STATE OF NEW HAMPSHIRE
SITE EVALUATION

October 16, 2017 - 9:05 a.m. DAY 47
49 Donovan Street MORNING Session ONLY
Concord, New Hampshire

{Electronically filed with SEC on 10-30-17}

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

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

Chrmn. Martin P. Honigberg (Presiding as Presiding Officer)	Public Utilities Comm.
Cmsr. Kathryn M. Bailey	Public Utilities Comm.
Dir. Craig Wright, Designee	Dept. of Environ. Serv.
Christopher Way, Designee	Dept. of Resources & Economic Development
William Oldenburg, Designee	Dept. of Transportation
Patricia Weathersby	Public Member
Rachel Dandeneau	Alternate Public Member

ALSO PRESENT FOR THE SEC:
Michael J. Iacopino, Esq., Counsel to the SEC (Brennan, Caron, Lenehan & Iacopino)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

COURT REPORTER: Susan J. Robidas, NH LCR No. 44

I N D E X

WITNESS PANEL: (RESUMED) MICHAEL BUSCHER
JAMES PALMER
JEREMY OWENS

I N D E X (CONT'D)

P R O C E E D I N G S

CHAIRMAN HONIGBERG: Good morning, everyone. This is Day 47. Counsel for the Public's aesthetics panel is still in place. Mr. Needleman has prepositioned himself to continue his questioning.

Mr. Needleman, you may proceed.

Oh, wait. Ms. Connor, you have something you'd like to say? If so, sit and speak into the microphone, please.

MS. CONNOR: So hard to get used to. I wanted to raise a process question which we raised with --

CHAIRMAN HONIGBERG: People in the back can't hear you.

MS. CONNOR: I wanted to raise a process issue that we raised with Attorney Needleman, and it has to do with the exhibits he will be using today for cross-examination which Counsel for the Public does not have. It has been represented that they have marked those exhibits, but they're not uploading them because they think it would give us an

unfair advantage. The problem is, that means we also will not have the exhibits for redirect, because I anticipate that will be later today. And the process is, we got their exhibits from Thursday on Friday morning. So I will be forced to redirect without ever seeing the exhibits, and you will be asked to do your questioning without seeing the Applicant's exhibits. And similarly, the witnesses will only see those portions of the exhibits that are shown to them and not the exhibits in their entirety. And we think that procedurally that's unfair, and it's having a greater impact on Counsel for the Public, because when the Applicant presented cross on their earlier witnesses, there was a substantial amount of time in which to get our exhibits -- actually, not on their cross. They did their direct. We did our cross. They got our exhibits. All the intervenors asked questions, and then they did their redirect. That's now been condensed with respect to us, and we're basically going from cross to your questions,

to redirect without the advantage of ever seeing their exhibits. And we would like an opportunity to have their exhibits before we do our redirect.

MR. NEEDLEMAN: Mr. Chair, this issue was specifically addressed prior to the time the Committee issued its first procedural order back in April. The initial order was going to require every party to provide its exhibits in advance. I think every party in this case, including the Applicant, and including Counsel for the Public, objected to that process and asked that exhibits not be required in advance. And the Committee acquiesced and issued an order that doesn't require that. We've now gone through the entire proceeding with people not furnishing their exhibits in advance. Counsel for the Public indicates that in some cases they did. I never had them in front of me when I was prepping my witnesses, and my witnesses never had them in front of them. So, to change that process now seems patently unfair. I appreciate what

Ms. Connor is saying. And we committed to providing our exhibits immediately after we're done and are prepared to do so. But to be required to do otherwise just would not be reasonable, given where we are.

(Off-the-record discussion between SEC counsel and Chairman.)

CHAIRMAN HONIGBERG: Mr. Needleman, Ms. Connor indicated or said that she thought you would show people portions of exhibits and that there would be -- that she wouldn't know what else there is as part of that exhibit. Are there situations where you're going to show one paragraph out of a 10-page document or something like that?

MR. NEEDLEMAN: Well, not that I can recall, off the top of my head. Certainly not today, as far as I can recall. If there's a specific example, I'm happy to hear what that is.

CHAIRMAN HONIGBERG: I guess, Ms. Connor, if there's something that you want to see, you'll be given an opportunity to see it. And if there's something specific

that comes up that you feel you're not able to do, you're going to need to make an explanation at that time as to why you can't proceed because that is how everything else has gone to date. You have whatever happened from the previous day. Neither you nor I knows what's going to come during this session. So if there's something that comes up and you have a problem with a particular exhibit or a couple of exhibits, we'll talk about them then when they're not hypothetical.

MS. CONNOR: Could the Applicant at least produce the exhibits used today, today, before redirect as opposed to tomorrow?

CHAIRMAN HONIGBERG: I think he just said they're going to be provided immediately when he's done.

Is that what you said, Mr. Needleman?

MR. NEEDLEMAN: Yeah, absolutely.

MS. CONNOR: Because that

wasn't done on Thursday.

MR. NEEDLEMAN: I thought it was --

CHAIRMAN HONIGBERG: Whatever happened or didn't happen on Thursday isn't relevant right now. Mr. Needleman's committed to doing it when he's done with his direct -- I mean his cross, and it shall happen.

MS. CONNOR: Thank you.

CHAIRMAN HONIGBERG: All right. Mr. Needleman, you may proceed.

MR. NEEDLEMAN: Thank you.

CROSS-EXAMINATION (CONT'D)

BY MR. NEEDLEMAN:

Q. Good morning, gentlemen. At this point in time, I want to go back to one quick issue that we talked about last week and see if you've got some additional information on this.

When I was asking you about the vegetated maps, and I asked you what was provided to Mr. Kavet and Mr. Rockler, you said you didn't know, but you would check.

I'm curious to know whether you checked and whether you made that determination over the weekend.

A. (Palmer) We have not talked to them. I believe that we have found a spreadsheet that was provided them that gave the area of visibility. And I can't really say more than that.

Q. Okay. I did not recall when I was questioning you on Thursday that there was a footnote in their report where they sounded like they described what they received. So I want to call the footnote up and ask you to take a quick look at it. This is what they described in their report as what they received. If you could read that and tell me whether that clarifies for you what they got.

(Witness reviews document.)

CHAIRMAN HONIGBERG: Mr. Needleman, what is that document? I see that it's labeled.

MR. NEEDLEMAN: I think it's Counsel for the Public Exhibit 148. It's the Kavet supplemental report, Footnote 48, on

Page 57.

(Witness reviews document.)

A. (Palmer) So the bottom of this highlighted section refers to, I'm assuming, the draft technical report, but something on the DOE web site. The highlighted area describes the data that were used for the elevation and screening. And we think that this comes from an e-mail communication that was had with them, but, you know, there is no way for us to know for sure.

Q. So do these sounds like they used their ground maps or they used the vegetated maps?

A. (Palmer) They used a screened visibility map that only screened for forest cover, per se, not forested wetlands or other kinds of vegetative covers. So it's bare earth and assigning a fixed height of, is it 45 feet -- I can't look at it and talk to you, too -- just to the forest cover. So it's very conservative since the forest cover's typically higher than that height.

Q. So it sounds to me what you're saying is, still, as we sit here today, we don't know if

Kavet used those vegetated maps that we looked at the other day which do not accurately depict Northern Pass, the maps in Plymouth, Sugar Hill, maps like that. We don't know; right?

A. (Palmer) That's correct.

A. (Buscher) Could you repeat that question, please?

Q. Yeah, I'm just trying to see if we can get a clear understanding of which maps Kavet used. And the other day we established that the vegetated screening maps that you included for places like Plymouth, Sugar Hill and so forth, didn't accurately depict the way Northern Pass would look on those maps.

A. (Buscher) I would disagree with that. And I believe you used the word "incorrect," and I would wholeheartedly disagree with that. What it includes is visibility of the corridor, whether it's proposed or existing structures.

Q. All right. And we don't need to quibble about that. That's in the record. I simply want to understand. We don't know whether

Kavet used those maps or other maps.
A. (Palmer) That's correct.
Q. Okay. So, another topic that was discussed with respect to that issue was the cost of data. And I think that it was you, Mr. Palmer, or could have been Mr. Buscher, we talked about the high cost of obtaining data to do the vegetated screening maps. Do you recall that?
A. (Palmer) Yes.
Q. Am I correct that either directly or indirectly in this case, the Applicants paid for all of the NEXTMap data or Intermap data that you did use in this project?
A. (Buscher) Through bill-back, yes.
Q. And that data was used from out to 1.5 miles from the Project; is that right?
A. (Buscher) The screen visibility analysis that was prepared as part of the EIS used that data out to 1.5 miles, which is what we used for our viewshed represented within our SEC report.
Q. And then beyond 1.5 miles you did not have the Intermap data; is that right?

A. (Palmer) For the draft, we had areas in the White Mountain National Forest that were Intermap data. Those were areas where we anticipated having visibility based on a preliminary analysis. And for the final visibility analysis, we had NEXTMap data for a large part of Concord.
Q. Okay. And so the other day when you were saying you didn't have a sufficient data set to prepare those vegetative screening maps for the SEC process, it sounded like what you were saying is you didn't have sufficient Intermap data; is that right?
A. (Palmer) We didn't have any Intermap data for the SEC analysis.
Q. And you did have access, though, to NED data, the National Elevation Data; right? That's a free data set.
A. (Buscher) That's correct.
Q. And you also had access to NLCD data, which is the Natural Land Cover data, which is also a free data set; right?
A. (Buscher) That's correct. But both of those data sets have much less accuracy associated

with them.
Q. Those are data sets, though, that you do typically rely on in other projects you do; right?
A. (Buscher) That's our -- I would categorize that as a last resort, yeah.
Q. And of course you could have asked the Applicants for the Intermap data, to pay for it just like they did in other circumstances; is that right?
A. (Buscher) We had -- if my recollection is correct, we had a discussion. We already had our proposal submitted. We already had our budget approved. And looking at the benefits and looking at -- I think the other thing we talked about was the time constraints, because when we finally got information, we were on a very, very tight deadline, that the decision was made that, with an exception to a little bit of overlap, the ends were undergrounded through the White Mountain National Forest, that the data we had was sufficient.
Q. Okay. I want to move to a different topic.

When Ms. Connor was questioning you on Thursday, I think there was a point where you said that the railroad bridge in Ashland and certain private historic properties had, quote, "visual access," close quote. Do you remember saying that, Mr. Buscher?

A. (Buscher) Yes.

Q. Is it your understanding that the SEC rules require people in your profession to consider impacts for a view of a resource and not exclusively from a scenic resource?

A. (Buscher) I think there's discretion that needs to be undertaken when assessing impact on a resource, such as the fact that when we look at scenic byways, we're not looking at the asphalt that the cars are traveling on; we're looking at the view from that resource.

Q. Understood. But are we clear that you're only assessing views from scenic resources and not views of scenic resources?

A. (Buscher) I would say that it's not clear in the SEC rules. I think it's impacts to a scenic resource. So I don't think that is necessarily saying a view from a scenic

resource. That's not how we interpreted it.
Q. I went back over your December 30th, 2016 report, and I didn't see a mention anywhere of this concept of "visual access." Does that surprise you?
A. (Buscher) That doesn't surprise me.
Q. I want to call up an exhibit.
MR. NEEDLEMAN: Dawn, what' the number?
BY MR. NEEDLEMAN:
Q. Okay. So this is not actually an exhibit number. It's just a compilation of various sections of the SEC rules.
This is four pages. It's not exhaustive. But every place where there is yellow highlighting, these are examples of where it says in the rules that an analysis should be done, or whatever is being done should be done from a scenic resource.
A. (Buscher) We're having a problem with one of our monitors.
Q. Okay. Let's pause for a minute and get that fixed.
(Pause in proceedings)

MR. NEEDLEMAN: All set?

So, Dawn, I think we may actually want to mark this later, but we can deal with that afterwards.

BY MR. NEEDLEMAN:

Q. So I don't want to rush you, but I'm just going to ask Dawn to quickly skim through the pages.

So, Page 2, in the middle of that page it actually talks about photo simulations from the resource. And I will represent that every place where it's bolded, we put that bolding in just to highlight it for illustrative purposes.

Next page. That's the criteria the SEC applies which talks about -- this is from the proposed facility. And then the last one, two notations from effective resources.

So my only question to you is with respect to the point you made a moment ago about there being discretion. Did you have all these rules references in mind when you made that point?

A. (Buscher) I don't think that these -- what's

the word I'm looking for? I would say that of course there's importance of views from a scenic resource. That goes without saying. But is it limited to views from a scenic resource? The first page you showed was specific to the identification of scenic resources, even though it talked about the view from that resource. It was about the identification. I mean, I think we could have a really long conversation about this. And I'd want to, you know, refresh and look specifically, because I don't think we have -- to answer this question, I think we need to read the rules with the concept that you just read in mind.

Q. Did you do that before you undertook your work here and think about this before you did your work here?

A. (Buscher) I mean, we're looking at impacts. We're looking at scenic impacts. And you just presented it looking at it in a very specific way of looking at those impacts.

A. (Owens) I think it's worth mentioning that some scenic resources, such as a historic

building or that bridge that we're talking about, are visible from roads which we consider to be scenic resources. So regardless of whether or not we're talking about that specific resource and whether or not -- we're still looking from a publicly accessible road which has a visual quality in particular because those resources are visible in the landscape.

Q. I want to move on to a different topic.

My understanding is that the purpose of conducting a VIA is to reach conclusions and offer professional opinions about the potential effect that a project might have based on the criteria in 301.14 in order to aid the Committee in reaching its ultimate decision. Is that your understanding?

A. (Buscher) No, that's not. My understanding is that the criteria in 301.14 is for -- that's rules that the SEC is supposed to follow.

Q. Right. But the purpose of conducting the VIA is to reach conclusions and offer professional opinions about visual impacts;

right?
A. (Buscher) As defined under 301.05.
Q. Okay. And when Attorney Connor was questioning you the other day, and actually when you were providing your answers the other day, there were multiple occasions where you said that you didn't do a VIA here. What you did was review the work DeWan did; is that correct?
A. (Buscher) That's correct.
Q. In your report, you offer a specific evaluation of 41 resources. And in 29 particular cases you find that those specific resources would experience an unreasonable adverse effect; is that right?
A. (Buscher) That's correct.
Q. So it seems to me that you're trying to have it both ways here. On the one hand, when it comes to being criticized for your resource identification and screening, you're saying you didn't do a VIA; but on the other hand, you're offering specific conclusions about aesthetic impacts on resources that under the SEC rules only come as a logical endpoint

through the VIA process. So how do you reconcile that?

A. (Buscher) How do we reconcile it? I think it's very clear in our report that those 41 resources are a simple sample, and we're looking to understand whether, if we took a small portion of what we feel would be scenic resources, and I think we've been very clear that one of the enormous downfalls of the VIA is that the number of resources out there are much more numerous than what were provided within the Northern Pass VIA, what we wanted to see, taking some of those resources -- actually, many of those resources weren't even considered resources in the NPT VIA, but see where we came out. And we were acting as both a consultant conducting the VIA and if we were offering an opinion in the role of the SEC as well. So it was just -- again, I think it was extremely clear, and we tried to make that very clear, a sample of scenic resources that we were bringing to the evaluation.

And I disagree that you have to do all

that upfront work just to look at what the impacts on a couple of the scenic resources would be.

A. (Palmer) So in particular, we were -- we commented on every criterion. So we didn't eliminate a whole bunch of identified scenic resources using the "significance" cultural criterion that is supposed to be reserved for the Committee. We talked about that. But we talked about all the criteria in both 301.05 and 301.14.

A. (Buscher) And that's shown in both, what I'll call the form-based evaluation which is the 41, as well as the more descriptive evaluation that included the 29 that we found to be unreasonable.

Q. So, just to be clear, what you're saying here is that under the SEC rules, experts like you can come in and offer their opinions about specific resource impacts without ever doing a VIA.

A. (Buscher) We were hired to do a review. We were not hired to do a VIA. So part of doing our review -- and I think it would be

uncommon for a consultant hired by the Counsel for the Public to do a completely independent VIA -- it would be our role to review it. That we have the flexibility to come in using our professional understanding to test certain components of that VIA that we were reviewing, and that is what we were doing by evaluating some of the scenic resources.

Q. Let me go back again and ask the question again because I don't think you answered it.

The question was: So you're saying that under the SEC rules, experts like yourselves, for an visual impact assessment, can come in and offer their opinion about effects on specific resources to the Committee without ever actually doing a VIA?

A. (Buscher) Not if you're the Applicant.

Q. But if you're you, you can do that?

A. (Buscher) If you're in a role where you're in a review situation, yeah, I think that's appropriate.

Q. With respect to the process here, to do your work, my understanding is that in order to

reach judgments about effects on resources, you went through the criteria that the SEC needs to apply in 301.14(a); is that right?

A. (Buscher) Yes. Or actually I think it's -- is it A?

Q. The seventh criteria.

A. (Buscher) Okay. Yeah.

Q. And as part of doing that, you made judgments about how those criteria applied to specific resources; right?

A. (Buscher) Yes.

Q. And you looked at things like prominence and dominance; right?

A. (Buscher) Yes.

Q. And up to this point, you'd never done this in New Hampshire before; is that right?

A. (Buscher) Yes.

Q. So I want to look at the 29 resources that you found to have experienced unreasonable adverse effects.

And first of all, 13 of these are public roads; is that right?

A. (Buscher) I don't know the number, right off the top of my head. I would have to go

through. But if that's what you're saying, I'll assume you're correct.

Q. So roads, for example, where you found these unreasonable adverse effects were places like Boyce Road, Hall Stream Road, Loudon Road, places like that; right?

A. That's correct.

Q. And none of these roads I believe were actually designated scenic resources; is that right?

A. (Buscher) They wouldn't fall under the -- some of these would not fall under the first category definition of scenic resource.

Q. And I think we've already established that none of them were tourist destinations; is that right?

A. (Buscher) Sure.

Q. Okay. With respect to Apple Hill Farm, that was another location you found to have an unreasonable adverse effect --

A. (Buscher) Actually, I don't think we did find that to have an unreasonable adverse effect.

MR. NEEDLEMAN: Okay. Why don't we pull that one up, Dawn. I thought

we did. Adam, do we have a reference for that?

BY MR. NEEDLEMAN:

Q. Okay. I will circle back to that. I thought you did. But if you didn't, that's fine.

What I want to do is look more closely at a couple of the sites beyond those ones that we just talked about of the 29. And I don't intend to go through all of them. I think that would be too time-consuming. But I just want to look at a few.

The first one is Bear Brook State Park. That's a location where you determined there was an unreasonable adverse effect; is that right?

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

Q. And Bear Brook State Park is the largest developed park in New Hampshire, with over 10,000 acres and 40 miles of trails; is that right?

A. (Buscher) Off the top of my head, I know that they're substantial. I don't know if those numbers are a hundred percent accurate. But I would agree with it in general terms.

Q. And for your assessment, you relied on DeWan's photo simulations; is that right?
A. (Buscher) That's correct.
Q. And DeWan did photo simulations from the top of Catamount Hill on Catamount Trail; right?
A. (Buscher) I believe that is correct.
Q. And I think there are two overlooks from the Catamount Trail that would have visibility of the Project. Does that sound right?
A. (Buscher) Yes.
Q. And the existing transmission lines are somewhat visible from those overlooks today; is that right?
A. (Buscher) I believe that is correct.
Q. And I think in your work you said that views from the trail typically consist of the forest vegetation growing on the hillside, with the exception of the overlooks. Does that sound right?
A. (Buscher) I would agree with that.
Q. Did any of you personally visit the Catamount Trail and hike to those overlooks?
A. (Owens) I did.
Q. Good. So you're then specifically familiar

with it, Mr. Owens?
A. (Owens) Yes.
Q. Am I right that three structures might be visible when looking northwest from DeWan's simulation?
A. (Buscher) Can we bring up the simulation?
Q. Sure. So I believe that's existing conditions.
MR. NEEDLEMAN: And then let's bring up the simulation, Dawn.
BY MR. NEEDLEMAN:
Q. And I believe that's the simulation.
A. (Owens) I think there's also another simulation from here of leaf-off conditions.
Q. Right. We can go to that one, too, if you'd like.
A. (Owens) Okay. Just making sure that's known.
Q. We can go to both. In fact, I think you said as many as 90 structures could be visible from these locations in the terrain viewshed; is that right?
(Witness reviews document.)
A. (Buscher) Can you let me know where you're --
Q. Yeah, it's Page 9, CFP 005168.

A. (Owens) Yes, that's what it says.
Q. And when you're talking about these 90 structures being visible again, that's bare earth; right?
A. (Owens) The terrain viewshed, yes, that's what stayed.
Q. So you could only see those if all the trees were gone.
A. (Owens) That's the potential for visibility of up to 90 structures if all the trees were gone, yes.
Q. And you predicated a portion of your analysis here on that assumption; is that right?
A. (Owens) I don't know that it's necessarily predicated. Basically it's reporting what the terrain viewshed shows as the maximum number of potential visible structures from that location.
Q. When you say there's an unreasonable adverse effect in this location, are you in any way factoring in your bare earth view from the location?
A. (Owens) On the bottom of our Page F11, we talk about why we specifically considered it

to be unreasonable. I'd have to read that to refresh my memory of whether or not that had anything to do with the maximum number, but I'm expecting it has to do with some other things as well.

MR. NEEDLEMAN: So I want to go back to the photo simulations. I want to show the existing and the simulation with leaf-on, if you could do that, Dawn.

BY MR. NEEDLEMAN:

Q. So that's existing, correct, Mr. Owns?

A. (Owens) Yes. Yes, that looks like existing.

Q. And then the simulation from there. And that's the simulation; correct?

A. (Owens) That's right.

Q. And then you wanted to see leaf-off.

MR. NEEDLEMAN: Could we go to those please, Dawn?

BY MR. NEEDLEMAN:

Q. So that's existing; is that correct?

A. (Owens) That's what it says.

Q. And then leaf-off. And that's the simulation?

A. (Owens) Yes.

MR. NEEDLEMAN: And these are all in Applicant's Exhibit 2, for the record. Dawn, can you pull up Applicant's 339.

BY MR. NEEDLEMAN:

Q. So this is a compilation of the photos that DeWan took from their visit to Bear Brook State Park which were produced during the course of discovery. I assume you've seen all these?

A. (Owens) I've seen those, as well as been to the park. So I've personally seen a lot of that as well.

Q. The four on top with the yellow highlighting are the four locations we just talked about where there's this potential visibility. Does that look familiar to you?

A. (Owens) Yes. It also looks like there's an additional photo further down on the right side. Bottom says "Photo merge of east vista."

Q. Hmm-hmm. And you would agree that considering vegetative screening the Project would not be visible from most of Bear Brook

State Park?
A. (Owens) That's right. There's a lot of forest there. So when you are on the trails and you get to these open areas, it becomes that much more important for views from those specific points of visibility of the landscape.
Q. So, for a majority of this resource, a visitor's experience is that there would actually be no visibility of the Project; is that right?
A. (Owens) Yes. Basically the same thing that I just said. It's more important --
A. (Buscher) So I think what we're getting into here is we were really looking at the impact from this viewpoint, which is sort of a celebrated situation. It's what you hike to go see, in large part. And there's not a whole lot of scenic overlooks down in this part of the state. I think what you're suggesting is because of the size overall of Bear Brook State Park, then we're looking at a minor impact. But maybe if the park was oriented just about this one viewpoint, then

it could be. And it's sort of the dilution of an impact because of the size of a resource. And we might not consider all of Bear Brook State Park, the resource. We might be looking at specifically this one celebrated component of Bear Brook State Park.

Q. With respect to the components, the overlooks, do we agree that the northwest view would potentially see structures from about 1.1 to 1.2 miles away?

A. (Buscher) We would agree with that.

Q. And we agree that from the east overlook, it would 1.4 to 3.4 miles away?

A. (Buscher) That generally sounds correct.

Q. So, picking up on what you just said, Mr. Buscher, it sounds like your conclusion is that the Project would have an unreasonable adverse effect on this resource, which, as we talked about, is 10,000 acres and 40 miles of trails, based on the two view sims we just looked at.

A. (Buscher) I think that's the conversation I was trying to get at, that the resource that

we're looking at is a celebrated viewpoint within the park.

Q. I want to turn to Coleman State Park. And in your analysis you said Coleman State Park/entrance was a place that would experience an unreasonable adverse effect. Do you recall that?

A. (Buscher) I do.

Q. And you focused on the entrance. But again, all of Coleman State Park is about 1500 acres. Would you agree with that?

A. (Buscher) I would agree with that.

Q. And I think you indicated that four structures would be visible from the locations near the Coleman State Park entrance; is that right?

A. (Buscher) That sounds correct.

Q. And the structures would be about 1.4 to about 1.75 miles away.

A. (Buscher) Sounds correct.

MR. NEEDLEMAN: All right. So let's pull up those view sims.

BY MR. NEEDLEMAN:

Q. So do you recognize this?

A. (Buscher) I do.
Q. That is the existing conditions from the entrance of Coleman; is that right?
A. (Buscher) That is.
Q. And that's Applicant's Exhibit 71, and I think it's Page 36159, which is existing.
MR. NEEDLEMAN: And then if we could pull up the view sim.
BY MR. NEEDLEMAN:
Q. And that's the view sim; is that correct?
A. (Buscher) That is correct.
A. (Owens) Just one note. It looks like the labels on those two sheets are reversed. So the existing is the proposed, and the proposed is the existing.
Q. Okay. Thank you for pointing that out.
And the proposed is 36160; correct?
A. [No response]
MR. NEEDLEMAN: Dawn, could we put those up side by side?
BY MR. NEEDLEMAN:
Q. While Dawn is putting that up, I'm just going to ask. I think you rated the potential visual impact here as "medium"; is that

right?
A. (Buscher) That's correct.
Q. Notwithstanding that, you still concluded that the effect was unreasonable in this location; is that right, Mr. Owens or Mr. Buscher?
A. (Buscher) Yes, that's correct.
Q. Okay.
A. (Buscher) So, making that determination, there's several factors that come into play. It's not just this particular view. We're thinking about the experience of users coming into this facility. It's one of more remote state parks in the state. The fact that we think about the visibility entering the park, we think about the visibility using one of the park's main attributes, and we think about the existing conditions not just here but in the overall setting and how people expect to come to this location more or less experience a sense of remoteness and wilderness, and that the inclusion of power lines sited on the very top of a ridge, skylighted, that's going to be visible as you

maneuver around the entrance of the state park, those are some of the reasons why we came to that finding.

Q. So, like Bear Brook, essentially what you're saying here is that, based on limited views within the context of a large resource, the Project will have an unreasonable adverse effect on aesthetics?

A. (Buscher) We're saying there are views in areas that have the highest concentration of use in this park.

Q. You also looked at the Cohos Trail found that to be an unreasonable adverse effect; right?

A. (Buscher) The crossing, yes.

Q. And that trail is about 165 miles long; is that right?

A. (Buscher) It is.

Q. So would you agree that it might take an average through-hiker 10 to 15 days to do that trail?

A. (Buscher) I would say yeah, and that's why we're not going to evaluate the trail in its entirety. It would be -- it wouldn't follow best professional standards to evaluate

impact on that trail by looking at the entire length of that trail.

Q. And the place where the Project is going to be constructed and the place where you found there to be an unreasonable adverse effect already has a transmission line crossing in that area; is that right?

A. (Buscher) There is an existing transmission line with wooden H-frame structures that are proposed to be replaced with galvanized steel lattice structures and single pole structures.

Q. And hikers have to walk through that location today and across the corridor today; is that right?

A. (Buscher) Right, looking at structures half the height.

Q. And on Page 111 of your report, you said, quote, "For a hiker that simply hikes through this location without stopping, duration would be slightly less than one minute. However, when backpacking, openings in forest cover are many times a welcome break, especially when it is sunny on a cool day,

and the duration could last for the extent of the rest." Correct?

A. (Buscher) That's correct.

Q. And your conclusion for this resource is based on that one trail crossing; is that right?

A. (Buscher) We're evaluating the trail crossing.

Q. And you said, quote, "The Project will have a negative effect on the future use and enjoyment of the Cohos Trail at this location"; right?

A. (Buscher) Yup.

Q. So if you were walking the trail in its entirety among the three crossings, you would maybe see these structures for two to three minutes over the course of 10 to 15 days; is that right?

A. (Buscher) If you were walking the trail in its entirety, which I would guess is probably not representative of the majority of users of the trail.

Q. And am I correct that in the report you prepared and submitted, you didn't provide

any evidence to suggest that a project crossing a trail of this length would have an appreciable effect on the way it's currently being used?

A. (Buscher) Did we -- I would have to read through our review. But that would seem to be an appropriate comment.

Q. And likewise, you provided no evidence on how additional lines might affect future use here; correct?

A. (Buscher) Future use. Hmm-hmm.

Q. And you list the current attractiveness of the Cohos Trail as, quote, "ordinary"; right?

A. (Buscher) At this location.

Q. So you found this crossing of an ordinary 162-mile trail as an unreasonable effect; is that right?

A. (Buscher) Could you repeat the question?

Q. Yup. You found this crossing of an ordinary 162-mile trail as unreasonable; is that right?

A. (Buscher) We evaluated the Project as proposed. We're thinking about the different capabilities that the Applicant has to

propose the line at this location. And based on their intention to build it with galvanized lattice towers, galvanized single pole mono towers, we felt that because of the manner of the design that it would have a negative effect on people's enjoyment and would result in a significant reduction at this location of the scenic attractiveness.

Q. You also evaluated the Moose Path Scenic Byway; is that right?

A. (Buscher) That is correct.

Q. That byway is 98 miles long; is that correct?

A. (Buscher) That's correct.

Q. And you assessed this resource I think by looking at DeWan's photo simulations?

A. (Owens) Yes.

Q. All right.

MR. NEEDLEMAN: So I'd like to pull up a couple of those simulations, Dawn.

A. (Owens) Just to be clear, it wasn't just by looking at the simulation. We also visited that location and had our own photos and looked at other types of information about the proposed line. It wasn't just looking at

DeWan's simulation.
Q. So do you recognize this document?
A. (Owens) Yes.
Q. This is from Applicant's 71. This is the existing conditions leaf on; is that right?
A. (Owens) It's a panorama of the existing conditions. I think that's in the spring.
MR. NEEDLEMAN: And then, Dawn, if we can go to the next one.
BY MR. NEEDLEMAN:
Q. And this is now a photo sim from that same location; is that right?
A. (Owens) It's a panoramic photo simulation, yes.
MR. NEEDLEMAN: Can we just go, Dawn, once more back and forth between the two, starting with existing and then go to the sim?
A. (Buscher) So, Jeremy, how close would somebody have to be looking at this to really get a sense of the proper perspective when you're out in the field?
A. (Owens) So this is a panorama. So in order to actually use it as a simulation, it would

need to be pretty close to your face and curved because it's a series of images from the viewer being rotated and then clipped together. So it's not typically used to represent a photo simulation. It's more for context for when viewing the actual simulation.

Q. And Mr. Owens, if the Committee had proper-sized copies of these and they were hard copies and they could hold them at the correct distance from their eyes, then they would be able to properly evaluate this the way you just described?

A. (Owens) I believe we looked at the actual simulation. So this is the panoramic. So it would be ill-advised for you to try to put that at a specific distance from your eyes and try to curve the page. It wouldn't be a very intelligent way to go about --

Q. But that wasn't my question. My question was if the Committee had the photo simulations from these various locations in hard copy and could hold them up and look at them at the proper distance, then they can make those

judgments; correct?
A. If you're referring not to these panoramic simulations and the actual single-frame simulations, then, yes, that's reasonable.
Q. And you also looked at this location leaf off; is that correct?
A. (Owens) You mean did I go to that location, or did I look at the simulation in leaf-off condition?
Q. Well, when you did your evaluation of impacts here, did you factor in the leaf-off simulation?
A. (Owens) Yes.
MR. NEEDLEMAN: Could we look at those for a minute?
BY MR. NEEDLEMAN:
Q. So this is existing conditions; is that right?
A. (Owens) Again it's a panorama of the existing conditions.
Q. Okay. And --
A. (Buscher) Can we look at the actual simulations? Because these are cover sheets for the simulations.

MR. NEEDLEMAN: Do we have the actual simulations handy? Maybe we can flip that around.

BY MR. NEEDLEMAN:

Q. So is this what you were talking about, Mr. Owens?

A. (Owens) Yes, that's what Mike and I were talking about.

Q. Okay.

MR. NEEDLEMAN: So, pause for a minute, Dawn.

BY MR. NEEDLEMAN:

Q. What we've got on the screen is APP 36184. And that is the photo simulation leaf off of the Moose Path Scenic Byway; is that right, Mr. Owens?

A. (Owens) Yes, that looks correct.

MR. NEEDLEMAN: And then if we could flip back to existing conditions on this one, Dawn.

BY MR. NEEDLEMAN:

Q. So that is APP 36183. And that, Mr. Owens, would be the existing conditions; right?

A. (Owens) Yes.

Q. Okay. So is it correct, then, that the Project would be only intermittently visible for about a mile to a mile and a half for somebody traveling in either direction?
A. (Owens) I note that that's what DeWan has identified that as.
Q. Okay. And am I correct that if a motorist traveling at, say 50 miles per hour, and you even assumed a full view of the Project the entire time without bends in the road or trees, you might see the Project for a total of about one and a half minutes over the course of your drive on the Byway?
A. (Owens) I'm not sure about that. We'd have to do some measurements in order to determine that. I assume it would be different when you're heading east versus heading west.
Q. In fact, duration of view is one of the criteria the Subcommittee needs to apply.
A. (Buscher) Well, we wouldn't just be considering motorists. We'd be considering bicyclists, people walking, other types of uses, cross-country skiing, you know, not just drivers.

Q. And duration of view is one of the things the Committee needs to consider; is that right?
A. (Buscher) It is.
Q. And your position is that, based on these view sims at this location, this would be an unreasonable adverse effect on this resource.
A. (Buscher) Duration isn't the only thing we're considering here. We're considering context of the area, sensitivity of the location. I mean, you can read the full evaluation. I think we have three or four pages in the evaluation, and that's all those different factors that go into our assessment of a resource.
Q. Let's go to the next resource, Mountain View Grand. This is another scenic resource that you determined would experience an unreasonable adverse effect; is that right?
A. (Buscher) That's correct.
Q. And you rate the potential visual impact as "high"; is that right?
A. (Buscher) That sounds correct.
Q. So let's --
A. (Buscher) Just let's catch up before we --

Q. Sure. While you're doing that, I'm going to put the view sims up.

MR. NEEDLEMAN: If we could, Dawn?

BY MR. NEEDLEMAN:

Q. So I put on the screen APP 80331. And do you recognize this, Mr. Owens?

A. (Owens) Yes.

A. (Buscher) Yes, we recognize this.

Q. Okay. And that's the existing conditions view from the Mountain View Grand; right?

A. (Owens) That's from the road down below the Mountain View Grand, I believe.

A. (Buscher) That's correct.

MR. NEEDLEMAN: And then if we could put up the view sim from this location?

BY MR. NEEDLEMAN:

Q. So that is APP 80333. And that is the view sim from this location; is that right?

A. (Owens) Just to be clear, again, that's the road in front of the Mountain View Grand. And as we note in our evaluation of the scenic resource, we were also using DeWan's simulations which were from up on the porch.

Q. And those are functionally the same from this location; right?
A. (Owens) Oh, I would say they were very different.
Q. Okay. So we can pull those in up in a minute.
So this is the existing sim; is that right -- or this is the view sim; is that right?
A. (Owens) Yes, it looks like it.
MR. NEEDLEMAN: Dawn, can we go back for a moment? So that's existing. And then go to the sim again.
BY MR. NEEDLEMAN:
Q. So, based on view sims like this, that was a factor in your conclusion about there being an unreasonable adverse effect; is that right?
A. (Owens) As I said, we --
A. (Buscher) We were reviewing the Mountain View Grand Hotel in this specific assessment. We weren't reviewing the road in front of the Mountain View Grand Hotel.
Q. So this view sim had nothing to do with your

assessment.

A. (Buscher) We take into account the views in the general area. But if we were basing it simply on this, we could have come to a very different conclusion. But we were also more importantly focusing on views that are 30 to probably 80 feet higher in elevation than this specific viewpoint is.

A. (Owens) We state very clearly on Page F26 that we were referencing also DeWan's Attachment 9 photo simulation leaf-off condition from the porch.

Q. Okay. So I'm going to ask Dawn and Adam to work on pulling that up. And while we're doing that, can you tell us where the structures are in this view sim?

A. (Owens) I think the one that's visible from this lower elevation on the road is over to the right side. It's going to be hard to see at these resolutions. If you flip back and forth, it might not be easily discernible.

A. (Buscher) So, just to note on what Jeremy just said, we're using screens to view these. And the simulations are already at a smaller

size, so we're probably looking at these simulations at a sixth of the resolution that they should be looked at. So there's a significant hardship in trying to view these simulations on screen monitors like this.

MR. WAY: Mr. Needleman, could we just flip back to the existing and the proposed again?

MR. NEEDLEMAN: Sure.

Is that something you could do, Dawn?

BY MR. NEEDLEMAN:

Q. So, I believe that is existing.

A. (Buscher) And if we really want to be looking at this, we should be looking at the simulations that we referenced in our evaluation.

Q. We're going to pull those up in a minute. I'm just addressing Mr. Way's question.

A. (Buscher) Sure.

MR. NEEDLEMAN: Let me know when you're ready to flip to it.

All right. Flip to the other one, Dawn. So that's now the sim -- oops.

Sorry. Did you want to go back to it?

MR. WAY: No.

MR. NEEDLEMAN: Okay.

BY MR. NEEDLEMAN:

Q. So, Mr. Owens, is this what you were talking about a minute ago?

A. (Owens) There are -- so we say at Page 9-117 to 9-126, I believe it's two different simulations; one they did looking southeast and another maybe south.

Q. But this is one of the ones from the porch of the Mountain View; right?

A. (Owens) Yeah, that's the location. And that looks like one of the existing views.

Q. And that was one of the ones you were talking about a minute ago?

A. (Owens) Yes.

Q. And this is the existing view that you were talking about a minute ago?

A. (Buscher) So, again, we started at 117. So if we wanted to go through and look at what we were including in addition to photos that we've taken that we didn't simulate, we should really start back at Page 9-117 and

then go all the way through 9-126.
Q. I'm just interested in getting an illustrative view.
So, Mr. Owens, a moment ago when you were talking about the location where you did your analysis, you said it was from the porch. And this is existing conditions in one location from the porch; is that right?
A. (Buscher) So the porch was one location.
Q. Okay.
A. (Buscher) And we were evaluating the Mountain View Grand in general that has porches at several different heights and elevations around the facility.
Q. And we'll get to that in a minute.
MR. NEEDLEMAN: So, Dawn, can you pull up the simulation now? And before you do, hang on. That is APP 36257, the existing conditions from the porch. And now the simulation, please.
BY MR. NEEDLEMAN:
Q. And that would be the simulation; is that, correct, APP 36258?
A. (Owens) That looks like one of the

simulations, yes.

Q. And Mr. Owens, can you point out in that simulation where the structures are?

A. (Owens) The structures are a little bit difficult to see in this simulation because of the contrast of color. You're looking to the south, and you usually have sun on the opposite side of the structures. They are using monopole steel, weathering steel structures. That blends a little bit better with the existing conditions that you see there.

What's visible in this sim is that the structures are very tall in a vertical configuration. So each of the conductors is above the next one, so you see the conductors as they go across the landscape. And if you look at the next simulation, which is if you turn to the right, you start to see more of that. The conductors are starting to basically gallop across the landscape.

Q. So it was simulations like this that you relied on in part to form your conclusion that there would be an unreasonable adverse

effect at this location; is that right?
A. (Owens) That's right.
A. (Buscher) In part.
Q. In CFP 136 at Page 100, you said that with respect to the Mountain View, you considered visibility from locations like the front porch, hotel rooms, cupola and decks; is that right?
A. (Buscher) Cupola, yeah.
Q. And at one point you say, quote, "Other locations may have views from where the Project is much more visible, for instance, from the spa tower"; right?
A. (Buscher) That would be the cupola, yes.
Q. So did you consider places like guest rooms and the spa tower to be places where the public has a legal right of access?
A. (Buscher) Sure. They can go and rent that room just like you can pay to go into a state park.
Q. But just to be clear, they have to pay to go to those locations; right?
A. (Buscher) Like going into a state park.
Q. Did you give any consideration to the

Committee's deliberations and decision in the Antrim docket with respect to this issue when you made those determinations?

A. (Buscher) No, we didn't. But we also considered the fact that you don't have to pay anything to go up onto the front porch where there's actually a mounted set of commercial binoculars to look out directly in the direction -- to look in the direction of the Project.

A. (Owens) And the White Mountain National Forest which is just behind.

Q. Another location you looked at was the Pontook Reservoir; is that right?

A. (Buscher) So I feel like we're not looking at all -- I feel like you're cherry-picking the simulations that we're looking at. I think we clearly asked to look at the variety of simulations from this location.

CHAIRMAN HONIGBERG: Mr. Buscher, he gets to decide what questions he asks, and if --

WITNESS BUSCHER: But I don't like --

CHAIRMAN HONIGBERG: I get to talk. If Counsel for the Public wants to follow up and ask you some different questions, she'll do so.

WITNESS BUSCHER: I feel as if we asked to help us answer that question, however, and we're not being given the full information that we would need to properly answer the question.

CHAIRMAN HONIGBERG: Then it's Mr. Needleman's loss, and Counsel for the Public will clean it up for you and for him, I have no doubt.

A. (Buscher) Okay.

BY MR. NEEDLEMAN:

Q. So, another location you looked at was the Pontook Reservoir; is that right?

A. (Buscher) That's correct.

Q. And that was CFP Exhibit 138 at 005254. And you rated the Project's potential visual impact on the Pontook Reservoir as a "medium"; is that right?

A. (Owens) Yes.

Q. And you still believe there's an unreasonable

adverse effect in that location; is that right?

A. (Owens) Yes, and for the reasons described in this review.

Q. And you relied, in part, on the photo simulations that you used for the Department of Energy, looking to the northwest; is that right?

A. (Buscher) That's correct.

MR. NEEDLEMAN: And so if we could pull up those photo simulations, Dawn.

BY MR. NEEDLEMAN:

Q. Does this look familiar to you?

A. (Buscher) It does.

Q. So that is APP 80214, which I believe would be the existing conditions at Pontook Reservoir; is that right?

A. (Buscher) That's correct.

MR. NEEDLEMAN: And then if we could pull up the photo simulation, Dawn.

BY MR. NEEDLEMAN:

Q. And that is now APP 80216. And am I correct that that's the photo simulation for this location?

A. (Buscher) That's correct.
A. (Owens) One of them, yes.
MR. NEEDLEMAN: And Dawn, could you put those side by side, if that's not too much trouble?
MR. IACOPINO: Mr. Needleman, I appreciate the page references, but what exhibit is this in?
MR. NEEDLEMAN: CFP 138.
MR. IACOPINO: Thank you.
BY MR. NEEDLEMAN:
Q. So when you were forming your opinions about the effects at the Pontook Reservoir, you were in part relying on this photo simulation to do that; is that correct?
A. (Buscher) We were we relying on this, in part, in addition to several other factors that are fully described in the evaluation. And there's another simulation that looks to the left from this simulation.
Q. And you relied on that one as well?
A. (Buscher) Of course.
MR. NEEDLEMAN: Dawn, is that one we could pull up?

BY MR. NEEDLEMAN:
Q. Is this the one you were talking about, Mr. Buscher?
A. (Buscher) It is.
Q. I'm looking at APP 080220, which again I think is from Exhibit 138. This is the simulation; is that correct?
A. (Buscher) That's correct.
Q. I'm not sure we have ready access to the existing conditions. But you were saying a moment ago, Mr. Buscher, that as part of forming your opinion at Pontook, you also relied on this simulation.
A. (Buscher) We did.
Q. Were there any others?
A. (Buscher) We relied on photos that we captured during field investigation.
A. (Owens) But we also looked at DeWan's simulation from the same location.
Q. Okay. Let me ask you about one other one, Little Diamond Pond. The other day when Ms. Connor was questioning you, I believe she put up the photo simulation for Little Diamond Pond that you prepared as part of the

Environmental Impact Statement; is that right?

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

Q. So I'd like to pull that one up. Was this the photo simulation?

A. (Buscher) I believe it is.

Q. Okay. And so that shows the simulated --

A. (Buscher) Oh, I'm sorry. That's the existing conditions.

Q. You're correct. That is APP 79336, existing conditions. And then I think the simulation's next.

A. (Buscher) Yeah.

Q. And am correct that that's the simulation?

A. (Buscher) That is correct.

Q. And that's APP 79389. And this was one of the sites that you concluded would have an unreasonable adverse effect?

A. (Buscher) Yes.

Q. And you reached that conclusion in part relying on these photo simulations.

A. (Buscher) Yes.

Q. Okay. Mr. Buscher, I think the last time we were talking, you indicated that you had some

familiarity with the Antrim docket. I think, in fact, you were a witness in that docket; is that right?

A. (Buscher) I had some limited familiarity, and I was a witness with a limited role.

Q. Yeah. My recollection is it was a pretty limited role. You were a witness for Audubon, and you presented an animation for Audubon; is that right?

A. (Buscher) That's correct.

Q. During the course of the work that you did in the Antrim docket, did you ever have the opportunity to review the photo simulations that the Applicant's expert and Counsel for the Public's expert prepared?

A. (Buscher) I saw some of the photo simulations. I wouldn't necessarily say I reviewed them.

Q. And I think there was some confusion the other day about the timing of the Antrim docket in relation to when you did your work here. Would you accept my representation that the Committee completed its deliberations in the Antrim docket on

December 12th, 2016?
A. (Buscher) That sounds approximately correct.
Q. And you submitted your first report here on December 31st, 2016; is that right?
A. (Buscher) Yes, we did.
Q. And then you supplemented that report, adding to your analysis of the 41 sites on January 20th of 2017; is that right?
A. (Buscher) That's correct.
Q. And on April 17th, 2017, you submitted supplemental testimony in this docket; is that right?
A. (Buscher) That's correct.
Q. Okay. I want to pull up Applicant's Exhibit 346. Do you recognize this, Mr. Buscher?
A. (Buscher) I do not.
Q. That was the existing conditions view from scenic resource in Antrim called Goodhue Hill.
MR. NEEDLEMAN: And if we could pull up the side-by-sides, Dawn. Actually, that's okay. Give us one second.
BY MR. NEEDLEMAN:

Q. So this is Goodhue Hill. This is Applicant's 346. That's existing. And then that's Goodhue with the proposed project. And were you aware that this was a scenic resource from which the Committee evaluated the Antrim project?

A. (Buscher) I was not aware.

Q. Where was the animation that you did? Was it from Willard Pond?

A. (Buscher) One of them was from Willard Pond, yes.

Q. Were you aware that when the SEC deliberated, it unanimously concluded that there would not be an unreasonable adverse effect on aesthetics from this location, Goodhue Hill?

A. (Buscher) I'm not aware of that.

MR. NEEDLEMAN: Dawn, can we go to the next one, Willard Pond.

BY MR. NEEDLEMAN:

Q. So, Willard was the place where you did the animation from; right?

A. (Buscher) That's correct.

Q. So you have some familiarity with Willard Pond.

A. (Buscher) I have some familiarity with it, yes.
Q. So that's existing conditions from Willard Pond. Does that look familiar to you?
A. (Buscher) That looks familiar, yes.
MR. NEEDLEMAN: And Dawn, the side-by-side. And that's the view sim from Willard Pond. By the way, all of these are Counsel for the Public expert exhibits from that case.
BY MR. NEEDLEMAN:
Q. So you must have been aware that the Committee also reviewed the Project from this scenic resource.
A. (Buscher) I'm aware of that.
Q. And were you aware that the Committee found that there would not be an unreasonable adverse effect from this location in a five-to-one vote?
A. (Buscher) What I am aware of, and I did not do analysis of this project, was that this project had been submitted previously and received a denial. Between the first time and the second time, there were a number of

modifications done, including removal of a wind turbine, lowering of another wind turbine specifically addressing this view. So, in part of the decision -- and I believe you said that they determined that there was no unreasonable impact at this location? Is that what you said?

Q. Well, my question was were you aware that the Committee found that at this location, on a five-to-one vote, there was no unreasonable adverse effect?

A. (Buscher) So as part of their decision in coming to that conclusion, they looked at things such as what type of mitigation the Applicant did do to try to get to that point. So I'm going to -- I have not actually read the final decision, but I'll take your word for it, that they came to an unreasonable -- that they did not find the impacts to be unreasonable looking at many different factors.

MR. NEEDLEMAN: Just one other, Dawn, if you could pull up Exhibit 345.

BY MR. NEEDLEMAN:
Q. Another scenic resource that the Committee evaluated was Bald Mountain Overlook. This was existing conditions.
MR. NEEDLEMAN: And Dawn, if you could put up the side-by-side.
BY MR. NEEDLEMAN:
Q. And I'm going to assume, Mr. Buscher, that this is not a location you were familiar with?
A. (Buscher) It is not.
Q. I guess I'll also assume that you weren't aware that the Committee voted unanimously that there was not an unreasonable adverse effect from this location?
A. (Buscher) Not aware of the decision, nor of any of the information that went into making that decision.
Q. Were you aware that in Antrim the Committee also looked at multiple other scenic resources and in all cases unanimously found that there was not an unreasonable adverse effect?
A. (Buscher) That sounds like the proper method

of looking at a project, reviewing a project.
Q. So, earlier this morning I asked you, when you were doing your analysis, if you were making an effort when looking at the 41 sites to apply the criteria in 301.14(a), and you said you were. Do you recall that?
A. (Buscher) As the second component of our review, yes.
Q. And I asked you earlier if you were making judgments about how those criteria applied to specific resources, and you said you were.
A. (Buscher) Yes, that's correct.
Q. And I asked you if you were looking at things like prominence and dominance, and you said you were.
A. (Buscher) Among all the other criteria that's mentioned in 301.14(a).
Q. And you also confirmed for me that you'd never done an analysis like this in New Hampshire under these rules before; right?
A. (Buscher) And like I said, this is one of the first few projects that have gone in under these rules.
Q. So, having now seen these Antrim simulations,

don't you think it would have been helpful for you, prior to the time that you rendered your opinions about adverse effects on resources, to have reviewed and considered how the Committee made its decisions in another docket like this?

A. (Buscher) I think it's a very different project. I think that project received a denial, that they went back through and looked at very specific factors, made modifications to the Project, reapplied. The correlation, I don't think it's all that great. And we know that public perception between wind projects and transmission projects are very different, so there would probably be limited advantage to doing that.

Q. So you don't regret not doing that. You don't think there would have been any value in informing yourself about how the Committee went about that process.

A. (Buscher) Well, first of all, you mentioned that the deliberations were in mid-December and our report came out December 31st. That's really not enough time to really

consider that.
Q. Can we agree --
A. (Buscher) This is a large review. I think you can agree to that.
Q. And we agreed your supplement came out January 20th and your follow-up testimony came out April 17th; right?
A. (Buscher) We agreed to that.
Q. So I want to go to another topic now.
The other day, Ms. Connor asked you about people in your profession being involved in the planning of projects, and the implication seemed to be in her questioning that DeWan had no role in working with the project design team regarding avoidance, minimization and mitigation of impacts. Do you recall that questioning?
A. (Buscher) I do.
Q. Were you aware that Mr. DeWan and Ms. Kimball were heavily involved in those issues in this project?
A. (Buscher) I think that's contrary to what Mr. DeWan said on the stand.
MR. NEEDLEMAN: Well, let's

pull up Applicant's, first of all, Applicant's exhibit -- what is our number, Dawn?

MS. GAGNON: It's 332.

BY MR. NEEDLEMAN:

Q. This is Applicant's response to Counsel for the Public's expert-assisted Data Request 1-127. And the question had to do with mitigation and particular types of mitigation. And the answer there very specifically addressed that issue with respect to weathering steel monopole structures. You see that?

(Witness reviews document.)

Q. In the third line, do you see that it says it was generally based on recommendations from DeWan & Associates?

A. (Buscher) I see that.

Q. Okay. And do you see where it says DeWan identified and recommended sections of corridor for monopole structures by the scenic resource?

A. (Buscher) I see that.

Q. Okay. Are you also aware that in DeWan and

Kimball's prefiled testimony, they specifically spoke to this issue? Did you have a chance to read that?

A. (Buscher) Can you repeat the question?

Q. Yeah. At Applicant's Exhibit 16, which is DeWan and Kimball's prefiled testimony, at Pages 4 and 6 they specifically speak to the issue of how they were involved in working with the engineering team to minimize impacts. Did you --

A. (Buscher) Yeah. And again, our understanding is that was limited to switching out structure types. It had nothing to do with the routing, had nothing to do with structure placement, had nothing to do with vegetation, had nothing to do with the width of the right-of-way, had nothing to do with anything other than specifically replacing structure types.

Q. Were you aware that members of the Applicant's engineering team specifically testified about this issue as well and talked about Mr. DeWan's involvement in the mitigation?

A. (Buscher) Not entirely, no.
Q. Counsel for the Public Exhibit 138, that is your prefiled testimony. On Page 13, you said that when considering mitigation measures with respect to adverse effects, quote, "visual impacts need not be unreasonable to require measurements to avoid, minimize or mitigate them." Do you recall that?
A. (Buscher) Yes.
Q. Would you agree that examples of that might be placing 60 miles of the line underground?
A. (Buscher) I think that can be considered a mitigating element.
Q. Would you agree that vegetative screening in locations where willing landowners permit that would be a mitigation element?
A. (Buscher) I would agree.
Q. You seemed to suggest the other day that the Project could be capable of doing vegetative screening on private property, even if landowners didn't want it.
A. (Buscher) I don't think we said that.
Q. Okay. So we agree that as long as landowners

are willing to have vegetative screening, that's a good, potential option.

A. (Buscher) Yes.

Q. Okay. How about reducing structure heights where it's possible? Would that be an effective mitigation measure?

A. (Buscher) Yes, it would.

Q. How about the use of monopoles as a mitigation measure?

A. (Buscher) In many situations, yes.

Q. Let me -- I want to just illustrate a couple of examples of that to see if you agree with me.

MR. NEEDLEMAN: Dawn, can we pull up APP 80124?

BY MR. NEEDLEMAN:

Q. Do you recognize that location?

A. (Buscher) Yes, I do.

Q. And the structures in the foreground are lattice structures; is that right?

A. (Buscher) That's correct.

MR. NEEDLEMAN: Okay. And then, Dawn, if you can flip to the next one.

BY MR. NEEDLEMAN:

Q. And the lattice structures now disappear with the use of monopoles; is that right?
A. (Buscher) They become much less prominent in this view.
Q. Yeah, that's a better choice of words.
So in a location like this, would you agree that the use of monopoles could be an effective visual mitigation measure?
A. (Buscher) Yes.
Q. Okay.
MR. NEEDLEMAN: One other one, Dawn, APP 80245.
BY MR. NEEDLEMAN:
Q. Do you recognize this location?
A. (Buscher) Yes, I do.
Q. And those are, again, lattice structures in that image right here?
A. (Buscher) It appears so, yes.
MR. NEEDLEMAN: And Dawn, if we could flip to what a monopole would look like. And that is 80306.
BY MR. NEEDLEMAN:
Q. So would you agree with me that switching from lattice to monopole in a location like

this could be considered an effective mitigation measure?
A. (Buscher) Yeah, definitely.
Q. Do you agree that offering to relocate structures to avoid or minimize potential impacts is an effective mitigation measure?
A. (Buscher) Yes.
Q. And how about the use of a non-specular conductor in certain locations?
A. (Buscher) Yes.
Q. Are you familiar with Site 102.12 which defines best practical measures?
A. I'd have to refresh myself.
Q. If I told you that it said, quote, "Available, effective and economically feasible on-site or off-site methods or technologies used," et cetera, et cetera, for siting design and so forth, would that refresh your recollection?
A. (Buscher) I would prefer to take a look at it, to be honest with you.
Q. Okay.
MR. NEEDLEMAN: Could we pop that up, Dawn?

BY MR. NEEDLEMAN:
Q. Does that refresh your memory?
(Witness reviews document.)
A. (Buscher) Yes.
Q. On Pages 50 to 64 of your report, you discuss mitigation measures and suggest additional forms of mitigation for the Project; is that right?
A. (Buscher) That's correct.
Q. And am I correct that you didn't consider cost when assessing many of the proposed mitigation measures in that section of your report?
A. (Buscher) That's something we would expect to be provided in the Applicant's report, things that they may have considered but then rejected based on cost or cost implications. But that is something that was not provided.
A. (Owens) We also used our experience with the same mitigation measures on other projects of even smaller size. So, non-specular conductors, different types of structures and vegetative mitigation, all of those were reasonable in those projects. So...

A. (Buscher) Moving structures further away from road crossings, these are all things we work with on other utilities to help minimize the impacts of projects.
Q. So on Page 50 to 64 where you make those recommendations, you didn't do any assessment of whether any of the means that you suggested are actually economically feasible; is that right?
A. (Buscher) That's correct.
Q. And you made no assessment as to potential impacts to things like wetlands, deer-wintering areas, vernal pools or other sensitive habitats that might be disturbed in relation to your recommendation of these measures; right?
A. (Buscher) That's correct. But we weren't given the information upfront of why a structure would be immediately adjacent to the road, which we would not consider best practice in siting and locating the transmission line.
Q. You understand that the Applicant has an obligation to consider all those factors when

it's relocating structures; right?
A. (Buscher) As well as providing the mitigation that they considered and why those mitigations were rejected.
Q. Well, let's talk about that for a minute. Site 301.05(b)(10) requires a description of the measures planned to avoid, minimize or mitigate potential adverse effects of the proposed facility and of any visible plume that would emanate from the proposed facility, and the alternative measures considered but rejected by the Applicant. Is that what you were talking about?
A. (Buscher) That's what I was referring to, yes.
Q. So in Council for the Public Exhibit 138, which is your report, on Page 64 you said a review of alternative avoidance, minimization or mitigation measures considered but rejected by the Applicant is not included in the NPT VIA; therefore, the VIA does not comply with... and you cite that rule. Does that sound correct?
A. (Buscher) That sounds correct.

Q. And you also said on Page 66, the proposed avoidance, minimization and mitigation strategies represent a very modest effort to address the visual impacts to the scenic resources that were analyzed in the NPT VIA; right?

A. (Buscher) That's correct.

Q. Do these general statements apply to the 60 miles of underground that the Project is proposing?

A. (Buscher) The underground is a great portion. Our understanding, although it is going to -- we considered that a mitigating element, it wasn't done specifically for a mitigation reason.

Q. Do you understand that in response to the new rules coming into existence, that the Applicant was required to file a supplement to its Application?

A. (Buscher) Yes.

Q. You're aware of that?

A. (Buscher) Yes.

Q. And did you review that supplement?

A. (Buscher) Yes, we did.

Q. And were you aware that on Pages 10 and 11, there was a description of all the methods that DeWan considered and rejected?
A. (Buscher) I would have to look back through that, but we did review the supplement in its entirety.
Q. Do you recall whether the list considered multiple potential measures that were considered and rejected?
A. (Buscher) I can't recall, off the top of my head.
Q. Applicant's Exhibit 90 is the supplemental prefiled testimony of Ken Bowes. Did you review that?
A. (Buscher) Yes.
Q. Were you aware that on Pages 3 through 11 he discussed additional potential avoidance, minimization and mitigation efforts?
A. (Owens) We were aware that he discussed some items, yes.
Q. And I assume you had the opportunity to review Applicant's Exhibit 92, which was the DeWan and Kimball supplemental testimony?
A. (Buscher) Yes.

Q. And you were aware, I assume, on Page 24 through 27, they discussed additional potential avoidance, minimization and mitigation efforts?
A. (Buscher) I believe that sounds correct.
Q. Okay. Earlier we went through your opinions about effects at specific resources. And there are specific locations where you believe that there would be a unreasonable adverse effect. And Mr. DeWan analyzed all those locations, and he disagrees with your conclusions; is that right?
A. (Buscher) That's correct.
Q. And the Committee's job here is to assess the evidence at those locations. And if it wanted to, it could decide at any of those locations to order additional mitigation. Is that your understanding?
A. (Buscher) That seems appropriate.
Q. And there's a whole range of potential mitigation measures that are available to the Committee, which were documented in places like Applicant's Exhibit 1, Exhibit 2, Exhibit 16, which is the prefiled testimony

of DeWan and Kimball, Exhibit 90, which is the Bowes supplemental testimony, and Exhibit 92, which is the DeWan supplemental testimony; is that correct?

A. (Buscher) I would have to look through all those different pieces.

I think our major issue is that, while in concept there's been a lot of talk about mitigation, in the actual materials provided to us we don't have enough information to make a judgment on whether that mitigation is going to be appropriate or adequately minimize any potential unreasonable adverse effects.

Q. Okay. I think I'm all set. Thank you.

CHAIRMAN HONIGBERG: All right. Why don't we take 10 minutes and then we'll have questioning from the Subcommittee.

(Recess was taken at 10:30 a.m. and the hearing resumed at 10:46 a.m.)

CHAIRMAN HONIGBERG: All right. Mr. Oldenburg, why don't you start us off.

MR. OLDENBURG: Thank you, Mr.

Chairman.

QUESTIONS BY SUBCOMMITTEE MEMBERS AND SEC COUNSEL:

BY MR. OLDENBURG:

Q. Good morning, gentlemen. My name is Bill Oldenburg. I work for the Department of Transportation. So this is just sort of not really in my wheelhouse, but I have questions. Most of them are clarification questions.

So you had mentioned to a number of the questions and in your testimony that you were familiar with the Project because you worked on it as part of the draft Environmental Impact Statement for DOE; correct?

A. (Buscher) That's correct.

Q. What I thought I heard you say in previous questioning is that you worked on the statement that was in the draft, but not the final; is that correct?

A. (Buscher) No, we did a VIA report, a technical report, for both the draft and the final. But then those reports were used to draft the section in the actual draft EIS and the final EIS that we did not draft -- we did

not write those parts of the final documents. We prepared the technical report.

Q. So you did the technical report. But under the Visual Assessment section in the Impact Statement itself, you didn't have anything to do with that; correct?

A. (Palmer) For the draft, we reviewed a lot of it. We didn't even see the final. We were asked to comment on some material that had been prepared for the final, but my memory is that it had to do with the White Mountain National Forest, conformancy with the forest plan, to make sure that that was accurate. But it wasn't sort of what you would think of as the meat of it. And in particular, Alternative 7, which is what you all are considering, was all new, and we were not asked to review that aspect of the final EIS.

A. (Buscher) And it's not uncommon for the EIS consultant to utilize materials created by other consultants to draft the final EIS itself.

Q. Because I guess my question is, when I read that, the statement that's in the EIS, I

didn't get a strong anti- -- you know, I didn't see the unreasonable adverse effect type of language in the EIS that you do in your testimony, in your report.

A. (Palmer) We were at -- so in the federal NEPA process, "significance" is a key word. That's a judgmental word. And we were asked not to find "significant findings" or to use comparable language. So there's a string of words that we were at -- we were not to be making a judgment. We were to be providing sort of evidence as much as possible, and then that was interpreted by our contractor.

Q. So we shouldn't draw conclusions that in the EIS there's one set of statements and in your testimony here it's sort of a much harsher review.

A. (Buscher) Yeah, it's a site-specific review.

One of the goals of the EIS was to compare different alternatives. And that was a major component of what the EIS was trying to do. I think if you actually look into the actual impact findings, even though it might not be reflected in any type of final

analysis, in a lot of the sample KOPs, that the finding was that impacts may very well represent unreasonable impacts.

A. (Palmer) So the more comparable part of the federal technical report would be those KOP analyses in Appendix A. So that is the only more site-oriented work that's in the federal EIS. Again, we started out anticipating that there would be a lot more site-oriented work in the federal EIS, but we were asked not to do that, that that was not the responsibility that the Department of Energy saw for their assessment, that they were really at a higher level about comparing alternatives. So it's a different -- what you have to do and what we did there is a different analysis. There's some things that you can learn clearly from what we did, but it really is different.

Q. Okay. Understood. Thank you.

So I struggle a little, and I don't want to repeat the same questions that Attorney Needleman just did, but I struggle with in your testimony you found numerous things. I

won't go through them, but I highlighted them all over the place. You found significant errors with the VIA. You had substantial deficiencies in this, that, and it goes back to the number of resources found, et cetera. And you testified you didn't redo the VIA, but you were able to come to a conclusion -- without redoing, you looked at a few resources and then came to a conclusion that it would have -- that the Project would have an unreasonable adverse effect. So you started with 18,000 resources. You looked at 41, if I have the numbers right, and then you found 29 had unreasonable adverse effects, or some number like that. So how many resources would have to have an unreasonable adverse effect for you to say you shouldn't build the Project?

A. (Buscher) Well, quite honestly, I think there could be a single resource that might have such an unreasonable impact with the Project moving forward, that the SEC, it's within their jurisdiction to decide that the Project on the whole shouldn't move forward just

because just of that one location. We're not saying that that's occurring here.

But our review looked at several different things. First of all, we just don't think we have the information provided by the Applicant to make a full determination. We really feel that the number of scenic resources were not adequately provided. And just our review would anticipate that there's several hundred resources, at least, that should have been evaluated, that were not.

We also completely disagree with how the Applicant then vetted resources before even doing an impact assessment, even though the supplemental somewhat provides that. We really don't see that as an analysis that should have been done within the requirements of the SEC 301.05.

The 41, again, we're just trying to -- we took a handful of resources and tried to see if we were coming up with some more conclusions. We have quite a bit of experience dealing with transmission lines,

and we have quite a bit of experience working with the developer to minimize, avoid impacts, and we just don't see that happening here.

A. (Owens) We do see it happening to some extent, but not to what we would consider a reasonable extent. So there are a lot of mitigation strategies that they should have been suggesting or employing. Just for example, the 41 resources, or 29 that we found unreasonable, we considered those additional mitigation items to be a reasonable thing for them to do.

Q. I do have questions about those, but let me go on to -- you just touched on the whole resource, the scenic resource. And I still struggle with the public access versus private property issue. And the example you just used a few minutes ago with Attorney Needleman was the state park fee that you pay versus paying a room rate at the Mountain View Grand. So, to me, the state park is public. It's owned by the State of New Hampshire; correct? And the hotel is owned

by a private property. You don't have a legal right for access at the hotel, do you? I'm trying to -- because one of the requirements is it has to have "legal public access." Wouldn't a private property owner have the ability to say no?

A. (Palmer) Well, but it's a retail establishment. And under what -- there's certainly some things they could not refuse you. For race they could not refuse you. So if you were black, they could not tell you that you could not be there. You know, you can't have places open for business that say that women are not welcome here. I mean, so I'm not sure what exactly the leak -- I mean, clearly you are -- they're open for business to the public, so the public can -- and there's certainly publicly-owned buildings where you don't -- I mean, I can't just walk into your office, for instance. So there's publicly-owned property where the public doesn't have a legal right of access also. So it's not an easy thing to actually define. And I think Terry also struggled with that.

And we don't have a clear, detailed, legal investigation of what that means either.

A. (Buscher) But given the situation, it would seem that you would want to be more encompassing than restrictive in your interpretation of that, and that's the approach we took.

Q. But I was just thinking I wouldn't -- I don't know. Maybe I'm looking at this more in my view. But I wouldn't go up there with an ATV, park in the parking lot, get off and use their trails, because I didn't pay. I mean, aren't the amenities at that hotel for a paying customer?

A. (Palmer) But there are places in the state park where you can't take an ATV. I mean, it's not open -- the trails are not open to any use. You cannot take an ATV on the Appalachian Trail.

A. (Buscher) But to just stop and go up onto the porch and look at the view, I would guess that that's not an uncommon occurrence.

Q. Okay. All right.

A. (Palmer) But I understand the struggle. For

us, the really big one was whether or not you all will accept, as we accept, that public roads are publicly funded and that it's common for people to drive roads to go look at the scenery. And a lot of that scenery is scenic resources, like historic properties, that you're looking from the public road, which we think is a scenic resource, looking at a scenic resource.

Q. I think it's more of an interpretation or a lack of definition in the rules that everybody struggles with, so --

A. (Buscher) But in general, I think, you know, and Mr. Needleman talked about it, you know, when you have professional experience doing VIAs, in our professional experience doing VIAs, most every situation I can think of, we're going to assess the impact to the Mountain View Grand Hotel.

Q. All right. Because one of the other examples was bodies of water, streams, ponds. And if I remember correctly, in New Hampshire a body of water has to be over 10 acres to be a public waterway.

A. (Palmer) A natural pond of 10 acres or greater, correct.
Q. But I thought someone had said or asked the question about streams, if someone had public access to go fishing on a stream.
A. (Palmer) Streams, there are publicly-owned streams, too, and both of those are listed in a report that's published annually.
Q. Okay.
A. (Palmer) So if a pond all of a sudden got dammed, it would get judged differently than it would as a natural pond.
Q. Because I've just seen where a deed might access the center of a stream as a private property line. So therefore, you would think in some cases streams could be privately owned; correct? And the public wouldn't have access --
A. (Palmer) The streams that are publicly owned are all listed, I mean, which is really nice. That's something that's not common in the rules. But it's one of the views, sure.
Q. Okay. Just trying to review the questions that were already asked and not ask them

again.

In your testimony, one of the -- under your question of please describe your conclusions as to why the Project would result in an unreasonable adverse effect on aesthetics, one of the bullet points was inappropriate siting of new transmission corridor. By the "new transmission corridor," is that the new 24-mile section that's new, above ground? Or what did you mean by "new"?

A. (Buscher) Yeah, the corridor in the north 40 where there's no existing lines, where there's a corridor being created specifically for this project.

Q. My impression is most of that's on private property. And are there -- from what sections? I guess no one -- when I reviewed it and when we did our site visits, it wasn't specifically pointed out, locations where we might have stopped or saw or photo simulations of views of that line that are in the new corridor. Did you do any?

A. (Owens) You're talking about examples?

Q. Yes.
A. (Owens) So, just today we reviewed three examples. One was next to Little Diamond Pond and the routing adjacent to Coleman State Park. You're going over the top of a ridge when there maybe were other options. Two that I can think of: One would be burial in that same corridor, and another would be to continue going down roads and around that park. We looked at --
A. (Buscher) Or just relocating that so it's not sitting on top of a ridge line.
A. (Owens) Right, yeah.

So the next was the Moose Path on Route 26, where we were looking at some galvanized lattice structures. That's a new corridor coming over an elevated location. If that was the location that the line would need to be in for some reason, you'd want to see pretty much the maximum available mitigation measures. We had talked about Natina.

And another one was the Pontook Reservoir, where you've essentially got a landscape where you can't really see. There

is an existing lead line, that 115 kV line that goes up to some wind turbines. The proposed route's been elevated on one of those ridge lines, and that's not good siting. You would want to have that down as low as you can go.

So that's what we reported, that those are inappropriate when you consider a new transmission line corridor. That's not where you would want them to be.

A. (Palmer) I'd also point out the Dummer ponds, where I think the Dummer ponds are great because they really provide a good example of how a line can be sited in an appropriate location because there's an existing lead line that has just been installed in the last 10 years that is very well hidden, very well screened in those views. And then there's the proposed Northern Pass Project, which is high up on the existing slope and exposes it. It's within a clear-cut area, and --

A. (Owens) Consequently, that's the same ridge line that you can see from Pontook Reservoir.

A. (Palmer) And say Dummer Pond. Dummer Pond is

a scenic resource because it's a large lake. But without having checked, I would bet that a lot of the Wagner lands are receiving the current-use appraisal and then the 20-percent adjustment for recreation use. And I haven't checked that, but there is a lot of recreation use back there. And there's an ATV club with a building. There's a whole bunch of that sort of resource. So at least it would makes sense that if they're providing that recreation activity, that they're availing themselves of the financial benefit that they could get for providing that activity.

Q. Okay. The next bullet point is the mix of structure types. And I guess on that statement you're saying that by mixing structure types, that can be a -- that can have an effect on aesthetics; correct?

A. (Buscher) That's correct.

Q. So are you recommending that all structure types be the same?

A. (Buscher) Well, we feel that there's quite a few different locations where we're seeing

both lattice and steel monopole. And a term that is commonly used is "clutter," landscape clutter. And that creates clutter in the landscape visually. So it would be more appropriate to have a single-structure type from visible locations. Generally, you know, in general I feel there's definitely situations where lattice towers might be less apparent within the landscape. Generally I feel that there is a more industrial character provided with a galvanized steel tower compared to a self-weathering monopole.

Q. So if I read into that statement a little bit, you're saying that they should be monopoles, not all lattice structures. So if one has to be a lattice structure, you're not saying they all should be lattice structures; right?

A. (Buscher) That's correct.

Q. You're saying making them all monopoles would be more aesthetically pleasing.

A. (Owens) There would probably be some exceptions to that. I think the Route 26 location where we've got -- we saw that

simulation of the lattice structures coming over the hill. If those had some other type of mitigation applied to the lattice structure, that might actually be less visible than a steel monopole, a series of steel monopole structures going over that landscape. So it's not a panacea.

Q. So one of the next bullets is the heighth of the structures. And I think one of the things that you would -- let me pull a bunch of questions -- or answers that I think I heard was the heighth of the structures -- I think you made a statement that the structure heights was as low as you thought was feasible, given all the different components.

A. (Buscher) Given the layout design of the Project, I would assume that they're as low as they -- I don't see any --

Q. Without requiring --

A. (Buscher) -- reasoning for them making structures higher than they need to be.

Q. And one of your mitigation suggestions was they should purchase a wider right-of-way or right of easement so that the structures

could be spread out and therefore lower?
A. (Buscher) So there's a lot of different ways that you can lower structure heights. You can space structures closer together. You can adjust positioning of the structures within the given landscape. But, yeah, one option would be to understand if people were willing to sell additional right-of-way and change the Project to, say, a horizontal configuration than a vertical configuration.
Q. So, given all the different components then, the criteria that go into the tower height, I have to imagine things like distance from the right-of-way, distance from the ground, distance from each of the conductors come into this.
A. (Buscher) Right.
Q. So, for the Northern Pass line to be lower, some of the criteria has to change. And you would have -- I would have thought that the -- or wouldn't you think that the engineers would have done that and made these towers as low as possible?
A. (Buscher) I'm sure they're as low as they can

be given the configuration. That's not saying that from our perspective it's acceptable. For instance, we're used to working on 345 lines that have regular heights of 65 feet, where we're looking at structure heights that are regularly over a 100 feet tall. Those are tall structures, and up to 160 feet. That's an extremely tall transmission structure, and it's not common in New England, based on my experience.

So there's a number of factors that, given my general knowledge and working with transmission companies, why that's occurring. And one of the reasons that I'm going to make the assumption is that there's a lot being fit into these right-of-ways. So maybe it results in a different, lower voltage line being undergrounded or taking -- instead of just rebuilding one line, maybe it's rebuilding two lines and putting them on a single structure, double circuit. Reliability comes into play in that type of situation. So there's a lot of different things you can look at to consolidate,

organize, potentially lower the structure height.

A. (Palmer) And maybe the existing right-of-way's just not big enough for the addition that they're proposing.

Q. So that was one of your mitigations was for them to purchase additional easements. And if I remember correctly, and I wrote down the number, but I don't know if I've got the context right, in the EIS they analyze that portion of it, and there were hundreds of individual easements that would have to be renegotiated. Is that reasonable?

A. (Buscher) We have seen it done on other projects.

Q. Okay.

A. (Owens) There's also another way to reconfigure, as we said, reconfigure the actual structure that they're proposing into what's called a delta configuration. So right now, most of what they have is each phase -- there's three phases, one above the other, which is the minimum clearance between the three phases. If you go to a delta

configuration, you alternate sides of the structure, which lowers the height. I believe that in a right-of-way this small, there's some clearance issues that they might have with the adjacent 115 line or lines. But those types of things need to be considered. And additionally, they might be able to get easements or understandings about what they're clearing in terms of vegetation in order to have the clearances that they need in order to reduce the structure height across the entire corridor.

A. (Buscher) And we haven't -- I don't believe -- have we been given information, Jim, can you recall, on if there's been any type of analysis done on danger tree clearing?

A. (Palmer) No, we weren't. So we, as part of the federal process, kept asking for information about vegetation management and how they would do that and sort of the guidelines that they would use to make their decisions, and in the federal process it really wasn't forthcoming.

Q. But since they -- going back to Mr. Owens' statements just now about the configuration, given the fact that the tower height is probably one of the biggest issues with the Application, wouldn't you assume that the engineers have already done everything possible to make these towers as low as possible?

A. (Buscher) Well, they're certainly taller than other structures of similar voltage capacity in New England.

A. (Palmer) Well, they lowered the voltage some between what we call Alternative 2 and Alternative 7. So the original preferred alternative to the federal government, and then what you all are looking at is a revision of that. And the structures changed. And all the structures -- well, pretty much all the structures dropped 10 feet -- do I remember that right -- anyway, a meaningful amount because they redesigned the structures.

A. (Owens) So you're correct, though. If they've -- what I would say, if they've

lowered those structure heights as much as they can and they've condensed the corridor as much as they think they can from an engineering perspective and a reliability perspective, if nothing else is done, then it may just be that that solution is going to result in unreasonable impacts.

Q. So one of the other mitigation areas was harmonizing the new structures with existing wooden structures. So you talked about employing or using wooden structures for the new lines instead of the steel structures. If the tower heights have to be that high, can you actually get wood poles that are 100 feet tall and build wood structures that high?

A. (Buscher) Well, we have experience with 345 lines being constructed entirely out of wooden structures, H-frame configurations. But there's also laminated wood structure possibilities that you can get fairly tall heights out of.

A. (Owens) Also, the configuration again. One of the reasons that that 115 line that

they're replacing with a tall steel structure is so tall is because they're not doing a delta configuration, which is what the other existing 115 line is, which is a lower structure height, and those are wooden. So you're essentially looking at an example of what could be done. There would be some clearance issues for reliability that might have to be solved, but that would be one way of changing to a different type of structure, or co-locating the two 115s onto a single structure instead.

A. (Buscher) Having lots of different structure types within a right-of-way, all visible, that sort of goes to the concept I introduced earlier called "clutter." So you have lots of different structure types, you have lots of different spacing for the structure types, you have different sags being created with the conductors because of the different placement and structure types, and it all creates a very chaotic visual situation or character within those right-of-ways.

Q. But you can only see so many structures at

once. I mean, there's 1800 structures they're building.

A. (Buscher) Right.

Q. So you're not suggesting that they all be the same type, but be more consistent --

A. (Buscher) Cohesive.

Q. -- within a view. Is that what you're basically saying?

(Court Reporter interrupts.)

A. (Buscher) Yes.

Q. Okay. So one of the last statements in your prefiled testimony was failure to adequately consider best practical mitigation measures results in the Project as proposed having an unreasonable adverse effect. And that's one of the criteria that we review is mitigation. But just because they haven't considered all mitigation, is that why your recommendation is to find it unreasonable? Or is it the measures that they used? The lack of being, you know, all-inclusive or the lack of the measures that were employed? Do you understand -- you're struggling with the question.

A. (Buscher) Yeah.
Q. So you listed a lot of additional measures that I didn't hear the DeWan folks call for. Is it an unreasonable adverse effect because they didn't use all of these measures or --
A. (Buscher) Just because of that?
Q. -- or is it the fact that they didn't go far enough with the measures they used, or a combination of both I guess?
A. (Buscher) Yeah, I would say it's a combination. The reason why we're considering the overall project unreasonable is for a number of different reasons, mitigation being one of those reasons. And I think that's accurate to say that they haven't employed mitigation that would be considered best practice. Basically there hasn't been any information -- one of the things that -- one of the basic ways to mitigate a project is screening. They talked about it a little bit, but yet there's not a single landscape mitigation plan provided. Non-specular, something that other transmission companies do straight off the

bat. It's just something that's expected. And they're arguing that, given a couple years -- and it's been our experience that's not the case -- there's going to be patina that forms that makes them just as not visible as if they would be treated with non-specular treatments. So the mitigation, in large part, we feel does not adequately address what we would anticipate as accepted practices to fit this project within the landscape.

Q. Sort of the last series of questions I have is based upon sort of an assessment now. One of the assessments that you reviewed was the Coleman State Park area. How many locations did you review that from? Did you review it from the entrance, from like the cabins at Coleman Estates, the visitor's center, the campground, the boat launch, middle of the lake, the hiking trails, the ATV trails? I mean, you just didn't go to one spot, did you?

A. (Buscher) No. It's actually not a spot I visited. We had two different teams go out

there at two different times.

Were you one of those teams? You were; correct?

A. (Owens) Right. We didn't go to all the trails. We didn't go to the rental cabins. I think that even the --

A. (Buscher) We looked at the -- I mean, some of the things that we do is we do take advantage of desktop techniques to review projects. And I actually looked at the rental cabins themselves through a more desktop analysis.

Spots we really focused on was the entrance road, the area near the campground and park entrance, the lake itself. And there's a large portion of the lake that are going to have views of those towers on top of the ridge.

Q. So when you do your assessment, how do you take into account the different uses and the different types of access? You know, an ATV user might have a different impression or expectation than a hiker would or a fisherman would. How do you review that and come up with your "low," "medium," "high"

assessments? Do you do it individually by use, or is it a cumulative review?

A. (Buscher) I think we tried to understand what uses might be impacted greatest by a project like this. We had the fortune of having the New Hampshire Lakes study which did evaluate specifically different types of users on water bodies within New Hampshire, including non-motorized boating which is done for a recreational purpose that has a high expectation for scenery. And the survey said that those users would feel that a significant change to the landscape would have a profound impact on their use and enjoyment of those facilities.

We do -- the information available is limited, and I think we've been pretty clear about that. And Jim, you can jump in. But we do look at all the different components. We try to evaluate the different uses.

Q. So if we made an assumption that someone that's using the ATV trails or the snowmobile trails, you know, they're sort of looking down at the trails and traveling around and

going up and down the trails themselves, so their impact might not be as -- you know, their visual impact of the lines might not be as great as say a fisherman that's on the lake, who's there really to fish and, you know, looks up occasionally to see the mountains and everything, but the hiker, who is there specifically to see the scenic beauty and go to the overlooks and things like that, how do you weigh one against the other, and then how do you weigh the thousand ATV users versus the 15 hikers? Is it a qualitative analysis or a quantitative analysis that you're looking at?

A. (Palmer) For almost all these places it's a qualitative analysis. And the information isn't available. If there were particular sensitive sites, then we would recommend that there be an on-site survey that asked these questions. And you would essentially get a cross-section of the people who were there during the survey and then they're weighted appropriately. I mean, that's one of the reasons to do intercept surveys.

Q. So when you went to Coleman State Park, did you talk to, like, the ranger on duty or get an idea of use? Did you talk to anybody at the Parks Service to see what the uses were before you sort of threw all these numbers together?

A. (Buscher) We did contact the parks department and found out they don't keep track of numbers.

Q. So is it from an observation for the uses?

A. (Buscher) Partly.

A. (Palmer) Well, we didn't do a VIA in the SEC process. So if you think about it in the federal process, the way that was handled was using the same data that DeWan used. And that data base has information about primary and important secondary recreation activities that are happening in the recreation areas. So we were using that information. But again, in the federal process, they were not interested in us kind of developing all of that information. It would be certainly possible. And it's your all decision about how deep that should go. So, some parks,

like Coleman State Park, they don't even have counts of people. We don't know how much visitation they get. But it'd be pretty simple to put in a road counter, which your department has experience with, to figure out how many vehicles are going in and out over a year. And those sorts of things would help a lot if the amount of visitation was going to be important.

MR. WAY: Follow-up if I could?

CHAIRMAN HONIGBERG: Sure.

QUESTIONS BY MR. WAY:

Q. So when you contacted probably the Parks Division, they said that they didn't have counts of people? And Mr. Buscher, I think I'm referring back to a statement you made earlier that they didn't keep track. Didn't keep track of what?

A. (Palmer) Visitation counts. Say annual visitation counts.

Q. They didn't keep track of annual visitation counts?

A. (Palmer) Well, we could not find a source of

that, yes.
Q. Okay. So that's different than saying they don't keep track of it. You're saying you didn't find any. Did you talk to someone about that?
A. (Palmer) I believe in the federal process that we did, but I would have to go back and check those e-mails.
Q. Okay. Because that's quite a statement to make, that we don't keep track of visitor counts, which I believe we do.
A. (Palmer) Okay. We've not been able to find them. We've been looking pretty assiduously. But it's possible --
Q. But you did talk to someone you said.
A. (Palmer) I would have done it by e-mail. So I could try to find that out, to go back --
Q. Could you do that?
A. (Palmer) Yes.
Q. Thank you.
CHAIRMAN HONIGBERG: So that's a record request, Ms. Connor. You understand the request?
MS. CONNOR: I do.

QUESTIONS BY MR. OLDENBURG (CONT'D):
Q. So I guess my last question is you reviewed the Visual Impact Assessment, but you didn't do it. You did some independent reviews of some certain resources, but not all of them like would be required under our rules. So I guess I'm trying to understand, because we have the Applicant who had certain rules -- you know, an Application to fill out, certain requirements to give us, came to one assessment. You reviewed that assessment, found multiple flaws in it, but still allowed -- but still had the ability to find or make a recommendation that the Project had an unreasonable adverse effect. So I'm trying to grasp that.
A. (Buscher) So, for instance, the Applicant reviewed impacts and found that the Project as proposed didn't come to a high impact at any location. I think the highest -- the strongest impact reading they had was medium high. We just simply wanted to verify, and we used our experience with the DOE as well, to see if that was a realistic assumption,

and we found it was not. We found that there were definitely high impacts associated with this project, with a large set of other reviewers, both DOE process and through our experience with the SEC. So we felt that there were some glaring examples that in itself, without doing a full VIA, were indicative enough to come to that conclusion.

Q. Okay. That's all the questions I have.

CHAIRMAN HONIGBERG: Ms. Weathersby.

QUESTIONS BY MS. WEATHERSBY:

Q. Good morning, gentlemen. I know you did an independent analysis of 41 locations. How did you choose those 41?

A. (Buscher) For a large part, we looked at information we had available to us to do the reviews where there were simulations prepared for those locations. We looked at areas that we felt might have pretty high impacts.

Q. And you extrapolate from your findings there that similar findings would be concluded along the entire length of the Project. How do you make that extrapolation?

A. (Buscher) I'm just trying to refresh myself a little bit here.
Q. I have a --
A. (Buscher) We know, for instance, we feel as if most roads should be considered scenic resources, that traveling roads to observe scenery is one of the highest recreational activities done in the state of New Hampshire. And looking at the limited number of roads, for example, that we did review, we found that they are very similar to many other road crossings, for example, and that the way that the Project is proposed to fit in the landscape would have a similar finding for the samples that we did review. Does that answer your question?
A. (Owens) I would say that we recognized in our review that the Applicant did not really consider roads that weren't designated as being scenic resources. So we know that there were over a hundred road crossings in itself, and there were other places on different roads where you could see this project. So, just knowing that they didn't

even look at those things, you can assume that there's going to be impacts that they haven't addressed or informed you of, and you can extrapolate that there are other scenic resources, if they didn't address them, that they might also have unreasonable impacts.

Q. In reaching your conclusions concerning the reasonableness or unreasonableness of the impacts, the adverse impacts, you first categorized the potential visual impacts on the scenic resources as "high," "medium" or "low." How was that determination made between the categories?

A. (Buscher) It was a combination of we looked at -- we did a more systematic review of particular, what we referred to as "KOPs" in the DOE review. And we used some professional judgment, our experience working on other similar transmission line projects.

Q. So was it one of you that would look at the -- walk me through -- look at a photo sims, maybe you went out to the site and then you checked the box, I think it's going to be potentially -- you know, the viewshed maps

were potentially going to be high, medium or low? Is that generally what happened? Or could you walk me through --

A. (Buscher) Specifically for how we filled out the 41? For example, there were two of us, and we went through each of the criteria. We looked at other materials that we had for the DOE. And we made a finding for each of the criteria, first under 301.05, and then we came up with that low, medium or high. And that's actually where we stopped for that part of it.

Q. Maybe I misunderstood. I thought you started the analysis as determining whether the potential impact was high, medium or low. Is that -- am I incorrect?

A. (Owens) You're saying on the forms we had that listed --

Q. I know you went -- the next step in your analysis was going through all those factors in the Rule 201.14 of the significance and duration, et cetera, et cetera. But I thought the first sort of filter was a high, medium or low ranking. Perhaps I'm --

A. (Buscher) The first filter is whether it's a scenic resource or not. That's our first filter. And then we went through each of the criteria under 301.05(b), 6 in particular. We rate the -- the first thing we do is we rate what type of scenic resource it is. We look at the expectations of the typical viewer. For some particular activities we had information on that, for others we had to use our best professional judgment. Same with future use and enjoyment, the extent of the proposed facility, including all structures and disturbed areas. And we described this more in our narrative of each of the resources. But we looked at specific factors. So we went through each of those factors. And based on what we found going through all this different criteria, then we made a judgment on low, medium or high.

Q. Okay. Seems as though there were instances where your ratings in the ratings sheet, the evaluation form, that the ratings were mostly low or medium, but you found that the adverse impacts were unreasonable based on

insufficient mitigation. I'm thinking particularly like at Bear Brook State Park. So am I correct that because you found the mitigation insufficient, it changed sort of, it sort of tipped the impact into an unreasonable category because more could have been done?

A. (Buscher) That is a good example of one of the locations where I think overall we came out with a medium impact. But there seemed to be effective mitigation we would anticipate would be employed, that an average person would consider reasonable on this project, that was not incorporated. So, for that reason we felt it was enough to consider the impact unreasonable.

Q. One of your criticisms of Mr. DeWan's analysis was the eliminating a number of sites based on their low cultural value. Do other impact assessments use such a filter in your experience? Have you come across others, or is that standard practice? Could you speak to why that criticism --

A. (Buscher) In general terms, I think that how

New Hampshire looks at significance is appropriate. First decide if there's an impact, and then, when you're looking at the unreasonableness of this impact, let the significance come into play. That seems the more appropriate way that I would say generally VIAs look at significance, not just simply eliminating the resources from being looked at at all.

Q. Or bringing it at the end rather than instead of the beginning of the project.

A. (Buscher) As an initial filter. There are some limited examples that -- like Maine's siting law, for example, specifically for wind and expedited sites, has a very defined list of scenic resources that are, I believe, predicated mostly on national and state-designated scenic resources. But it's one of the few examples in New England that I can think of that would employ that type of criteria.

QUESTIONS BY MR. WAY (CONT'D):

Q. So in your report when you reference cultural impact and you suggest that the SEC rules do

not recognize cultural impact --
A. (Buscher) As an initial filter.
Q. -- as a regional [sic] filter, are you saying it should not be used, or are you saying it should just be used in a different manner, a more encompassing manner?
A. (Buscher) We're saying that there is no mechanism for the Applicant to use it in their VIA, that it only comes in later in the rules under 301.14, which, you know, we would expect an applicant to give their assumption or their take on. But that's really a criteria for the SEC to consider.
Q. So when you look at the methodology employed by Mr. DeWan, midway down the methodology you would take that cultural impact piece out as a filter.
A. (Buscher) One hundred percent.
Q. Thank you.
BY MS. WEATHERSBY (CONT'D):
Q. Your report references a National Forest Landscape Management document regarding mitigation and corridor alignment. Can you tell me what that is and whether its use is

standard?

A. (Palmer) Is it utilities? Does it have a title? I can think of more than one document.

Q. NFLM. You indicate the Applicant didn't appear to consult or reference previous studies regarding planning of new utility systems, such as the National Forest Landscape Management. That's from your Visual Impact Analysis report.

A. (Palmer) So I'm going to assume that it's the -- there are several chapters for different types of projects, forest harvesting, recreation. One's utilities. And utilities talks about general principles for installing utilities from a scenic point of view. It may have also been, if there's some page references, there's a landscape management handbook that's more recent. Probably about 1995 was the update. And it may have been some sections from that, too. But utilities is what I would expect, and that would have been probably in the '80s when it was published. But it's still in effect. It's a

current Forest Service document.
Q. So it's a document for siting, this section, for siting utilities in national forests, and gives siting -- just in general, what is it? It gives siting techniques and --
A. (Palmer) Yeah, it's like sort of guidelines and examples, and it includes cell towers as well as power lines.
Q. Is that the Bureau of Land Management document I've heard --
A. (Palmer) No, no, that would be different.
Q. That would be different.
A. (Palmer) Yeah. No, the Forest Service is in the Department of Agriculture and the Bureau of Land Management is Interior. Easy mistake.
Q. In thinking about some of the mitigation measures you have suggested, we discussed a little bit about the use of Natina on the steel poles. And I'm just wondering what your experience is with that finish in winter conditions, where against the white snow it may be more visually apparent versus -- I don't know if you've had -- if any northern

New England studies have been done as to generally whether that's a more effective use of mitigation?

A. (Palmer) There are not very many recent studies on treatments of transmission structures and this sort of camouflaging approach. BLM has done some work recently. It's in the arid west. They do have snow, however, so there are times when it gets all white. The usage, however, is heavier in the summer. So they designed to that standard. And that sort of situation would really be particularly in places where there's a significant amount of visibility. I don't know that they would anticipate it being used everywhere. So I can't generalize to what that actually means for New England.

The reason that we actually raised it, it is a way to treat a lattice structure which cannot be made of weathering steel that gives it a darker color, and it doesn't peel the way paint does. And so what we were trying to do was identify a problem that needs to be mitigated. And we would have

hoped that there would be some discussions about doing that mitigation in the report. And if they rejected it all, then they rejected it all. But there wasn't a discussion of the problem.

Q. Okay. I found it interesting, some of the photos concerning the non-specular conductors. I understand that Velco project, that was in Vermont. So, similar weather conditions; is that correct?

A. (Buscher) That's correct.

Q. So you would anticipate that the difference between non-specular and specular conductors that were found in that Velco Project would be similar to the Northern Pass Project.

A. (Buscher) That's correct. Just as a further note, Velco, for all their transmission projects, they use non-specular for their entire route; it's not even a consideration.

Q. Thank you. I have nothing further.

CHAIRMAN HONIGBERG: Mr. Way.

QUESTIONS BY MR. WAY:

Q. Good morning again.

A. (Buscher) Good morning.

Q. I wanted to go back to the Washington [sic] Grand porch that we were on. I think it's an important issue because it just either broadens or lessens the scope of what we're looking at.

I was considering the findings of the Antrim Wind Project. I think that had been brought up earlier last week. And in particular, I'm looking at Page 117 and 118. And I'm just going to read a piece of it, and if you want, I could certainly bring it down and we can put it up, or I can certainly try to put it up, just to get your take on it.

There was Black Pond that was in the Antrim Wind. And the question on Black Pond was whether it was publicly accessible or not. Let me read to you what I'm reading.

"The Subcommittee finds, however, that the viewpoint associated with Black Pond is situated on private property. Without paying the fee, the general public cannot access and does not have a legal right of access to this viewpoint; therefore, the viewpoint from Black Pond is not a scenic resource as

defined by the Committee's rules and shall not be considered while ascertaining the impact of the Project on aesthetics."

I think we can probably go back and forth on this with the porch. I think one could probably agree that you're going to have to pay a fee at some point, even if you want to stay on that porch, to stay in that establishment, I mean at night or whatever. But at some point, you know, it's their discretion. That's one point that I'm bringing up.

Also, too, are you suggesting that if what you say is true, does that mean any retail establishment is fair game for this discussion? Because that seems to be what would be suggested.

A. (Palmer) Well, first you have to pay a fee to get into state parks, don't you? So I'm not sure that the fee is the --

Q. Does the public funding piece of it make a difference? And also, too, what I'm wondering is that fee to get into a state park is probably, I don't know how to put

this, probably fairly different than to be able to go to a Grand Hotel, and so the ability of people to actually access that.

A. (Palmer) So what we're saying would be that the fee is not, per se, the issue, but how much the fee is? I mean, it just seems that the money part is a difficult criteria to determine public access. So --

Q. Fair enough. How would you respond to what I just read to you?

A. (Buscher) So could you repeat the last part of your question?

Q. "Without paying" -- well, so I'm trying to -- without really taking a position one way or another, I'm just trying to get a sense of where the scope is going to be for us to establish. Is it a retail establishment where you have to pay a fee publicly accessible or is it not?

A. (Buscher) I think that you would give some consideration to most retail establishments. Obviously, if you're considering the Mountain View Grand a retail establishment, you're looking at the overall significance of that

resource compared to -- you know, you might not even consider most other retail establishments as a scenic resource for other reasons, such as a gas station. But in general, yeah, I think that you could, that you could potentially look at any retail establishment as having public access.

Q. But a fee-based one such as the Mountain View Grand, how is that different than Black Pond?

A. (Buscher) I think you have to look at each one -- are you asking if I agree with the SEC's ruling on Black Pond or --

Q. No, just if you see a difference.

A. (Buscher) Yeah, I think there's some difference. I do. There's definitely components of the Mountain View Grand where I would say you definitely don't have to pay a fee to access it, and going to certain areas where it's probably much more restrictive because of the monetary exchange, it would have to be in place to utilize that particular component.

Q. I'm trying to remember. Were the other simulations taken from the road or all taken

from the porch? I think one was taken from the road; correct?

A. (Buscher) I believe the simulations that were done for the DOE were taken from the road that our office produced. And I believe all the simulations within the DeWan report were taken from the balcony or from the front porch.

Q. Okay. Something obviously we'll probably think about more, I would imagine, but helpful.

So when I look at the methodology that was provided by Mr. DeWan, it was helpful because I think we were going through piece by piece where you differed, cultural impact, for example. But the start of it all is that you started with a bigger pool and narrowed it down. And that bigger pool, as I understand it, was a lot of it was that public roads were scenic resource.

A. (Buscher) Some were public roads. Public waters, that was another big piece of it.

Q. So what you would be suggesting is that that population really should be evaluated, should

be studied, should be seen.
A. (Buscher) Yeah. Our take, roads are one of the -- in doing a VIA, it's one of the locations where the public is going to have the greatest exposure to a project. And to ignore that as a public resource, as a scenic resource, we just don't think that's appropriate.
Q. And so I was thinking about something that Attorney Needleman brought up last week when he was saying how much time it would be -- let's say you could go back to evaluate this. And I think it was 125 years, some crazy number that I think we can't wrap our heads around. So I'm trying to think, if, hypothetically, if someone gave you an RFP to respond to this, to do exactly what you're saying, how much time would you estimate to do that? What sort of cost? How many people? Could it feasibly be done?
A. (Buscher) Well, yeah, I do think it can be feasibly done. I don't think that we ever suggested that every single one of the 8,000 [sic] should be visited and specifically

reviewed. We think when you do a further analysis that a significant portion of those are still going to be eliminated entirely. We feel that there probably will be several hundred resources, if not even over a thousand or 2,000, that are going to be identified to be evaluated. We would come up with a methodology. We'd probably break it down by town. We'd probably break it out by distance zone. For certain resources we would probably come up with a methodology that would include a sample of resources to look at, but a sample of that could be representative of the overall-resource-in-general type resource. We never argued that there's not a reason to include screen visibility. So that would be another major component. And we'd probably focus on that first mile, mile and a half from the right-of-way and really look at the areas that are going to have the most sensitivity.

So there's definitely a methodology that needs to be incorporated. But just saying

it's a big project, so we shouldn't have to do the work, we wouldn't agree with that.

A. (Owens) Can I just add to the end of that?

Q. Sure, Mr. Owens, please.

A. (Owens) As he said, it's a big project. But we've worked with other firms to help sort of carry the load, in particular with the DOE Project. We worked with another landscape architect's office to get additional people on the project, to help facilitate a better time line. So, just the size of it might mean you have to bring in more help.

Q. So how long would it take to do it right? And when I say "do it right," I'm saying by what you're saying.

A. (Buscher) I would think that a reasonable amount of time to do a review for a project like this, we would expect to be brought in pretty early in the game when site location, when route selection is being first anticipated. We would think we would really encourage, if it hadn't been done by the client already, a public engagement process to help with that very, very early stage of

the process. So, given that we would anticipate being involved that early, and our knowledge with other projects that might not be quite as big as this one, we would think we'd need a couple years.

Q. Couple years?

A. (Buscher) Yeah.

Q. And let me qualify for the record. I wasn't suggesting it was done wrong. I'm just saying for conversation.

So you would say that it would take approximately a couple years to cull down 18,000 and do an evaluation by the standards that you're looking at?

A. (Buscher) Yes.

Q. Still trying to wrap my head around Coleman State Park, in terms of the visitation logs the state does of how many visitors come to their parks. And I would say that for Bear Brook, too. Was there contact with the State for Bear Brook, or attempted?

A. (Palmer) It would have been the same sort of thing. So I have to go back and actually look at that. I know that we certainly never

found a document. We were looking at SCORP reports, we were looking at Plymouth State's Recreation Unit which does a lot of work for the state parks, and we couldn't find park-level visitation --

Q. That's available.

A. (Palmer) Yeah.

Q. So in terms of Coleman, I know it's challenging, because as we're looking at the screens up here, if you're looking at our faces, our bifocals are having a hard time. We're pulling out our maps down there. And then, of course, it's an adverse impact at the very entrance to the park. And that's the challenging piece. Without talking to anyone, using the information provided to you, someone decided that that was an adverse impact that would impact enjoyment; correct? That would impact --

A. (Buscher) You're talking about --

Q. -- the entrance to Coleman State Park.

(Court Reporter interrupts.)

A. (Buscher) You're talking about not the road, but when you actually get to sort of the

campground area.
Q. Right in the campground area.
A. (Buscher) Yes.
Q. And in looking at that in the distance, which I had a hard time even seeing, someone -- you decided that that would have -- that that would impact the user experience?
A. (Buscher) Yes.
A. (Owens) And to follow up on that, we just didn't look at that view. We had been there. Mike hadn't, but I had. And we tried to take into account all of the things that are happening there. I think there's a recreation building with a porch that literally looks across the valley to the hillside and the entrance building. So it wasn't just looking at that simulation. It was trying to understand what's the existing condition, which is very natural other than the park itself, the buildings associated with the camping and things that happen at the entrance, and then trying to understand when you introduce this into the landscape, what kind of effect does that have.

A. (Buscher) And going to what type of effect that has, we're thinking about why are people coming here. What's the experience that they're -- that we would anticipate people are trying to have at this location. And to me, it's one of the more remote state parks in the state. It's far away. It's pretty far north. And the fact that you would have this industrial-looking component popping out above the ridge line skylighted as you navigate around this general area, then we think about how that experience is impacted by other sitings of the Project, such as when you're driving in on Little Diamond Pond or using the lake itself. So all those factors come into play.

Q. So when you say -- and I'm not being combative. I'm trying to get to the -- so when you say popping out, the structures "popping out," that's what you would see from that vantage point of the VIA for Coleman State Park is --

A. (Buscher) A structure at the top of a ridge line breaking the skyline, so it's not

backgrounded by the land form.
Q. That would have prominence. In other words, anytime you see a structure breaking the skyline, it has prominence.
A. (Buscher) That's one of the things we do look for in general for prominence. Plus, the location --
Q. Is that true, though, what I just said? Anytime a structure breaks the skyline, that has prominence?
A. (Buscher) I don't think you could put a blanket statement on it. I think you have to -- I think it definitely elevates its opportunity to be a prominent feature, though.
A. (Palmer) It would depend perhaps on how far away it is. But I mean, if you can think about the controversies over cell towers, that's what it was largely about. They were on ridges where they were breaking the skylines, sticking right up at the peak. And people were upset about that. Nobody -- if you ask people, nobody would say that a transmission line is beautiful or that a cell

tower is beautiful. That's in contrast, by the way, to wind turbines. I mean, whenever the surveys are done in Maine, there's always a group that says we're really pleased that they're there and they're beautiful. But you don't get that for cell towers and transmission lines.

A. (Buscher) But even the cell tower, the basic functionality of the cell tower is dependent on that sort of prominent location, where that's not the case for transmission lines.

Q. Because I think that's one of the things that I know we wrestled with when we went on a -- when we went on the site tour a couple weeks back and you're given a simulation and you say, okay, so where are the cell towers -- where are the utilities towers here, and no one knows, and we say, well, we think it's right there, and you see a little bit of a smudge. And so we're having to evaluate the impact of that here in trying to separate out all the chatter from what's really the issue.

And so last thing on Coleman State Park. Mr. Owens, you said you considered all those

different activities. I thought I heard you say earlier, though, that you hadn't looked at that in the park. Or did I misunderstand you?

A. (Owens) We didn't go everywhere in the park. So I did go at the entrance, I did go up to the office there near where the campground is --

Q. Down by the lake?

A. (Owens) Went down to where the beach and boat launch is and then around to the other side where people were actually fishing on the shoreline. But I didn't spend a lot of time going to all the different places. And also, we were doing the VIA for sort of different rules under the DOE side of things. So, you know, going to those types of places or trying to find out a little bit more information about it wasn't something that we were specifically tasked with I think. There is a lot going on there. I think the Cohos Trail crosses, things like that, that would be additional considerations. But, you know, we didn't go into that level of detail.

Q. It all does seem somewhat of a subjective process, though; does it not? I mean, you're making --
A. (Buscher) In what way?
Q. Well, I think you're going to be making -- all of us will be making judgment calls on what we consider to be an impact.
A. (Buscher) Sure. And when we look at Coleman State Park, we look at some of the most important resources that are there. And it seems like it would be hard to deny that Little Diamond Pond isn't probably the most significant resource, and that's where you're getting most of the visibility from.
A. (Palmer) So I would add that our approach for the review that was presented to you was pretty clearly a qualitative, subjective kind of analysis. But it went through every criteria in 301.05(b)(6) that we were supposed to look at. I mean, nothing was eliminated in that sense. And the same thing was true with all the criteria that you all are supposed to consider. And we tried to explain how we viewed each of those. So

every one of the 29 or however many we had detailed ratings of, we tried to evaluate every one of the things that we were supposed to look at. Nothing was eliminated. But it was qualitative. That's correct.

Q. All right. And I think the one last topic I wanted to discuss, the key observation points that were looked at. That's despite the amount of time we spent talking about it, it's still a little bit of a mystery to me how you decide I'm going to stand here or I'm going to stand here or I'm going to stand over there. Or do you just stand in multiple places? The Applicant, as I understand it, looked at a place where you would see the most impact; is that correct?

A. (Palmer) I could be mistaken, but I think his definition was "greatest number of structures."

Q. I guess that's what I meant to say, the greatest number of structures, the most impact, whereas --

A. (Palmer) No, no, that's different. I mean, I would say if you're standing next to a

lattice tower that goes up over a 100 feet over your head, the impact would be greatest; but if you went away 3 miles, you might see 40 structures. The greatest impact would be right next to the structure.

Q. You bring up a good point. And so your methodology to come up -- and it would be a representative sample, correct, a representative point?

A. (Buscher) Well, I think "key observation points" in the SEC is a -- they have a pretty defined definition of what they expect a key observation point is. And in the rules, it's only used to try to indicate where simulation should be prepared from. It really doesn't come into the rules anywhere else. But the key observation point means a viewpoint that receives regular public use from which the proposed facility would be prominently visible from. Regular public use, we have to make -- you know, that requires a little bit of judgment, because a road that receives regular public use is going to have a different intensity of public use than, say,

a trail that receives regular public use. So we're looking at those components when we're thinking about key observation points.

Q. Because it also makes me think, like for example, in Deerfield, we see the pictures from the town hall and we debate: Should we take the picture from the driveway or from the entrance to look at the church? And part of me thinks: Well, why don't we take the picture from the church. Publicly available publicly accessible, probably historic, right in the center of the village. Someone had to decide that that wasn't the right vantage point.

A. (Buscher) Probably because the Project wasn't prominently visible specifically from the church itself.

Q. Okay. I guess I can't say it without being in front of the church, but I have to imagine if the structure is right behind the church, that one would be able to see it right from the main road.

A. (Buscher) Well, the church itself actually screens the structure when you're on the road

right in front of the church.
A. (Owens) Just to correct, if you move over to the side when you're standing in front of the church, you can see the structure. But in relation to the size of the church when you're that close, the church becomes sort of more prominent than the proposed structure because it's closer to you and very tall. If you move away, somewhere like the town hall door, you start to see a little different perspective. The structure appears to be pretty tall compared to the church, other than the steeple. But you know, we sort of mince words a little bit with what is prominent. Maybe they both are.
A. (Palmer) And again, that's all clearly a judgment call.
Q. Exactly. A judgment call.
A. (Palmer) Yeah, there's moving pieces.
A. (Buscher) And that's not really what the overall evaluation is based on. That's just trying to create the simulations.
Q. All right. That's all for me. Thank you.
CHAIRMAN HONIGBERG: Mr.

Wright.

QUESTIONS BY MR. WRIGHT:

Q. Good morning, gentlemen. Craig Wright, with the Department of Environmental Services.

A. (Buscher) Good morning.

Q. Others have largely covered the areas I was going to cover this morning, but I did want to follow up in one area.

Mr. Buscher, you made it clear in your opinion that a single visual impact at a single resource can result in an unreasonable determination; is that correct?

A. (Buscher) I would say so, yes.

Q. Does that need to be high visual impact? Could a medium visual impact result in an unreasonable determination?

A. (Buscher) For the entire project --

Q. Yeah.

A. (Buscher) -- or at a specific location?

Q. For the entire project.

A. (Buscher) Probably would be unlikely. But it's hard to just give you that theoretical answer.

Q. Okay. I think in your report on Page 99 you go through the 41 sites that you looked at. And in there you had a number of high visual impacts. If those were all medium, would you still come up with the same conclusion that it was unreasonable overall?

A. (Buscher) I mean, one of the big conclusions that we came up with in this project is that reasonable mitigation that we would expect to be implemented as part of this project isn't being followed. To a certain degree, for that sole fact we find the Project to be unreasonable.

Q. Okay. You went to where I was going next with that, and that was, it's really what I'm hearing, that you believe there are other mitigation things that can be done.

A. (Buscher) Yes.

Q. Okay. Thank you.

CHAIRMAN HONIGBERG: I understand Commissioner Bailey and Ms. Dandeneau don't have questions.

Mr. Iacopino, do you have questions for the panel?

MR. IACOPINO: I do. Thank you.

QUESTIONS BY MR. IACOPINO:

Q. I understand that much of your analysis was conducted based upon your interpretation of our rules. So I want to draw your attention to Site Rule 102, I believe it's 45, which I know you've been questioned about, so I'm not going to repeat those questions. But I do have an additional question.

With respect to the definition of "scenic resources" at Site 102.45, you indicated that Subsection C speaks about lakes, ponds, rivers, parks, scenic drives and rides and other tourism destinations that possess a scenic quality. If I understood Mr. Buscher's testimony correctly, you determined and interpreted this rule as that the tourism destinations were separate from lakes, ponds, river, parks, scenic drives and rides; is that correct?

A. (Buscher) Generally, yes.

Q. Did you attribute any importance to the word "other" prior to tourism destinations?

A. (Palmer) I would say no. We, for instance, did not try to identify which great ponds were tourist destinations and which were not.
Q. Okay. And what about with scenic drives and rides?
A. (Palmer) Actually, I feel a little better about saying that a very large number of non-designated roads in New Hampshire are tourist destinations, for instance, this time of year.
Q. And does your report in any place identify where those are, other than those that are actually designated?
A. (Palmer) No. We basically used the DOT public roads and assumed that in the countryside-type areas they would all be scenic.
Q. Okay. My other question involves the current-use properties. I understand that you take the position that properties that are in current use for recreational purposes are properties that are established, protected or maintained in whole or in part with public funds as set forth in Subsection

D of our rule?
A. (Palmer) Yes.
Q. Okay. Did you consider the other types of discounts or tax-related reductions that are available for property owners throughout the state? Things like, for instance, in my town, veterans get a discount from their property tax?
A. (Palmer) And does that provide the public a right of access to -- is it a recreational area --
Q. The question to you is whether or not --
A. (Palmer) No, we didn't.
Q. Okay.
A. (Palmer) I did consider current use in general. But what was important was that the additional benefit, the recreation 20 percent was clearly given for one year's access for the public.
Q. Okay. So if I understand correctly, then you're only considering recreational current use.
A. (Buscher) That's correct.
A. (Palmer) Yes, under Item D.

Q. Okay. All right.

And then my last question, and it just came up when one of the Committee members was questioning you. Do you know the general cost difference between specular and non-specular wires? Is there a ratio that the Committee could use?

A. (Buscher) I don't know if there's a ratio. I have been given some numbers on other projects in the past, and that was a relatively modest increase.

MR. IACOPINO: Thank you. I don't have any other questions.

QUESTIONS BY CHAIRMAN HONIGBERG:

Q. And virtually everything I was going to ask has been asked, and I think others may have asked questions that go in this direction. But with respect to the simulations that DeWan prepared, do you believe that in general those simulations are fair representations of what they purport to be?

A. (Buscher) Overall, I would say that they are representative of the Project. We would contend that they do not specifically meet

the SEC requirements.
Q. I got that. I just wanted to make sure I understood where along the line of the work that was done you agree and where you disagree. You disagree with where they stood, what properties they chose, lots of other things about the decisions they made along the way. But once they got to the point of actually doing the simulations, creating the simulations, what they created were fair representations of what the Project would look like from those points.
A. (Buscher) In general. We would say that there are certain components that might start to deteriorate the effectiveness or how clear things are represented, so there might be details that aren't being represented because of resolution issues, for instance.
Q. Can you think of one that falls into that category? I'm sure one of the technically competent people could pull it up for us so we can take a look.
A. (Palmer) Well, it really has to do with the resolution of some of the photography I think

is what Mike is referring to. So the original photography wasn't high resolution as required, so structures in the far distance aren't going to be as clear as perhaps they should be. But in terms -- I mean, that's sort of a technical issue. And those sorts of things happen. I mean, they didn't -- based on their testimony in the technical session, they were not aware that the photography was done at the medium rather than the highest resolution. Their field work's complete. I don't know what you do. It's not like they were out of focus or something. So I don't think that that's where a major -- we wouldn't say that you have to throw the Project out because of that -- the report out because of that.

Q. Oh, I understand that.

A. (Palmer) In general, though, the scale and coloring and things like that I think is what you're really interested in. They're reasonably accurate. Obviously, we used some of their simulations when we were evaluating the 21.

Q. Okay. Then that is what I wanted to ask you about.

CHAIRMAN HONIGBERG: Does any member of the Subcommittee have anything further for this panel?

[No verbal response]

CHAIRMAN HONIGBERG: That brings us back to you, Ms. Connor. How much do you think -- how much time do you think you need with these witnesses?

MS. CONNOR: I have no idea. I'm thinking less than an hour.

CHAIRMAN HONIGBERG: Okay. Then let's take a lunch break and we'll be back shortly after 1:15.

(Lunch recess taken at 1:15 p.m. and concludes the Day 47 Morning Session. The hearing continues under separate cover in the transcript noted as Day 47 Afternoon Session.)

C E R T I F I C A T E

I, Susan J. Robidas, a Licensed Shorthand Court Reporter and Notary Public of the State of New Hampshire, 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.

_____

Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)

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