they

```
1
         expect to be silent? Who would do that kind of
 2
         analysis?
 3
    Α
         (Buscher) It's a specialized field. And that
         is an analysis that is done for projects. And
 4
 5
         it is a separate review from the visual impact
 6
         to aesthetics.
 7
         Okay. When -- okay, I'm going to refer to some
 8
         testimony that Mr. DeWan gave, and where he was
9
         talking about whether they had been on the
10
         river in doing their analysis. Gretchen Draper
11
         asked the question "did you go out on the
12
         river?" And he said "no", he didn't. And most
13
         of his visual -- okay, hang on a second. Most
14
         of his simulations were from at least five feet
15
         above the river. And I wonder if you could
16
         comment on --
17
                   CHAIRMAN HONIGBERG: I think we need
18
         the ELMO.
19
    BY MS. TOWNSEND:
20
         And I wonder if you can explain to me your
21
         decision to take this analysis from the level
22
         of the water?
23
         (Buscher) We're still waiting for the images to
24
         appear on our screen to be able to --
```

```
1 Q Oh, okay.
```

- 2 A (Buscher) Okay. We're here. I'm sorry, could
- 3 you repeat the question?
- 4 Q First, could you just read which analysis this
- 5 is?
- 6 A (Buscher) These are simulations that I believe
- 7 our office prepared. Right?
- 8 A (Witness Palmer nodding in the affirmative).
- 9 A (Owens) Yes.
- 10 Q Yes. And read into the record what the numbers
- 11 are please?
- 12 A (Buscher) The numbers are "NH-3b", and the
- number is hidden from me on the -- "NH-3d".
- 14 Q Okay. And which crossing is this?
- 15 A (Buscher) This is the Pemi crossing. And it's
- near, I don't know, is it --
- 17 Q New Hampton and Hill?
- 18 A (Buscher) New Hampton, you come down from
- 19 Bristol, I believe.
- 20 Q Okay. And, so, I was wondering about your
- 21 choice of the location of the viewer in this?
- Is it at the level of the water?
- 23 A (Buscher) It was -- I actually took these
- 24 photos. And I was sitting in a kayak when I

```
1
         took these photos.
 2
    Q
         Thank you for going out on the river. Why did
 3
         you make that choice?
         (Buscher) That's the way that users are really
 4
    Α
 5
         going to experience it. It was -- it's not
 6
         that we don't sometimes abbreviate our access
 7
         to a river crossing. For this particular
         situation, it was hard to access otherwise.
 8
9
         And it is probably the most appropriate way to
10
         understand the experience from a user.
11
         Thank you. And can you explain a little bit,
    0
12
         you spoke in your report about user expectation
13
         for views, and how someone doing different
14
         forms of recreation might be influenced, might
15
         have a different take than somebody who was,
16
         say, passing by on a road. Could you explain
17
         to me what those differences were?
18
                   MR. NEEDLEMAN: Objection. This is
19
         just calling for elaboration of their testimony
20
         and report.
                   CHAIRMAN HONIGBERG: Ms. Townsend.
21
22
                   MS. TOWNSEND: I'm trying to
23
         understand how the use of the view from a kayak
24
         gave him a different insight into the use of
```

```
1
         the river.
                   CHAIRMAN HONIGBERG: It's kind of
 2
 3
         what his original report was all about, wasn't
 4
             His assessment of the view of the proposed
 5
         line.
                   MS. TOWNSEND: I feel like I have a
 6
 7
         very localized question here.
                   CHAIRMAN HONIGBERG: And that may be
 8
                But he did his assessment as he did his
9
10
         assessment, and whatever it is it is.
11
                    I guess I'm going to let you ask this
12
         question, but I'm not sure that this is -- I'm
13
         fairly certain that this is right up against
14
         the line, again, of going back into his -- into
15
         their original testimony and report, which is
16
         not appropriate for this kind of further
17
         examination.
18
                   But I'll let you ask that question
19
         that you've asked.
20
                   MS. TOWNSEND: If I could just point
21
         out that the reason why I'm asking this
22
         question in the first place is because
23
         Mr. DeWan gave testimony for the first time
```

that he had not gone out on the river during

```
1
         Ms. Draper's questioning. So, that is the new
         information. Does that make a difference?
 2
 3
                   CHAIRMAN HONIGBERG: I mean, you
 4
         can't ask the question any more than I'm going
 5
         to let you ask the question. So, --
 6
                   MS. TOWNSEND: Thank you.
 7
    BY MS. TOWNSEND:
         Okay. How do you understand the difference of
 8
9
         a recreational user, as opposed to someone who
10
         is, say, going by in a car, of a specific view?
11
         (Buscher) So, just to begin, there's obviously,
    Α
12
         some differences in the physical mode of
13
         transportation, and the timing and experience
14
         associated with that. If you're paddling down
15
         a river, you're, obviously, going at a much
16
         slower rate. Your duration within the visual
17
         exposure to that portion of the Project is
18
         going be extended. Your choice to conduct that
19
         activity is going to be most likely more
20
         associated with a recreation or a desire to
21
         enjoy that resource. Whereas, driving, it
22
         might be to enjoy that resource, but it just
23
         might be to get from Point A to Point B.
24
         Okay.
                Thank you answering that question.
                                                     I'd
```

## [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.
- 19 A (Palmer) In general, I'm familiar when the data
  20 were collected, yes.
- 21 Q The dates at which the data were collected?
- 22 A (Palmer) Uh-huh. In general. I mean, the more
  23 important part is that the NEXTMap data were
  24 collected in the months of August and early

1 September. Time of year is probably more 2 important than the year itself. 3 Okay. On Page 67 of that same session, Day 34, Q Mr. DeWan was asked whether his position was 4 5 that existing conditions does not include the 6 probability of any change in the vegetation 7 besides normal maturity and decline? And he said "Common professional practice is to take a 8 look at existing conditions and do an 9 10 evaluation on what is known of the existing landscape. If we knew for a fact that there 11 12 was going to be harvesting, that might be a different situation." 13 14 I'm just wondering if you can explain to 15 me your understanding of what an "existing 16 situation" is when the data that is being used 17 to describe it is from 2001 and 2008, and it is 18 now 2017? (Palmer) Well, the photograph is what the 19 Α 20 simulation is being done on. So, that's more 21 recent. 22 Oh. We can take the photograph away.

{SEC 2015-06} [Day 46/Morning Session ONLY] {10-12-17}

(Palmer) Well, the more -- are you talking

a more general question.

23

1 about the NEXTMap data accuracy in this? mean, the existing condition that they 2 3 simulated is based on photographs that were 4 taken more recently. 5 Q Go on. 6 (Buscher) So, there's a limitation to the data 7 that you can use. If there -- you know, obviously, you should be using the most 8 detailed and most recent data that's available. 9 10 There is a more recent national land cover 11 dataset, or that is my understanding. I think 12 Jeremy and Jim could -- they're more the GIS 13 gurus in our office. That was done back in 14 2011, isn't that correct, Jeremy? 15 Α (Owens) I believe so. And around the time that 16 our reports were prepared, that was what was 17 generally available. (Buscher) But, again, you know, we don't want 18 Α 19 to use a less accurate elevation dataset that 20 might be more recent. The NEXTMap data is 21 fairly detailed. 22 Uh-huh. So, I'm going to reframe my question. 23 Because what I'm -- what seems surprising to 24 me, from this testimony of Mr. DeWan, is that

```
1
         he is "limited to existing conditions", can't
         look into the future at all of how things might
 2
 3
         change in an agricultural or a tree farming
 4
                And, yet, he's looking at data which is
         area.
         many years old. And I wondered if you could
 5
 6
         comment on your take on "existing condition",
 7
         the standard, the professional standard for
         "existing conditions"?
 8
         (Buscher) Well, I think that's one of the
9
    Α
10
         reasons why the SEC rules adopted a component
11
         that discusses bare-earth visibility, because
12
         that allows you to anticipate changes to the
13
         landscape. And I would agree with Mr. DeWan
14
         and for this Project, there is an area where
15
         it's going through areas that are under forest
16
         management and harvesting. So, there is going
17
         to be an evolving viewshed associated with the
18
         Project that will be dynamic. And it's
19
         entirely reasonable to look at the bare-earth
20
         viewshed for those reasons.
         So, you disagree with him that there is -- too
21
22
         many negatives here, but you think that it is
23
         an evolving landscape, and therefore bare-earth
24
         is necessary in a region where there is a lot
```

```
1
         of tree farming and agricultural change?
 2
    Α
         (Buscher) Yes. There is a variety of reasons
 3
         to use a bare-earth analysis.
 4
         Okay. So, it says here "Bare-Earth Analysis of
    Q
 5
         Bridgewater"?
 6
         (Buscher) It appears to be so.
    Α
 7
         Can you describe the topographical features
 8
         that are allowing there to be a view of the
9
         Project all the way up Bridgewater Hill?
10
         (Palmer) Could you point to Bridgewater Hill on
    Α
11
         that map?
12
         Oh, I'm so sorry. Bridgewater Hill.
    Q
13
         (Palmer) Just stick your finger on it. Great.
14
         Thank you.
15
         (Buscher) My assumption, without being able
16
         to --
17
                         [Court reporter interruption.]
    BY THE WITNESS:
18
19
         (Buscher) My assumption or a quick evaluation
20
         looking at this, given that there is quite a
21
         bit of Project area, almost a third of the
22
         state, is that there's a heightened elevation
23
         in that area, which allows the Project to be
```

{SEC 2015-06} [Day 46/Morning Session ONLY] {10-12-17}

visible from that location.

[WITNESS PANEL: Buscher|Palmer|Owens] BY MS. TOWNSEND: 1 And Mr. DeWan's contention was that he could 2 3 not include scenic views or historic properties that were -- that he was not seeing using his 4 5 2001 coverage data, and that he should 6 dismiss -- he needn't look into those 7 properties. What is your view of that? (Buscher) If my recollection is correct, they 8 Α 9 made -- they did say that they -- that they did 10 consider bare ground conditions, not with the GIS analysis, and it's not clear how they 11

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, --
- 22 Q Yes.

12

13

14

15

16

17

18

19

20

21

23

24

A (Buscher) -- that it is too broad to incorporate into the VIA.

```
That's his contention?
 1
    Q
 2
    Α
         (Buscher) I'm paraphrasing.
 3
         Right. And, therefore, he ruled out scenic and
    Q
 4
         historic properties if the -- instead of going
 5
         from the bare-earth analysis, and then looking
 6
         to see what was nearby in the viewshed, he
 7
         instead went -- just left that aside in a
         byway, and went on to his analysis of land
 8
9
         coverage data, and only looked to those points
10
         that he thought would have visibility based on
11
         that data. Is that fair to say?
12
         (Buscher) I think it's fair to say that he did
13
         not continue any type of evaluation of scenic
14
         resources that were precluded from screened
15
         visibility.
16
    Q
         Using that years old data, correct?
17
    Α
         (Buscher) That's correct.
18
    Q
         Okay. What route would you have taken?
19
         Instead of going -- leaving that on the byway?
20
                   MR. NEEDLEMAN: Objection. This is
21
         calling for a rehash of the approach they
         already took.
22
23
                   CHAIRMAN HONIGBERG: Ms. Townsend.
24
                   MS. TOWNSEND: I think that the
```

```
1
         information about the date of the data is new,
 2
         and therefore warrants a different question,
 3
         than simply how they originally -- okay. I can
         rephrase the question and it might help.
 4
 5
    BY MS. TOWNSEND:
 6
         If, while you were analyzing DeWan's approach,
 7
         you were aware of exactly how old the
         information was that he was using to disregard
 8
         historic and scenic properties, would it have
9
10
         influenced your analysis?
11
                   MR. NEEDLEMAN: Mr. Chair, same
12
         objection. Everyone knew, when Mr. DeWan filed
13
         his documents, what data he was using. And, in
14
         fact, these experts used the same data.
15
                   CHAIRMAN HONIGBERG: Ms. Townsend.
16
                   MS. TOWNSEND: I'm not certain that
17
         that was the case, because it only came up in a
18
         technical session, and then came before the
19
         Committee in questioning of Mr. DeWan.
20
                   CHAIRMAN HONIGBERG: When was the
21
         technical session? It was before they filed
22
         their testimony, was it not?
23
                   MS. TOWNSEND: It was never -- the
24
         technical sessions aren't part of the record.
```

```
[WITNESS PANEL: Buscher|Palmer|Owens]
 1
                   CHAIRMAN HONIGBERG: The question was
         "when were the technical sessions?
 2
 3
                   MS. TOWNSEND: With regard to?
 4
                   CHAIRMAN HONIGBERG: Where you said
 5
         this came up. It was, I believe, could be
 6
         wrong, but I believe it was before the
 7
         witnesses -- these witnesses filed testimony.
                   MS. TOWNSEND: I'll move on.
 8
                   CHAIRMAN HONIGBERG: Okay.
9
10
                   MS. TOWNSEND: Because I can't
11
         quarantee.
12
    BY MS. TOWNSEND:
13
         I want to turn to the question of how
14
         wilderness areas were rated in Mr. DeWan's
15
         system. It came up in his testimony on Day 34
16
         that --
17
                   MS. TOWNSEND: Can I take a
         two-minute break?
18
                   CHAIRMAN HONIGBERG: Uh-huh.
19
20
                   MS. TOWNSEND: Okay. Thank you.
21
                         (Short pause.)
22
                   MS. TOWNSEND: Okay. I'm back.
23
    BY MS. TOWNSEND:
24
         So, in his testimony on the 34th -- on Day 34,
```

```
[WITNESS PANEL: Buscher|Palmer|Owens]
 1
         Mr. DeWan acknowledged that, for a resource
 2
         where there was no human development, that
         would receive a score of "zero" for positive
 3
 4
         human development. Were you aware of that in
 5
         doing your analysis?
 6
         (Palmer) Yes.
    Α
 7
    Α
         (Buscher) Yes.
         Okay. And I wonder if you could -- if could
 8
         you tell me that -- whether you think that a
9
10
         wildernessed [sic] view, a view that has no
11
         positive human development, is very unique in
12
         New Hampshire or whether that is something that
13
         you find in many places in the state?
14
         (Palmer) Are you using "wilderness" in its
15
         technical designated sense or are you using it
16
         just to refer to wild places?
17
         I'm sorry. I'm using it in the sense of a view
18
         from which you are not seeing human
19
         development.
20
         (Palmer) Then, could you repeat the question
21
         please.
22
         So, maybe it would help if I referred more
```

The question was, "So, a lack of human

specifically to the quote that Mr. DeWan gave.

23

```
1
         development is never a positive feature in any
 2
         of the views or viewscapes that you have been
 3
         asked to evaluate in the course of this
         proceeding?" And he answered "I wouldn't
 4
 5
         phrase it that way. I would say that lack of
 6
         human development is reflected in other
 7
         portions of this chart." "Question: Could you
         show me where these points could be earned by a
 8
         view that literally showed no signs to the
9
10
         casual viewer that a human had done anything
11
         there?" DeWan responded: "Sure. It could be
         an example of uniqueness." "Question: Unique
12
13
         means the only one, does it not?" DeWan:
14
         it could be scarce throughout the region."
15
         "Question: Are pristine views scarce
16
         throughout the regions you have been
17
         evaluating?" "But, if by "pristine" you mean
18
         not showing any human development, that would
19
         be quite unusual."
20
              Was that your experience of the points of
21
         analysis that -- the views that you took into
22
         account when analyzing Mr. DeWan's analysis?
23
                   MR. NEEDLEMAN: I'm going to object,
24
         Mr. Chair. It sounds like we're rehashing
```

[WITNESS PANEL: Buscher|Palmer|Owens]

1 their analysis of what they did with respect to 2 Mr. DeWan. 3 CHAIRMAN HONIGBERG: Ms. Townsend. MS. TOWNSEND: I don't think that 4 it's rehashing, because we're talking about 5 6 something very specific, a certain type of view 7 that, within his scoring system, receives zero points, when others that have human development 8 9 get points. And I'm trying to understand. So, 10 this is new information that we got during 11 testimony about his perspective on how his sort 12 of justification for how that -- how those

views do get points. And I would like to have

the opportunity, since this is my only

13

16

18

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23

24

opportunity to ask questions of this panel, to

ask for their take on his justification.

17 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

```
1
         to sustain the objection. If you want to make
 2
         an offer of proof and say what you think they
 3
         would say if you had an opportunity to ask them
         the question, you can do that.
 4
 5
                   MS. TOWNSEND:
                                  Okay.
 6
                   CHAIRMAN HONIGBERG: So, we'll
 7
         understand what it is you want -- you would
         have wanted us to hear.
 8
 9
                   MS. TOWNSEND: I believe that they
10
         would have said that his analysis did not
11
         sufficiently weight views that had no human
12
         development in them. And that his
13
         justification for that as being "unique" was
14
         pretty uniquely inappropriate for New
15
         Hampshire.
16
    BY MS. TOWNSEND:
17
         I have just one more question. And it is about
18
         a situation where there is human development.
19
         And you don't -- well, I'll start with the
20
         testimony, which is the starting point.
21
         Mr. DeWan commented that there was a bridge
22
         abutment in the view at the Pemigewasset at
23
         Sahegenet Falls in the course of testifying.
```

{SEC 2015-06} [Day 46/Morning Session ONLY] {10-12-17}

I'm going to read you a little bit of it to set

[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

[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?
- 24 Q Yes.

```
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.
  - Q Would you make yourself aware of towns that had historic societies?
- 11 A (Buscher) Yes.

12 Q Would you approach those historical societies?

with that consultant.

- A (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
- 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

[WITNESS PANEL: Buscher|Palmer|Owens]

```
1
         it's actually in town planning documents, but
 2
         maybe it hasn't appeared in a state listing,
 3
         would you actually try to seek the location of
 4
         those named historic resources by talking to
 5
         somebody?
 6
         (Buscher) Yes.
 7
         Thank you. Just one more question about the
 8
         railroad. I was really pleased to hear you
9
         mention your take on its value as a resource, a
10
         scenic resource, given that there's snowmobile
11
         trails and that there's a foliage tour. Does
12
         it make any difference to your analysis to know
13
         that the railroad is also state-owned?
14
         (Buscher) As far as the strict definition of
15
         "scenic resources" there is a component that
16
         talks about being funded by public money.
17
                   MS. TOWNSEND: All right. Thanks
18
         very much.
19
                   CHAIRMAN HONIGBERG: So, is there any
20
         other intervenor group that has questions that
21
         we haven't gotten to yet, other than Ms. Percy?
22
         Is she here yet?
23
                   MR. CUNNINGHAM:
                                     No.
24
                   CHAIRMAN HONIGBERG: Off the record.
```

#### [WITNESS PANEL: Buscher|Palmer|Owens]

1	[Brief off-the-record discussion
2	ensued.]
3	CHAIRMAN HONIGBERG: We're going to
4	break for lunch. Give Ms. Percy a chance to
5	get here. We'll resume before one o'clock, and
6	we're going to shoot for ten minutes to one.
7	MR. CUNNINGHAM: Thank you, Mr.
8	Chairman. Getting worried about her.
9	CHAIRMAN HONIGBERG: Off the record.
L 0	(Lunch recess taken at 11:46
L1	a.m. and concludes <b>Day 46</b>
L 2	<b>Morning Session</b> . The hearing
L 3	continues under separate cover
L 4	in the transcript noted as <b>Day</b>
L 5	46 Afternoon Session ONLY.)
L 6	
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CERTIFICATE

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

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

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

{SEC 2015-06} [Day 46/Morning Session ONLY] {10-12-17}

ADMIN. MONROE: [3] 73/4 84/16 85/1 BY MR. BREKKE: [6] 73/23 74/18 76/2 78/14 79/11 82/6 BY MS. **CONNOR:** [32] 3/20 10/13 12/19 20/12 22/18 23/12 24/5 24/15 25/8 26/11 28/18 30/22 38/1 41/2 41/12 41/23 46/14 50/3 50/21 52/7 53/2 53/12 55/2 56/11 58/14 59/24 62/10 67/16 68/2 68/8 69/1 70/22 BY MS. TOWNSEND: [9] 85/10 86/14 88/18 92/6 97/24 100/4 101/11 101/22 105/15 **CHAIRMAN HONIGBERG:** [127] MR. BREKKE: [15] 73/12 73/19

74/9 74/13 75/16 75/24 78/8 78/12 79/6 80/16 81/7 81/15 81/21 82/5 84/7 **MR. COTE:** [1] 84/21 MR. **CUNNINGHAM:** [3] 84/12 109/22 110/6 MR. IACOPINO: [2] 30/3 63/21 **MR. LAKES:** [1] 85/2 MR. **NEEDLEMAN:** [45] 7/12 7/14 7/20 12/23 15/7 15/15 15/17 15/20 18/1 21/21 22/22 23/21 24/3 25/13 28/12 37/10 37/15 40/19 41/21 42/20 44/3 44/6 48/13 50/11 51/16 52/21 53/9 53/16 56/6 58/2 58/7 59/5 60/14 62/17 66/6 67/20 68/4 68/11 69/7 71/3 90/17 99/19 100/10 103/22

104/17 **MR. PAPPAS: [5]** 14/6 16/1 18/24 19/2 74/7 MR. PLOUFFE: [1] 72/17 MR. REIMERS: [1] 72/13 **MS. CONNOR:** [57] 3/15 12/16 13/3 20/3 20/8 20/10 22/3 22/10 24/4 24/14 25/4 25/21 26/10 28/15 37/24 40/24 43/4 43/9 45/5 48/15 50/16 51/19 52/24 53/22 56/10 58/6 58/10 58/13 59/9 59/23 60/22 61/10 61/20 61/23 62/6 62/23 63/4 63/7 63/18 63/23 64/4 64/12 64/17 64/22 65/4 66/12 66/23 68/7 68/18 68/24 69/12 69/21 70/7 70/20 71/7 71/16 71/23 **MS. MERRIGAN:** [3] 74/11 78/10 79/8

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