



**I N D E X**

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**P R O C E E D I N G S**

**(Hearing resumed at 9:04 a.m.)**

PRESIDING OFFICER HONIGBERG: Good morning, everyone. This is Day 55. We have a new witness. Is there anything we need to do before he is sworn in? Cindy, would you do the honors, please?

(Whereupon, Edwin Mellett was duly sworn by the Court Reporter)

**EDWIN MELLETT, DULY SWORN**

**DIRECT EXAMINATION**

**BY MS. FILLMORE:**

Q Can you please introduce yourself to the Committee?

A Yes. I'm Edwin Mellett. Chairman of the Conservation Commission in the town of Northumberland.

Q And are you testifying here today on behalf of the town of Northumberland?

A Yes.

Q You filed Prefiled Testimony in this matter dated November 15th, 2016. Is that correct?

A That's correct.

Q And for the record, that's Joint Muni 91. You

1           also filed Supplemental Prefiled Testimony dated  
2           April 17th, 2017. Is that correct?

3           A     That's correct.

4           Q     And that is marked as Joint Muni 92 and 93 with  
5           all of the attachments.

6                     Do you have any corrections to make to any  
7           of that testimony?

8           A     Could you repeat?

9           Q     Do you have any corrections to make to that  
10          testimony?

11          A     No, I do not.

12          Q     And do you swear to and adopt that testimony  
13          here today?

14          A     Yes.

15          Q     Just a few other questions.

16                     Dawn, may I have the Apple TV, please?

17                     What I'm showing you now on the screen, let  
18          me know when you see it. Do you see that?

19          A     Yes.

20          Q     Have you seen this document before?

21          A     Yes.

22          Q     For the record, this is marked as Applicant's  
23          Exhibit 224 A. Can you tell us what this is,  
24          please?

1 A This is a letter from the Corps of Engineers on  
2 suggesting that more of the Project be buried  
3 from, well, Pittsburg to Northumberland for 40  
4 miles.

5 Q And I'm going to turn to page 3 here. And here  
6 on the screen do you see the paragraph  
7 beginning, "based on the information presented  
8 to date"?

9 A Yes.

10 Q And it says, "Based on the information presented  
11 to date, the hybrid alternative is less damaging  
12 to the aquatic environment than Alternative 7  
13 and appears practicable."

14 Were you surprised to read this?

15 A Yes. I was.

16 Q And why is that?

17 A It had been suggested by DES in their  
18 preliminary assessment, but then it was rejected  
19 in their final approval of the Project.

20 Q Based on your years of experience with the  
21 Conservation Commission and your other work  
22 experience with forestry deal with wetlands, do  
23 you believe that this EPA hybrid alternative to  
24 bury the northernmost 40 miles of the Project

1 would be less damaging to wetlands?

2 A Yes, I do.

3 Q And why is that?

4 A It would be buried in the state-owned  
5 right-of-way which has already been disturbed.  
6 If it was buried, it should be buried all the  
7 way to Bethlehem where it's going to be buried  
8 because of the White Mountain National Forest.

9 Q What do you think that DES should do in light of  
10 this letter?

11 A Should do what?

12 Q What do you think that -- given that EPA has  
13 sent this letter, what do you think DES should  
14 do about that?

15 A I think they ought to reconsider their approval.

16 Q And based on your experience and EPA's  
17 recommendation in this letter, regardless of  
18 what DES does, what do you think this Committee  
19 should do if it approves the Project?

20 A I think they should say it ought to be buried  
21 the whole distance. This was what the town has  
22 said to begin with. That if it gets approved it  
23 should be buried in state-owned right-of-ways.  
24 I won't add.

1 Q Thank you. I'd like to just ask you another few  
2 questions about the Lost Nation substation.

3 That's located in Northumberland, correct?

4 A Right.

5 Q And as a part of the Northern Pass Project, has  
6 the Applicant proposed some changes there?

7 A They were going to be clearing more -- there's a  
8 jet power station or whatever they call it, they  
9 were going to be clearing between that and the  
10 highway where the, which would essentially  
11 remove the buffer between the road and that  
12 power station.

13 Q Have you noticed activity recently in the area  
14 of the Lost Nation substation?

15 A Yes.

16 Q And when was that?

17 A It's been going on for probably the last month  
18 and a half. They've added several high towers.  
19 I'm not sure exactly. But there's a lot of  
20 activity going on there right now.

21 Q And have they been clearing trees? Has anything  
22 been cleared?

23 A Yes. Some.

24 Q And did you try to find out what was happening?



1 A Yes. I had contacted Eversource, and they told  
2 me to contact Northern Pass. I emailed Northern  
3 Pass, and I got no response.

4 Q So you don't know what's happening there at all?

5 A No.

6 Q And to your knowledge did anyone working for  
7 Northern Pass or Eversource contact the town to  
8 let them know this work was going to happen?

9 A No. I specifically asked the town last week  
10 about that, and Eversource says they do not need  
11 any town permits.

12 Q Thank you.

13 MS. FILLMORE: This witness is available  
14 for questioning.

15 PRESIDING OFFICER HONIGBERG: Mr. Aslin?  
16 Off the record.

17 (Discussion off the record)

18 PRESIDING OFFICER HONIGBERG: Whenever  
19 you're ready, Mr. Aslin.

20 MR. ASLIN: Thank you, Mr. Chairman.

21 **CROSS-EXAMINATION**

22 **BY MR. ASLIN:**

23 Q Good morning, Mr. Mellett. My name is Chris  
24 Aslin. I am acting as Counsel for the Public in

1 this proceeding. How are you?

2 A Good morning.

3 Q If you can't hear any of my questions, please  
4 let me know. Okay?

5 Mr. Mellett, you are the Chair of the  
6 Conservation Commission. How long have you held  
7 that position?

8 A Over 20 years.

9 Q And you're currently in that position?

10 A Yes.

11 Q And I assume you've been a resident of  
12 Northumberland then for at least 20 years?

13 A Yes.

14 Q Are you employed currently? Are you currently  
15 employed or are you retired?

16 A I'm a retired forester. Retired about five  
17 years ago.

18 Q And so you were previously in the forestry  
19 business?

20 A Yes.

21 And do you have any other background in  
22 conservation or environmental education or  
23 training?

24 A No.

1 Q Okay. Your testimony focuses primarily on  
2 concerns about wetland impacts; is that correct?

3 A Yes.

4 Q Is wetland preservation part of the Master Plan  
5 for the town of Northumberland? Is there  
6 restrictions about buffers and other things?

7 A It is mentioned in the Master Plan.

8 Q Okay. Are there also town regulations, either  
9 zoning or planning regulations, that deal with  
10 protection of wetlands?

11 A No, there isn't. No regulations within the  
12 town.

13 Q One of the areas of concern in your testimony  
14 was the sufficiency of timber matting and the  
15 the use of timber matting by the Project to  
16 protect wetlands while vehicles are moving  
17 across wetland areas; is that correct?

18 A That is correct.

19 Q And you have a statement that you're concerned  
20 that the timber matting will not be sufficient  
21 to protect wetlands. What's the basis for that  
22 concern? Do you have experience with timber  
23 matting failing or, in other words, not  
24 providing adequate protection for wetlands?

1 A Yes. When I was working in forestry, I was in  
2 charge of logging operations, and we used mats  
3 quite often, especially to cross streams. In  
4 the summertime if we were, if there were  
5 wetlands we usually avoided them and just  
6 operated them in the winter, and then we'd still  
7 use mats to cross them, but that would be on  
8 frozen grounds.

9 Q Okay. And do you have any experience with  
10 timber mats failing or being inadequate to  
11 protect the wetlands?

12 A No. We never had -- no.

13 Q Because that's one of your concerns that's  
14 stated in your testimony.

15 A Yes. If they're used in the summertime, I'm  
16 afraid they're going to be, that they won't be  
17 adequate.

18 Q Okay. But you don't have any direct experience  
19 with them not working?

20 A No.

21 Q Attached to your testimony was a report, an  
22 assessment of impacts to natural resources that  
23 was performed by two certified wetlands  
24 scientists, Elise Lawson and John Severance.

1 Was that report produced at the direction of the  
2 town?

3 A Yes. That was at the direction of the  
4 Conservation Committee.

5 Q Was that a paid engagement? In other words, did  
6 the town pay them to do that work?

7 A Yes. We paid them.

8 Q One of the conclusions or maybe the primary  
9 conclusion of that report was a concern over the  
10 possibility of substantial negative impacts, and  
11 the two wetland scientists recommend careful  
12 monitoring by professional biologists to ensure  
13 that Best Management Practices are followed.

14 Have you reviewed the DES recommendations  
15 for the Wetlands Permit in this case?

16 A Yes. I have.

17 Q And is it your position that that is, that the  
18 conditions imposed by DES are inadequate to  
19 address the concerns raised by Ms. Lawson and  
20 Mr. Severance?

21 A Yes.

22 Q Okay. Can you expand on that or what are the  
23 failings of the DES permitting?

24 A When DES issued their final recommendation, it

1 had been, they had been said to contact  
2 different Conservation Committees. I had  
3 submitted this report. I had submitted other  
4 letters to them. They had never contacted the  
5 Conservation Committee, and in their final  
6 report, there are, they never addressed any of  
7 the concerns that the wetland scientists had  
8 brought up that you had just mentioned. Some of  
9 those were addressed but not specifically to her  
10 letter.

11 Q Okay. And I believe you included with your  
12 Supplemental Testimony a, I don't know if it's a  
13 letter, but it's at least a list of concerns by  
14 Ms. Lawson relating specifically to the DES  
15 permit conditions; is that right?

16 A Yes.

17 Q That's Appendix E to your Supplemental  
18 Testimony. It looks to me like she had concerns  
19 about vague language, in her opinion, within the  
20 DES permitting conditions, and then also a  
21 specific concern about a waiver of a requirement  
22 to provide photographs for all proposed  
23 temporary impacts. Are you aware of any other  
24 specific concerns that the town has with DES's

1 recommended permit conditions?

2 A No. She got the most of what we were concerned  
3 with.

4 Q In your Supplemental Testimony you referenced  
5 the road crossing at Lost Nation Road. Is that  
6 correct?

7 A Yes.

8 Q Do you recall that?

9 A Yes.

10 Q And your concern, actually, let's pull this  
11 Project map up. Can we put up Applicant's 200  
12 APP 67460.

13 So in just a minute you should see a  
14 Project map on the screen. It will take a  
15 little while to load up. Is it there?

16 A Yes. It is.

17 Q Do you recognize this location?

18 A Yes.

19 Q And that's where the Project will cross Lost  
20 Nation Road?

21 A Right.

22 Q And in your testimony, you were concerned about  
23 clearing that's proposed, and I believe you said  
24 that it will expose a generating plant. In this

1 picture I see the Project line coming in from  
2 the north which is I believe the right-hand side  
3 of the page and coming to a substation; is that  
4 right?

5 A Yes.

6 Q And it's above the road on the page here,  
7 substation?

8 A Yes, it is. The substation is above the road.  
9 That generating plant is below the road.

10 Q Okay. That's what I was going to ask next.

11 And I think you testified earlier with  
12 Attorney Fillmore that that is a jet turbine  
13 generating facility?

14 A Yes.

15 Q Is it your understanding that that is owned by  
16 Eversource?

17 A It is at the moment. It's been sold, but --

18 Q In the process of being sold?

19 A In the process of being sold. Yes.

20 Q And am I correct that your concern is with the  
21 work area that is just above the generating  
22 facility on the page here and the clearing  
23 that's going to be done for that work area?

24 A My concern was that in their Application they



1           said they would clear, the Northern Pass  
2           Transmission line will go off from the  
3           right-of-way on the low side of the road, cross  
4           in the area that is that buffer between the road  
5           and the generating station that is below the  
6           road, and that would be cleared there.

7           Q     Okay.  So what's shown here, there's a yellow,  
8           kind of trapezoid with a little red hashing  
9           around it that's covering the timbered area  
10          between the generating facility and the road; is  
11          that the area of concern?

12          A     Yes.

13          Q     And your understanding is that will be cleared?

14          A     Right.

15          Q     And you're concerned that there will make the  
16          generating facility very visible to the road?

17          A     Right.

18          Q     You also raised a concern in your Supplemental  
19          Testimony about the impact to local roads by the  
20          Project during construction.  Is that correct?

21          A     Yes.

22          Q     Is the impact you're concerned about trucks  
23          using those roads for access?

24          A     Yes.  They would, they would use Lost Nation

1 Road which is a state highway. It's just  
2 recently been paved, first time in 40 years.  
3 And then they said they would use Page Hill  
4 which is a town gravel road. Supposedly they  
5 don't have to comply with our weight limits  
6 which both of those roads are posted in the  
7 springtime. Page Hill in particular would not  
8 support heavy traffic in the spring.

9 Q Has the town had any communications with the  
10 Applicant about those concerns of either the  
11 tree clearing along Lost Nation Road or the use  
12 of town roads?

13 A Not to my knowledge.

14 Q Okay. Has the town reached out to the Applicant  
15 to raise those concerns in any way? Have you  
16 reached out to the Applicant, to Northern Pass?

17 A No.

18 Q Last thing I wanted to ask you about. You  
19 reference in your testimony a town vote in 2011  
20 to oppose the Project as presently proposed.  
21 Have there been any subsequent votes in the town  
22 or changes to that vote?

23 A No.

24 Q So that's still the town's position.

{WITNESS: MELLETT}

1 A Yes.

2 Q Thank you very much. I have no further  
3 questions.

4 PRESIDING OFFICER HONIGBERG: Are there any  
5 other Intervenors, any Intervenors who have  
6 questions for Mr. Mellett? All right. If not,  
7 Mr. Walker?

8 MR. WALKER: Thank you.

9 **CROSS-EXAMINATION**

10 **BY MR. WALKER:**

11 Q Good morning, Mr. Mellett. We've met earlier.  
12 My name is Jeremy Walker, and I am counsel for  
13 the Applicants. Just a few questions this  
14 morning.

15 With regard to the report that you filed  
16 from the wetland scientists, the  
17 Lawson/Severance report.

18 A Yes.

19 Q You're familiar with that report. We talked  
20 about it this morning. In their report, they  
21 state that they agree with the Project's  
22 delineation and documentation of wetlands.  
23 You're aware of that, right?

24 A Right.

1 Q And you have no reason to disagree with their  
2 conclusion?

3 A Not -- no.

4 Q And you were explaining this morning that you  
5 brought forward a number of concerns to the DES  
6 about the project in your role as Conservation  
7 Commission Chair, correct?

8 A Right.

9 Q So it's your understanding the DES had all of  
10 these concerns before it when it opted to  
11 approve the Project with its permit, correct?

12 A Right.

13 Q And there were a number of conditions in that.  
14 Have you reviewed the permit approving the  
15 Project from DES?

16 A Yes, I have.

17 Q And Dawn, if you could bring that up, please.  
18 It's Applicant's Exhibit 75.

19 Are you aware, before I get into that, are  
20 you aware of the level of communications between  
21 the DES and the Applicants over the course of  
22 this Project?

23 A Yes, I am.

24 Q You're aware that there's been a significant

1           number of interactions between the agency and  
2           the Project?

3       A     Yes.

4       Q     One of the recommendations made in that Lawson  
5           and Severance report was that there be careful  
6           monitoring requirements during construction,  
7           monitoring of the wetlands and such, correct?

8       A     That is correct.

9       Q     And you're aware that that is a condition that  
10          has been imposed by the DES.

11            And, Dawn, if you could pull up conditions  
12            35 and 36, please? It actually goes over two  
13            pages here.

14            But, Mr. Mellett, if you could take a  
15            moment and look at 35 and then that continues on  
16            to the next page. You can tell us when you've  
17            read that.

18            And 35 and 36, Dawn.

19       A     Yes. I believe in this that they're saying that  
20            it should be monitored for three years, and the  
21            wetlands scientists that we hired suggested that  
22            it should be monitored for five years.

23       Q     Okay. But you're agreeing with me, though, that  
24            the DES is requiring particular monitoring by

1 wetland scientists.

2 A Right.

3 Q And that satisfies that one concern that was  
4 used Lawson and Severance. I understand there's  
5 a difference about the length of monitoring.

6 A Right.

7 Q You also talked about the use of timber mats,  
8 and Mr. Aslin was asking you this morning about  
9 timber mats, and I think you've explained in the  
10 past that these are commonly used in the  
11 industry, right?

12 A Right.

13 Q And also the DES Permit Condition 40, and  
14 actually 41 and 43 after you've read this, does  
15 have requirements with regard to the use of  
16 timber mats, correct?

17 A Right.

18 Q So you would agree that the DES has also  
19 addressed that concern with conditions in its  
20 permit?

21 A Yes.

22 Q Mr. Aslin asked you about in your Supplemental  
23 Testimony.

24 And it's Joint Muni Exhibit 93, Dawn,

1 please.

2 There was a one-page attachment from the  
3 two wetland scientists, Lawson and Severance  
4 listing her comments about the DES approval, and  
5 you've seen that before.

6 A Yes.

7 Q Nowhere in that does she state that she  
8 disagrees or do they state that they disagree  
9 with the DES approval of the Project, correct?

10 A What was the question?

11 Q So on this page, in the one page where they're  
12 pointing out some of their comments about the  
13 the DES conditions and approval, nowhere do they  
14 state that they disagree with DES's approval of  
15 the Project, right?

16 A That's correct.

17 Q Rather, in there, she's pointing out, for  
18 instance, some of their comments, the first and  
19 the second and the third comment, for instance,  
20 she's just stressing the importance of the  
21 different conditions that have been imposed by  
22 the DES. Would you agree with that?

23 A Yes.

24 Q Now, I understand this morning you mentioned

1           that your position is that the entire line  
2           should be buried through Northumberland, but  
3           nowhere in the Lawson and Severance report, the  
4           wetland scientists, nowhere from a wetlands  
5           perspective did they suggest that burying it  
6           would be better, correct?

7       A     That is correct. Only if it was buried it  
8           should be buried within that right-of-way.

9       Q     I understand. I'm just asking about there's  
10          nothing that they have said where they recommend  
11          burying the line, Lawson and Severance?

12      A     Correct.

13      Q     I want to ask you about you discuss some  
14          concerns that you've had about the roads, and  
15          you talked about it with Mr. Aslin this morning.

16                You're aware that there have been a number  
17          of communications between the town and the  
18          Project over the course of this? In fact,  
19          there's been meeting and some communications.  
20          Are you aware of those?

21      A     No, I'm not.

22      Q     Let me just show you to help you, Mr. Mellett.  
23          Applicant's Exhibit 361 which you have not seen  
24          this before, but I will represent to you this is



1 a summary that's been prepared by the Applicant  
2 of various interactions that the Applicants have  
3 had with the town of Northumberland.

4 And you'll see on the first page, it goes  
5 through some public open houses, public  
6 information sessions, and then it starts with  
7 outreach letters to town officials, but then I'm  
8 going to flip to the second page, Dawn, and  
9 there is a list of meetings with various town  
10 officials that go back quite a few years.  
11 There's also a meeting in March of 2015, and it  
12 looks like you were involved in this meeting,  
13 "meeting with town official to discuss proposed  
14 Project and mitigation."

15 Do you recall that meeting in March of  
16 2015, Mr. Mellett?

17 A No, I don't.

18 Q Okay.

19 A Unless, a representative from Northern Pass came  
20 to my house to talk about mitigation. I don't  
21 know the date, and I don't remember the date.  
22 That might be what that is referring to.

23 Q Okay.

24 A But that was, it was not at the Town Office or

1 at a Town Selectmen's meeting.

2 Q Now, I realize you're not on the Board of  
3 Selectmen, correct?

4 A No. I'm not.

5 Q If you look at the bottom of this page, if you  
6 can go down, Dawn, to other correspondence, you  
7 will see that beginning in March of this year  
8 there have been a number of communications with  
9 the town's attorney with regard to a proposed  
10 Memorandum of Understanding with regard to the  
11 Project's construction if this goes forward.

12 Are you aware of those communications or  
13 any discussion about a potential Memorandum of  
14 Understanding?

15 A No. I do not know.

16 Q If you look at this, you'll see at the bottom  
17 that there are Draft Memorandum of Understanding  
18 that's been exchanged with the town attorney.  
19 You're not aware of any of those discussions  
20 about a Draft Memorandum of Understanding?

21 A No.

22 Q What I'm going to do is I'm going to show you  
23 because you've raised some concerns about the  
24 use of roads in Northumberland, and I'm going to

1 show Applicant's Exhibit 209, and this is,  
2 mentioned this Memorandum of Understanding.  
3 This is an agreement that's been issued, entered  
4 into between the City of Franklin and the  
5 Project. It's a sample Memorandum of  
6 Understanding that the Project has entered into  
7 with the town of Franklin, and this is similar  
8 to what I would represent is being discussed  
9 with the town of Northumberland. And the reason  
10 I'm showing this to you is, and I know you  
11 haven't seen this before, Mr. Mellett, but I  
12 want to turn to page 3 of this.

13 MS. FILLMORE: Mr. Chairman, I'm going to  
14 object. The witness has already testified that  
15 he has no knowledge of these discussions.

16 PRESIDING OFFICER HONIGBERG: Mr. Walker.

17 MR. WALKER: I'm not going to ask him about  
18 knowledge of this, but I do want to just show  
19 him a provision, have him read a provision and  
20 see if this is something that he thinks would be  
21 a good idea with regard to the town of  
22 Northumberland.

23 PRESIDING OFFICER HONIGBERG: Overruled.  
24 You can answer.

1 BY MR. WALKER:

2 Q Mr. Mellett, on page 3, and Dawn, if you could  
3 blow that up, please. You don't have to read  
4 this all, Mr. Mellett, but just to help you,  
5 this is one of the provisions of the agreement  
6 that the Applicant has entered into with the  
7 town of Franklin, and it deals with public  
8 roads. And if you notice in the small letter  
9 (b) in this, it notes that the Project is  
10 required to create a record of the  
11 preconstruction road conditions, and, if  
12 necessary, promptly repair at the Project's  
13 expense any local road damage cause directly by  
14 by the Project or its contractors at any time  
15 and restore roads to the same or better  
16 condition.

17 And the reason I'm showing that to you is  
18 because in your Prefiled Testimony, you raise  
19 concerns about that and you raise concerns about  
20 whether the roads would be returned to the same  
21 condition. And if this similar type provision  
22 were entered into in an agreement with  
23 Northumberland, I assume you would approve of  
24 that.

1 A I'm not sure I would.

2 Q Well, I thought -- I'm sorry. I'll let you go.

3 A In my work with forestry, there were town roads  
4 in towns that objected to logging trucks at  
5 times, and then the question always came after  
6 the job was done, what caused the damage. Was  
7 it the logging truck or was it the fuel truck  
8 that was delivering. And so then you get into  
9 this litigation and this could very well be what  
10 would happen with Northern Pass.

11 Q Sure. But Mr. Mellett, in your Supplemental  
12 Prefiled Testimony you state, and I'll read it  
13 for you, it says also there should be a written  
14 guarantee that the roads will be returned to  
15 their original condition. That's what you're  
16 looking for, essentially, is some agreement by  
17 the Applicant to restore the roads to the same  
18 condition they were in.

19 A Right.

20 Q And this is the type of provision that would  
21 provide for that, correct?

22 A Correct.

23 Q Thank you for your time, Mr. Mellett. I'm  
24 sorry. One moment.

1 Couple more questions, Mr. Mellett. You  
2 talked earlier about the Lost Nation substation  
3 when you were answering some questions.

4 A Yes.

5 Q Do you know that that work represents to the  
6 replacement of a distribution transformer for  
7 system reliability purposes? It has nothing to  
8 do with the Northern Pass Project. Are you  
9 aware of that?

10 A No, I'm not.

11 Q Thank you.

12 PRESIDING OFFICER HONIGBERG: Members of  
13 the Subcommittee, Ms. Dandeneau, do you have  
14 questions?

15 **QUESTIONS BY MS. DANDENEAU:**

16 Q Good morning, Mr. Mellett. My name is Rachel  
17 Dandeneau, and I'm the Alternate Public Member  
18 for the Committee. I just have a single  
19 question for you.

20 You were talking with Mr. Aslin about the  
21 jet generator on Lost Nation Road and your  
22 concern about the clearing of vegetation between  
23 the generator and the road itself.

24 A Yes.

1 Q What is the main reason for your concern?

2 A Well, because it would just change the  
3 aesthetics of that and exposing the generating  
4 plant, I guess is what you'd call it.

5 Q So are you concerned about people driving that  
6 road on a regular basis being able to see that  
7 generation facility?

8 A Yes.

9 Q What about recreation; is there any particular  
10 or specific examples of recreation in that area  
11 that you think might be impacted by the view of  
12 that facility?

13 A Yes. It's an OHRV trail, Lost Nation Road plus  
14 Page Hill Road. It's a scenic road. It's a  
15 State road so you can't designate it as a scenic  
16 road, but it is a scenic road.

17 Q Any other examples of recreation such as hiking  
18 or skiing or hunting?

19 A There's a lot of hunting that goes on along that  
20 road.

21 Q Okay. Thank you very much.

22 A Yes.

23 PRESIDING OFFICER HONIGBERG: Are there any  
24 other questions from the Subcommittee? Ms.

1 Fillmore, do you have any redirect for  
2 Mr. Mellett?

3 MS. FILLMORE: Just a little bit.

4 **REDIRECT EXAMINATION**

5 **BY MS. FILLMORE:**

6 Q Dawn, can you bring back up Applicant's Exhibit  
7 209, the last thing that Mr. Walker had on the  
8 screen?

9 And can you go into Section 3.1(b)? Thank  
10 you.

11 Mr. Mellett, this is the same document that  
12 Attorney Walker just showed you on the screen.

13 A Okay.

14 Q And he asked you about subsection (b) regarding  
15 repair of the road. Does it sound to you like  
16 if this were in an agreement, that would allow  
17 Northern Pass to simply ignore the spring load  
18 limits?

19 A Yes. Probably.

20 Q And just one other question. You testified  
21 earlier that you don't have any experience with  
22 timber mats failing. Is that because you've  
23 simply never used them when the ground wasn't  
24 frozen?



1 A We didn't use them very much in the summertime  
2 which is when they would fail.

3 Q Thank you very much. That's all I have.

4 PRESIDING OFFICER HONIGBERG: Thank you,  
5 Mr. Mellett. You can step down.

6 A Thank you.

7 PRESIDING OFFICER HONIGBERG: Let's go off  
8 the record.

9 (Discussion off the record)

10 (Recess taken 9:42 - 9:48 a.m.)

11 PRESIDING OFFICER HONIGBERG: Looks like we  
12 have a witness place in please. Would you  
13 please, swear him in?

14 (Whereupon, **Harry Dodson** was duly  
15 sworn by the Court Reporter.)

16 **HARRY DODSON, DULY SWORN**

17 PRESIDING OFFICER HONIGBERG: Ms. Boepple.

18 MS. BOEPPLE: Thank you, Chair. Good  
19 morning.

20 **DIRECT EXAMINATION**

21 **BY MS. BOEPPLE:**

22 Q I'm Elizabeth Boepple representing the Forest  
23 Society.

24 Mr. Dodson, would you please introduce

1 yourself to the Subcommittee?

2 A I'm Harry Dodson. I'm principal of Dodson &  
3 Flinker. We're landscape architects and  
4 planning specialists. We do a lot of visual  
5 analysis work.

6 Q And you are here on behalf of who?

7 A Of the Forest Society and the Appalachian  
8 Mountain Club.

9 Q Thank you, Mr. Dodson. Do you have in front of  
10 you what's captioned as Amended Prefiled Direct  
11 Testimony of Harry Dodson dated January 11th,  
12 2017, with exhibits and marked as SPNHF Exhibit  
13 62?

14 A Yes.

15 Q Do you also have in front of you what's  
16 captioned Revised Dodson & Flinker Visual Impact  
17 Assessment Report with appendices and marked as  
18 SPNHF Exhibit 69?

19 A Yes.

20 Q And do you also have in front of you your  
21 Supplemental Prefiled Direct Testimony dated  
22 April 17th, 2017, with attached exhibits and  
23 marked as SPNHF Exhibit 66?

24 A Yes.

1 Q Do you have any corrections or further  
2 amendments to any of those documents or your  
3 Prefiled or Supplemental Testimony and the  
4 exhibits?

5 A No. I don't.

6 Q Okay. So do you swear by and adopt all of those  
7 documents, your Amended Prefiled Direct  
8 Testimony and your Supplemental Prefiled  
9 Testimony and your Visual Impact Report as  
10 amended and filed?

11 A Yes, I do.

12 Q Thank you. Now, since the time that you filed  
13 your Supplemental Testimony, and your Revised  
14 Visual Impact Report, do you know if the  
15 Applicants, Northern Pass, provided additional  
16 information and additional analysis regarding  
17 the proposed Project's impacts on aesthetics  
18 along the Project route?

19 A They submitted Supplemental Testimony by DeWan &  
20 Associates.

21 Q And that was after you filed your Supplemental  
22 Testimony?

23 A Yes.

24 Q Correct?

1 A Yes.

2 Q And have you reviewed those materials and that  
3 information --

4 A I have not.

5 Q So if you'd just let me finish before you  
6 respond. Thank you. For the court reporter.  
7 She can only record one person at a time.

8 COURT REPORTER: Thank you.

9 Q Thank you.

10 So let's look at Mr. DeWan's Supplemental  
11 Testimony. Did that include a critique of your  
12 Visual Impact Assessment?

13 A Yes. It does.

14 Q So let's go to that. On page 57 of Mr. DeWan's  
15 Supplemental Testimony, one of the things he  
16 states is that D&F, Dodson & Flinker's, scenic  
17 resource identification process is unreliable  
18 and not replicable.

19 I assume you disagree with Mr. DeWan's  
20 assessment of your report, correct?

21 A Yes, I do.

22 Q So why is your process reliable?

23 A It's reliable because it uses a methodical  
24 quantitative analysis of the visual issues at

1 hand. Some of this is because we based our work  
2 on DeWan & Associates' Visual Impact Assessment.  
3 We did a critique of the DeWan & Associates'  
4 Report and Supplemental, and we additionally  
5 included new information that we came up with  
6 that was solidly factually based.

7 Q Would it also be fair to characterize some of  
8 his general criticism of your report as  
9 differing from the way he approached his Visual  
10 Impact Assessment?

11 A He criticized our approach to cultural  
12 landscapes. The DeWan & Associates' definition  
13 of cultural is based mainly on official  
14 recognition and number of visitors. We felt  
15 that an additional way of looking at cultural  
16 landscapes would be to look at human influences  
17 on the land: historic features, agriculture,  
18 forestry, different ways that human cultural has  
19 changed the land. Often in New Hampshire, for  
20 the better. The beautiful historic farmsteads  
21 set in agricultural land with mountains and  
22 forests in the background. Some of them managed  
23 forests.

24 So our definition of cultural was broader

1 than DeWan & Associates' because it takes into  
2 account many of the things that make New  
3 Hampshire a beautiful and special place. And  
4 Heritage Landscapes, the historic consultants,  
5 have backed this up by saying that historical  
6 features do have a scenic component. Most of  
7 them are both historical and scenic. So it's  
8 another way that our broader definition of  
9 cultural, I think, addresses more of the big  
10 picture of what cultural actually means; that it  
11 doesn't just mean famous locations that have  
12 official designation or locations that have very  
13 heavily visited. It's broader than that.

14 Q Is it also fair to say that from the initial  
15 assessment of this Project you took a different  
16 view of it than Mr. DeWan did?

17 A Are you speaking of cultural?

18 Q No, in general. Your VIA approach, the approach  
19 to doing a Visual Impact Assessment.

20 A Yes. Our approach started with DeWan &  
21 Associates' Visual Impact Assessment, but we  
22 critiqued it and found areas where it was  
23 deficient. The cultural definition is one way  
24 that we were different. We were different in

1 that we assessed not just the famous heavily  
2 visited landscapes but local and regional  
3 landscapes. Local scenic roads, local  
4 recreation areas and conservation areas. The  
5 type of sites that DeWan & Associates eliminated  
6 right at the beginning by eliminating 130 sites  
7 based on their definition of cultural.

8 So our approach was different in that it  
9 looked at the more local and regional scale  
10 which is an important feature of the New  
11 Hampshire landscape. It's an important feature  
12 that visitors to New Hampshire and New Hampshire  
13 residents experience as parts of the scenic  
14 landscape. It's not just the famous locations,  
15 but it's what you would see on a scenic drive,  
16 for example, at fall foliage season. Some of  
17 the local roads and less famous landscapes are  
18 an important part of the visual fabric of the  
19 state.

20 Q And is that an appropriate way to conduct a  
21 Visual Impact Assessment to critique another in  
22 your profession?

23 A Yes. It's frequently done. It always helps to  
24 have two or three different looks at the same

1 situation.

2 Q Okay. So let's try and walk through some of the  
3 specific critiques. In Mr. DeWan's Supplemental  
4 Prefiled, he stated that you used no filtering  
5 system to determine which scenic resource should  
6 be further evaluated.

7 Is that a fair characterization of the  
8 process you used to determine which scenic  
9 resources you were looking at?

10 A We used a filtering system, but it was much more  
11 fine-grained than DeWan & Associates' filtering  
12 system. Their filtering system was pretty  
13 coarse in that it eliminated large numbers of  
14 scenic sites because they didn't meet DeWan &  
15 Associates' definition of cultural standards.

16 Our filtering system was much more  
17 fine-grained and considered other aspects of  
18 visual analysis, different ways of looking a  
19 little bit closer at the visual picture by  
20 addressing detailed issued like historic  
21 significance, human alteration of the land, more  
22 detail. So we didn't eliminate sites right off  
23 the bat early on in our filtering system. We  
24 looked at wide range of sites very carefully



1 before we eliminated any or made criticism of  
2 any.

3 Q So your determination as to which scenic  
4 resources you looked at, how did you make that  
5 determination? How did you pick and choose the  
6 ones you looked at?

7 A We looked at many of the resources that DeWan &  
8 Associates included in their Visual Impact  
9 Assessment, and we noted the strong response of  
10 those sites and the analysis of those sites, but  
11 we pointed out the shortcomings. And we also  
12 did extensive field work on our own to find  
13 different scenic locations that were not picked  
14 up in the DeWan & Associates' report. And we  
15 analyzed those.

16 Q Did you attempt to identify every potential  
17 scenic resource along the Project route?

18 MR. NEEDLEMAN: Mr. Chair, I'm going to  
19 object. This at this point sounds like just a  
20 reiteration of all the work they did.

21 MS. BOEPPLE: So we're not trying to repeat  
22 the work that was done by Mr. Dodson. We're  
23 trying to address the specific criticisms that  
24 were contained within the Supplemental Testimony

1 by Mr. DeWan and identify those.

2 PRESIDING OFFICER HONIGBERG: I know that's  
3 the broad purpose, but those last couple of  
4 questions did sound an awful lot like the  
5 general work that he did in preparation of his  
6 own report. But I'm going to overrule the  
7 objection, allow you to produce but ask you to  
8 focus the questions because we all have his  
9 report, we all have his testimony.

10 MS. BOEPPLE: Understood. Thank you,  
11 Chair.

12 BY MS. BOEPPLE:

13 Q So, Mr. Dodson, let's take an example out of  
14 Mr. DeWan's Supplemental Testimony. He takes  
15 issue with a number of roadways that you  
16 included in your list of scenic resources, and I  
17 believe he cites that as a deficiency in your  
18 report. Do you agree with that, and if not, why  
19 not?

20 A I know there was concern about the number and  
21 type of roadways that we considered. We did  
22 find additional roadways that were significant,  
23 and we also looked at roadways that are less  
24 famous and less well-known. For example,

1 roadway that aren't scenic officially  
2 designated byways.

3 We did this because we feel it's important  
4 to evaluate the whole picture of New Hampshire's  
5 landscape, not just the very famous well-known  
6 sites. So the reason we had more roadways is  
7 because we were looking at the big picture, and  
8 we were looking at the way visitors to New  
9 Hampshire experience the State. They don't just  
10 go to the famous spots. They take rides and  
11 drives through the larger landscape along  
12 smaller roads often.

13 Q And is that appropriate for a professional in  
14 your industry to look at it from that  
15 perspective?

16 A Yes. It is.

17 Q Mr. DeWan also takes, Mr. DeWan & Associates in  
18 their Supplemental also takes issue with your  
19 cultural value ratings system, and specifically,  
20 says that you've used the high, medium and low,  
21 but it's not clear how you arrived at  
22 application of those ratings.

23 A We used high, medium and low which was also what  
24 DeWan & Associates used to rate various things

1           that they were evaluating. So in that way, our  
2           way of rating wasn't different from theirs, and  
3           I think it's a legitimate way to rate  
4           landscapes.

5       Q    I think his criticism is that how you determined  
6           a specific source in terms of its cultural value  
7           is rated, for example, at a high isn't clear  
8           what criteria you used to make that  
9           determination.

10     A    Well, we list the particular resource, and then  
11           we describe for high, medium and low what the  
12           characteristics of that resource would be.

13                To take terrain, for example, high quality  
14           terrain would be mountains and very dramatic  
15           hills. Medium level quality of terrain would  
16           be, for example, rolling hills as opposed to  
17           mountains. And low rating for terrain would be  
18           flat or just undulating terrain.

19                So we took that approach on a whole variety  
20           of scenic elements which is standard practice in  
21           the industry.

22     Q    And that is clear in your report how you arrived  
23           at those determinations?

24     A    Yes. There are actually graphs and matrices in

1 the report that outline how that works.

2 Q Right. Thank you. The Subcommittee has that in  
3 front of them.

4 There's also a criticism in the DeWan &  
5 Associates' Supplemental Testimony regarding the  
6 aesthetic quality rating system that you used,  
7 and his critique seems to be focused on your  
8 category of "meaning," quote, unquote, and you  
9 didn't define symbolism in the landscape. Is  
10 there a special meaning to this language and can  
11 you define that better or do you believe it's  
12 covered within your report?

13 A Meaning and symbolism are important, and I think  
14 symbolism is a part of a lot of key New  
15 Hampshire landscapes. For example, views of the  
16 White Mountains are views of pretty mountains in  
17 and of themselves, but I think they also mean  
18 something to people in New Hampshire and  
19 visitors to New Hampshire.

20 I think the Connecticut River is symbolic  
21 for the state. I think something, probably most  
22 appropriate example of it is Profile Lake is a  
23 very meaningful location for people to visit.  
24 It's meaningful because of the Old Man of the

1 Mountain. It's still meaningful with the old  
2 man gone, and it's still on the license plate.  
3 It has meaning and symbolism for the state, and  
4 I think it's important to address that.

5 Visual analysis isn't all about facts and  
6 figures and data and matrices. It's also about  
7 things that people really care about and that  
8 are more abstract but still really important.

9 Q And so in response to his criticism, you believe  
10 that that has been accurately encompassed within  
11 your report; is that correct?

12 A Yes. We've rated high, medium and low  
13 characteristics for each one of those.

14 Q Another criticism which is similar is that your  
15 aesthetic rating system reflects confusion over  
16 how you arrived at the ratings that you did. So  
17 can you explain how you reached the high, medium  
18 and low rating using the criteria of, one,  
19 viewing distance; two, extent, nature and  
20 duration of use; scope and scale of changes; and  
21 four, the dominance and prominence of the  
22 Project view?

23 A Well, those are important criteria that we  
24 included in all our analysis. Those are the SEC

1 standards defined as important elements to need  
2 to be used for every analysis. So I used those  
3 standards in analyzing both DeWan & Associates'  
4 work and our new simulations and important Key  
5 Observation Points.

6 Q So your position is that your report accurately  
7 reflects how you reached those ratings for the  
8 different resources in the aesthetic rating  
9 system that you used?

10 A Yes. We had a matrix. We call it the working  
11 sheet that goes into great detail into all the  
12 attributes of a particular scenic element, and  
13 it rates terrain, presence of water, vegetation,  
14 some of those basic elements, but it also  
15 addresses all the components that the SEC has  
16 described in 301.5, 301.14, and 102.45. So  
17 those criteria were incorporated in our matrix  
18 so they were a fundamental part of how we  
19 evaluated the landscape.

20 Q So given that each one of these criticisms of  
21 your system appears to be a confusion perhaps  
22 over the fact that he uses, and correct me if  
23 this is not a correct characterization, that he  
24 in his approach to a Visual Impact Assessment

1 uses a numerical rating system. Is that  
2 accurate? Is that an accurate statement?

3 A In relation to our approach?

4 Q As opposed to your approach.

5 A Our approach uses both a numerical system and a  
6 more qualitative approach. Again, I think  
7 charts and graphs and numbers are important, but  
8 I think they can lead to information overload in  
9 terms of incredible reams of data that we have  
10 to analyze and that can make it hard to  
11 understand what some of the basic issues at play  
12 are.

13 So I think it's also important to address  
14 these issues with text and qualitative  
15 characteristics to really cut to the chase as  
16 far as the aesthetic characteristics are  
17 concerned, and also avoid a problem that I think  
18 often comes up in visual analysis, especially  
19 visual analysis that relies on detailed charts  
20 and graphs and large quantities of information.  
21 I think that that can lead to confusion, it can  
22 lead to overwhelming amounts of data, and it can  
23 result in not seeing the forest for the trees,  
24 and we try to come up with an approach that



1 shows the forest in addition to the trees.

2 Q And does your approach meet the industry  
3 standards in your profession?

4 A Yes, it does.

5 Q DeWan & Associates declares within the  
6 Supplemental Testimony that despite lack of  
7 clarity in your rating systems and apparent  
8 inability to understand how you reached the  
9 determination of the high, medium and low, that  
10 you nevertheless failed to apply whatever that  
11 methodology is consistently and accurately.

12 Did you apply your particular system in a  
13 consistent way?

14 A We did do it in a consistent way, and we  
15 developed as DeWan & Associates developed  
16 standards for high, medium and low visual  
17 quality. I think DeWan & Associates' criticism  
18 of our work focused on the issue of symbolism  
19 and meaning in the landscape, for example, I  
20 think because it's an issue that's harder to  
21 quantify, but still is very important, to  
22 address.

23 Q And then do you have a response to the specific  
24 criticism that your scenic resource list is

1 incomplete? We covered this a little bit  
2 already, but I just want to confirm that the  
3 response to that criticism is that you didn't  
4 try to capture every potential scenic resource;  
5 is that correct?

6 A Yes. That's correct. We focused on key  
7 resources that DeWan & Associates had  
8 overlooked, and we focused on the important  
9 ones, but as T.J. Boyle has pointed out, there  
10 are literally thousands of potential points with  
11 views of the Project. It is 132 miles long  
12 above grade, and it would be very difficult to  
13 assess those thousands of potential viewpoints.  
14 So we focused on the ones we felt were most  
15 obvious, and those are what we evaluated.

16 Q And some that might have been missed in DeWan &  
17 Associates' review of the Project?

18 A Yes. Some that would have been missed, some  
19 were of sites that DeWan & Associates had also  
20 evaluated that we photographed from different  
21 angles, for example, or different times of day  
22 to come up with our own evaluation.

23 Q And you mentioned T.J. Boyle & Associates, did  
24 you review materials that were filed by Counsel

1 for the Public with respect to T.J. Boyle's  
2 Supplemental Testimony and reports as well as  
3 Heritage Landscapes? Did you review those?

4 A Yes.

5 Q After you filed your Supplemental Prefiled  
6 Testimony?

7 A Yes. I did.

8 Q Okay. And so you reviewed those in the context  
9 of the criticism that that DeWan & Associates  
10 made in their Supplemental; is that correct?

11 A I did. I felt that T.J. Boyle made some very  
12 significant comments about the Project,  
13 specifically the number of scenic resources and  
14 observation points that actually exist, and I  
15 thought that Heritage Landscapes did a very good  
16 job linking historic features like historic  
17 homes and farmsteads as well as historic uses  
18 like farmland and forestry. She linked those  
19 historic features to the visual landscape and  
20 pointed out that almost every historic resource  
21 that she's evaluated in her professional career  
22 has a visual element to it. And that, for  
23 example, the National Register of historic  
24 places lists visual quality as one of the key

1 components in historical quality. So I felt  
2 both T.J. Boyle and Heritage Landscapes had some  
3 very meaningful ideas and comments.

4 Q And did you find for the most part that your  
5 findings were consistent with theirs?

6 A Yes. There was very close overlap between ours  
7 and theirs.

8 Q I want to just go back to some of the specific  
9 criticisms within DeWan & Associates'  
10 Supplemental Testimony. One of those is that  
11 you divide the the proposed Project route into  
12 tourist districts, and I think the criticism is  
13 that that was not accurate or complete. Can you  
14 respond to that criticism?

15 A My feeling is that the Tourist Bureau and  
16 tourist businesses and people who experience  
17 tourism in New Hampshire are probably the best  
18 sources to go through to find out what is  
19 beautiful in the State, and I think the way the  
20 Tourist Bureau has divided the state up into  
21 districts has got a lot more value than just  
22 taking a physiographic way to divide up the  
23 states. I think the Tourist Bureau has really  
24 looked at what people see in New Hampshire, both

1 New Hampshire residents and visitors.

2 So I think it's appropriate to use their  
3 districts, the Great North Woods, the White  
4 Mountains, the Lakes Region, the Merrimack  
5 Valley, as a basic way to look at the landscape  
6 from this Project's point of view because these  
7 are the people who understand the State and  
8 these are the people who have experience with  
9 what makes New Hampshire a very important  
10 tourism destination.

11 It is the beauty of the State in many ways.  
12 When you look at the Tourist Bureau's online  
13 information, it is very focused on scenic  
14 mountains, undeveloped hillsides and mountain  
15 ranges, historic features like historic homes  
16 and farmsteads, farmland, forestry areas. These  
17 are what the tourism website shows.

18 Calenders about New Hampshire scenery, for  
19 example, the Wild and Scenic New Hampshire,  
20 calendar, the 2018 New Hampshire wall calendar,  
21 these also show undeveloped mountainsides,  
22 beautiful farmsteads, covered bridges, rivers  
23 and streams. It doesn't show transmission  
24 facilities. It shows what the Bureau and I

1 think the tourists feel about the State as a  
2 foundation of the State's economy.

3 Q What about the people of New Hampshire? Is that  
4 a reflection of what the people of New  
5 Hampshire --

6 A I don't know if the people of New Hampshire as a  
7 whole have been polled about this. I'm assuming  
8 that the brochures and calendars and promotional  
9 information put out about New Hampshire reflect  
10 the concerns and interests of residents and  
11 visitors alike and that those really reflect the  
12 marketplace, and the marketplace I think is  
13 pretty savvy in terms of determining how people  
14 feel about certain things.

15 I think it's also interesting to note that  
16 Heritage Landscapes and T.J. Boyle conducted  
17 meetings across the state to involve local  
18 residents in describing sites and areas that  
19 they think are scenic, that they think are  
20 historic. I know it's not a comprehensive --

21 MR. NEEDLEMAN: Mr. Chair. I'm sorry.  
22 This is very general testimony. And these  
23 meetings occurred prior to the time T.J. Boyle  
24 filed their December testimony so this was all

1 available to Mr. Dodson.

2 PRESIDING OFFICER HONIGBERG: Ms. Boepple?

3 MS. BOEPPLE: We'll move on. Thank you.

4 BY MS. BOEPPLE:

5 Q Mr. Dodson, let's go back to the specific  
6 criticisms within the Supplemental Testimony.

7 So we were talking about the tourist  
8 districts, and we were focused on why that DeWan  
9 & Associates claim that that was not either  
10 accurate or complete. So are you saying that  
11 because you approached your review by dividing  
12 the state into the tourist districts that you  
13 accurately did a review not only of his work but  
14 also of potential impacts along the Project  
15 route?

16 A The tourist districts take into account terrain  
17 and vegetation and water so they are based in  
18 natural features. They're not just promotional  
19 documents that encourage visitors to come to the  
20 state. So there is a natural physiographic  
21 foundation to the tourist district.

22 Q So there's a nexus between the qualities in the  
23 tourist district and what you're reviewing for  
24 aesthetic impacts, correct?

1 A Yes.

2 Q So DeWan & Associates also claims in their  
3 Prefiled Testimony on page 65 that you failed to  
4 use the New Hampshire Site Evaluation Committee  
5 rules to determine whether there's an  
6 unreasonable adverse impact; is that accurate?

7 A No. We did use the New Hampshire rules in our  
8 work.

9 Q And is that included and specified within your  
10 report that you applied those rules?

11 A Yes, it is. And the rules are in the evaluation  
12 matrices that we produced. The matrices include  
13 landform, vegetation, water bodies, and they  
14 also include the standards that the SEC has  
15 developed. For example, the existing character  
16 of the area, the extent, nature and duration of  
17 public uses, scope and scale, the extent to  
18 which the proposed facility is dominant and  
19 prominent. We used each one of these rules to  
20 be part of our evaluation matrix.

21 Q Okay. Thank you. There are some more granular  
22 details in his criticism, but I believe your  
23 response for most of those questions will be  
24 that your report, contrary to his criticism,



1 your report, in fact, does address some  
2 specifics, for example. So as not to belabor  
3 any of these points, I'm just going to use a  
4 couple of examples.

5 So one of those criticisms is that you did  
6 not follow the expanded definitions for scenic  
7 resources, and that in your report, you state  
8 that you considered all town and village  
9 centers, farms, historic structures, local  
10 scenic roads, trails, historic landscape,  
11 accessible natural areas and waterways to be  
12 important components of the cultural landscape  
13 of New Hampshire. However, he then goes on to  
14 say that you haven't listed any of those  
15 features beyond what was listed in the Project  
16 Visual Impact Assessment, and the only  
17 additional resources are public roads without  
18 any justification for their scenic or cultural  
19 quality. How do you respond to that criticism?

20 A We used as a starting point the DeWan &  
21 Associates analysis process which had some very  
22 good points and was fairly comprehensive. We  
23 then went on and suggested areas where the DeWan  
24 & Associates report was incomplete or where we

1 disagreed with some of the conclusions.

2 For example, we disagreed with the DeWan &  
3 Associates' elimination of 130 sites due to what  
4 they defined as Low Cultural Value. We then  
5 also included some additional criteria as part  
6 of our review process. All of these elements  
7 were included in a matrix that allowed us to  
8 rate them based on the SEC rules.

9 Q Then there's another specific criticism and that  
10 is I believe he uses, they use the terminology  
11 that you used a static viewpoint when doing your  
12 photo simulations and that they did not use a  
13 static viewpoint. Can you respond to that  
14 criticism?

15 A We used fixed Key Observation Points, but we  
16 also indicated where a Key Observation Point  
17 really didn't tell the whole story of a  
18 particular scene. The whole story of the  
19 particular scene, for example, if it's a roadway  
20 or a river that's canoed frequently is that you  
21 will get views of the proposed Project from  
22 numerous different points along that roadway or  
23 along that stream or hiking trail and that it's  
24 important to consider each of the different

1 locations along the roadway where you get views  
2 of the scenic resource, and each one of these  
3 different locations is a scenic resource in and  
4 of its own right.

5 For example, a roadway going around a  
6 mountain, Percy Peaks, for example. There's  
7 Route 16 and Route 3. 16 on the east, 3 on the  
8 west. The Percy Peaks is a focal point of that,  
9 but to call the entire Percy Peaks area one  
10 scenic resource isn't accurate. There are  
11 hundreds, and T.J. Boyle has pointed out in  
12 their opinion thousands of different scenic  
13 resources that are available. When you go on  
14 Route 16 and you see Percy Peaks from the east,  
15 it's very different from viewing it from Route 3  
16 on the west. So there are a number of different  
17 viewpoints along that stretch of road. And  
18 we've pointed this out in our Visual Impact  
19 Assessment.

20 Q But there is, in fact, language under the SEC  
21 rules that requires Key Observation Points to be  
22 reviewed, and I believe that's what the  
23 criticism goes to that DeWan & Associates raised  
24 in their Supplemental Testimony; that somehow

1           your picking and choosing Key Observation Points  
2           doesn't comply with the rules.

3       A     I think it does comply with the rules in the  
4           sense that a Key Observation Point has to have a  
5           full view of the scenic resource, that it has to  
6           be representative and not carefully edited or  
7           cropped, that it includes the full scope of the  
8           view and that it occurs at a time of day when  
9           visibility is good. I think that the rules also  
10          imply that it's important to take into account  
11          linear experiences of views and the need to have  
12          Key Observation Points from numerous different  
13          locations along a road or along the river that's  
14          canoed.

15       Q     So that's the approach you took in choosing the  
16           Key Observation Points that you used or pointed  
17           out were different between what you chose versus  
18           what Mr. DeWan chose.

19       A     Yes. We did select them that way, and we  
20           pointed out that they're part of a linear  
21           landscape.

22       Q     Okay. Thank you. I don't want to go into --

23                   MS. BOEPPLE: Chair, did you have something  
24           further?

1 PRESIDING OFFICER HONIGBERG: No. I'll  
2 wait.

3 Q I'm not going to go into the section of DeWan &  
4 Associates' Supplemental Testimony where he's  
5 defending the criticisms that you leveled. I  
6 think that your report speaks for itself on  
7 those issues. I will just ask you to summarize  
8 if there's any other general criticisms that you  
9 found within the Supplemental Testimony of DeWan  
10 & Associates that we haven't responded to thus  
11 far.

12 A I think there are other areas where we disagreed  
13 or where we felt there wasn't adequate  
14 information provided. I think it relates to the  
15 level of detail that a particular landscape was  
16 studied at. I think DeWan & Associates'  
17 thoroughness is obvious, but I think they've  
18 eliminated some important landscapes that were  
19 worthy of being considered, and I also think  
20 that a highly quantitative process such as the  
21 one they used can really overwhelm the reader  
22 with technical data and that it's also important  
23 to take a look at those resources from a much  
24 more basic and understandable approach, and I

1 think that's one of the shortcomings of their  
2 approach.

3 Q Okay. Mr. Chair, I just need a minute to  
4 consult with AMC.

5 PRESIDING OFFICER HONIGBERG: Okay.

6 Q Just one clarifying question, Mr. Dodson. I  
7 believe you were talking about Percy Peaks and  
8 you referred to a route number. Wasn't it Route  
9 110 as opposed to the route that you stated?

10 A There is also a Route 110, but I believe 16 and  
11 3 also have views.

12 Q Okay. No other questions on Direct.

13 PRESIDING OFFICER HONIGBERG: You were  
14 hiding back there, Ms. Connor.

15 **CROSS-EXAMINATION**

16 **BY MS. CONNOR:**

17 Q Good morning, Mr. Dodson. My name is Doreen  
18 Connor, and I'm here for Counsel for the Public.

19 T.J. Boyle recently testified that their  
20 report was a review of Mr. DeWan's VIA and not a  
21 VIA in and of itself. How would you describe  
22 your report?

23 A It is also a review. It is not a freestanding  
24 VIA. It's a critique of Mr. DeWan's VIA. It

1 also introduces new elements into the VIA  
2 process. What we did was outline areas where we  
3 disagreed or felt that there were omissions and  
4 we did this in red type that was included in our  
5 critique of the DeWan & Associates' VIA.

6 Q Bearing in mind then that you were doing a  
7 critique as opposed to a VIA, am I correct in  
8 believing that the 57 additional scenic  
9 resources you identified was not meant to be an  
10 exclusive or exhaustive list of all of the  
11 scenic resources potentially implicated by this  
12 Project?

13 A No, not at all. It was one fairly condensed way  
14 of looking at the additional resources, but it  
15 doesn't imply that there were not hundreds,  
16 possibly thousands of other scenic resources.

17 Q And as part of your scope of work, did you have  
18 an ability to review all of the scenic resources  
19 identified by T.J. Boyle?

20 A No.

21 Q If you had been doing a VIA, how would you have  
22 approached the identification of scenic  
23 resources potentially impacted by this Project?

24 A Well, I would have started from work done by

1 other people such as DeWan & Associates and T.J.  
2 Boyle working for the Department of Energy. And  
3 David Raphael going back early on to the  
4 Project. So I would look at what's been done as  
5 a starting point. I would also do polling of  
6 the public the way T.J. Boyle and Heritage  
7 Landscapes did. I think that's an excellent  
8 step. I would do more extensive field work to  
9 find what I believe are literally thousands of  
10 potential Key Observation Points along hundreds  
11 of scenic resource areas. So it would be a much  
12 more involved process than was possible at this  
13 time.

14 Q You mentioned several times today that there are  
15 literally thousands of potential scenic  
16 resources. Is it fair for me to draw from those  
17 comments that you believe Mr. DeWan's  
18 identification of less than half of that number  
19 is incomplete?

20 A Yes.

21 Q Both representatives from T.J. Boyle and  
22 Mr. DeWan himself testified that the SEC rules  
23 with regard to VIA elements did not include a  
24 cultural value filter. Do you agree with that



1 interpretation of the rules?

2 A I think it's a fairly narrow interpretation of  
3 the rules. The 102.45 listed destination  
4 definitions, list historic features, historic  
5 features that possess a scenic quality. So I  
6 think that's one area where the rules are asking  
7 for a broader interpretation of scenic quality  
8 as it's linked to historic features and human  
9 alternative of the land such as farmsteads,  
10 farmland, forestry areas.

11 Q Mr. DeWan also testified that it was his  
12 interpretation of the SEC VIA rules that they  
13 did not require a bare-earth analysis whereas  
14 the Boyle Panel testified that they believed it  
15 did. What is your opinion with regard to  
16 whether the rules require a bare-earth analysis?

17 MR. NEEDLEMAN: Mr. Chair, I'm going to  
18 object. This is all just bolstering of existing  
19 testimony. This is everything that could have  
20 and should have been included if he had a view  
21 about it.

22 PRESIDING OFFICER HONIGBERG: That last  
23 question also called for a legal conclusion.

24 MS. CONNOR: I'm not asking for -- I can

1 perhaps rephrase it. I'm not asking for a legal  
2 conclusion. I'm asking for how this witness  
3 interpreted the rules.

4 PRESIDING OFFICER HONIGBERG: Okay. And  
5 now how about Mr. Needleman's objection?

6 MS. CONNOR: This is not my witness. I  
7 think I should be allowed to cross-examine him  
8 with regard to his understanding of the rules  
9 and anything he did.

10 PRESIDING OFFICER HONIGBERG: Well, if it's  
11 within the scope of what he's talked about and  
12 not going beyond his testimony, you probably  
13 have some leeway, but we're not going to expand  
14 his testimony beyond what his sponsors, the  
15 Society, chose to include.

16 MS. CONNOR: Well, I guess I don't  
17 understand then the limitation on cross. I  
18 would think as part of cross I can ask anything  
19 with regard to this witness's opinions in order  
20 to come up with his report. That's what I'm  
21 trying to get at.

22 PRESIDING OFFICER HONIGBERG: You're not  
23 going to be getting into new opinions, right?

24 MS. CONNOR: No.

1                   PRESIDING OFFICER HONIGBERG: All right.  
2                   You can continue.

3 BY MS. CONNOR:

4 Q       Mr. Dodson --

5                   PRESIDING OFFICER HONIGBERG: I think you  
6                   should reword the question because it was a pure  
7                   legal question you asked.

8 BY MS. CONNOR:

9 Q       Mr. Dodson, as you were approaching your work in  
10           this process and you reviewed the rules, did you  
11           form an opinion as to whether in your opinion  
12           the rules required a bare-earth analysis?

13                   MR. NEEDLEMAN: Same objection. He has  
14                   clearly spoken to this issue. If he had that  
15                   opinion, it would be in his report. In fact, I  
16                   don't believe it is. So this is bolstering and  
17                   asking for new opinions now.

18                   PRESIDING OFFICER HONIGBERG: I don't  
19                   recall if he's got an opinion about how the  
20                   rules work in his report, but why don't you ask  
21                   him what he did, not why he did what he did.  
22                   Why don't you ask him what he did.

23                   MS. CONNOR: All right.

24                   PRESIDING OFFICER HONIGBERG: Because his

1 opinion about what the rules require isn't  
2 really helpful to us. We're going to decide  
3 what the rules require based on the arguments  
4 you and your cohorts out there make.

5 BY MS. CONNOR:

6 Q Mr. Dodson, did you do a bare-earth analysis?

7 A No. We relied on viewshed analysis by DeWan &  
8 Associates.

9 Q If you had been preparing a VIA as opposed to a  
10 VIA criticism, would you have done your own?

11 A Yes. In our previous work, we always include a  
12 bare-earth analysis. What we do is we show the  
13 viewshed area for bare-earth. We then show  
14 areas that currently would obstruct views like  
15 forests or buildings. And then we result with a  
16 basically open viewshed analysis of what exists  
17 today. So in that sense, we're doing both  
18 bare-earth and today's viewshed in one document.

19 Q In your report you state your cultural value  
20 review is, quote, based on the positive human,  
21 often historic, influences on the land, and  
22 that's at page 9 of your report. Exhibit SPNHF  
23 69. Can you explain perhaps with an example  
24 what you mean by that definition?

1 A The definition of human influence on the land?

2 Q Yes.

3 A Much of New Hampshire's landscape is natural;  
4 the mountains, the wooded hills, the undeveloped  
5 lakes and streams. But another aspect of New  
6 Hampshire's scenic landscape are the farms, the  
7 historic buildings, the covered bridges, the  
8 trails, paths and scenic roads. These are all  
9 things that have been created by people over the  
10 centuries. And we feel that it's important to  
11 incorporate standards for judging those  
12 features.

13 I think Heritage Landscapes did a very good  
14 job connecting the importance of history, be it  
15 landscapes or buildings, with scenic quality.  
16 So I think a good approach and a good definition  
17 is to consider cultural value as based on  
18 history and that history has scenic components  
19 to it.

20 Q And how are you able to come up with a ranking  
21 mechanism to address what you describe as the  
22 positive human, often historic, influences on  
23 the land?

24 A I believe Heritage Landscapes came up with a

1 ranking system for cultural resources, and they  
2 implied that scenic issues were a part of that  
3 ranking system. And the National Register of  
4 Historic Places in their rankings and in their  
5 decisions whether to include or not include a  
6 particular resource almost always include scenic  
7 qualities along with the other historic  
8 qualities.

9 Q After reviewing the cultural impact of various  
10 scenic resources, as I understand it the second  
11 step in your analysis was something called  
12 aesthetic quality rating, and I want to bring up  
13 Figure 1 from Appendix D of Mr. Dodson's report.  
14 Page 2.

15 Mr. Dodson, is this up on your screen?

16 A Yes.

17 Q And do you recognize this as part of the work  
18 that you did?

19 A Yes.

20 Q You had mentioned earlier that the red is your  
21 annotation; is that correct?

22 A Yes.

23 Q And the black, is that from Mr. DeWan's report?

24 A Yes.

1 Q Can you explain why in your work you felt it was  
2 important to annotate this Aesthetic Quality  
3 Evaluation Chart?

4 A I think it's because the chart was incomplete,  
5 and I think in some areas it was mistaken. So  
6 that's why we annotated it.

7 Q Can you describe which annotations refer to  
8 incompleteness and which ones refer to  
9 inaccuracies?

10 A Well, under vegetation, for example, we felt  
11 that it was important to include unbroken  
12 expanses of intact forests with high scenic  
13 integrity. It was important to bring up the  
14 issue of unbroken, visually unbroken forest  
15 lands, and we also felt it was important to talk  
16 about the issue of scenic integrity which comes  
17 up in the U.S. Forest Service Visual Assessment  
18 technique, and scenic integrity meaning the  
19 intactness of a particular view.

20 Two examples of intactness. One would be  
21 rolling hills with distant mountains with few,  
22 if any, signs of development. Another example  
23 of integrity would be an historic feature such  
24 as a historic farmstead with farm fields

1           surrounded by hills. That from a historic  
2           visual perspective is an intact visual historic  
3           landscape.

4       Q     And my recollection of Mr. DeWan's testimony on  
5           that point was that if a scenic resource was  
6           intact, i.e., had no human interaction to it, it  
7           didn't get any additional points. Under your  
8           scale, does that same intact landscape garner  
9           points?

10      A     Yes, it does. It means that the vegetation will  
11           be in the higher distinctive category, and I  
12           think it addresses a shortcoming of the DeWan &  
13           Associates report which really didn't deal with  
14           the U.S. Forest Service important concept of  
15           intactness and integrity. The importance to  
16           evaluators, I think the importance to residents  
17           and visitors and tourists of the fact that a lot  
18           of the New Hampshire landscape, whether it be  
19           wild or cultural, is relatively intact and  
20           unspoiled, unlike New Jersey or Massachusetts  
21           for that matter. That's part of what makes New  
22           Hampshire special.

23      Q     One of the categories here on aesthetic quality  
24           which you added which was not in Mr. DeWan's



1 report deals with, is under the heading  
2 "meaning." And I believe that refers back to  
3 what you were testifying earlier with regard to  
4 cultural significance?

5 A Yes. I think meaning is an important part of  
6 cultural significance because the symbolic value  
7 of a landscape such as the White Mountains and  
8 the Connecticut River or the Percy Peaks is an  
9 important part of how we experience that  
10 landscape because it's not just a collection of  
11 lines and colors and textures. It's a whole  
12 series of memories and symbols and special  
13 meanings that a landscape has. So I don't think  
14 it's appropriate to just limit landscapes to  
15 facts and figures in a matrix. It's important  
16 to look at what they mean to people and to  
17 visitors.

18 Q The Aesthetic Quality Evaluation Chart that  
19 we're looking at right now that you included in  
20 your report, Appendix D Page 2, is this an  
21 evaluation chart that you have used in your work  
22 in other VIAs?

23 A Yes. We always address meaning and symbolism  
24 because they're such an important part of

1 people's perception of the landscape. And we  
2 often poll residents in different areas and ask  
3 them what landscapes are important to them from  
4 a symbolic or a meaning perspective.

5 Q So after identifying a scenic resource,  
6 reviewing its cultural value, looking at  
7 aesthetics, as I understand it the next step  
8 that you did was something called a scenic  
9 significance rating. Now, I didn't find a chart  
10 for that, per se, in your report. Can you  
11 explain that process of your work?

12 A We based it on the DeWan & Associates  
13 methodology that scenic significance is a  
14 combination of cultural value and visual  
15 quality. We differed from DeWan & Associates by  
16 expanding the definition of cultural the way  
17 we've been discussing, and we also modified it  
18 based on the Aesthetic Quality Evaluation Chart  
19 we've just been talking about. So the basic  
20 structure of what we did was based on DeWan &  
21 Associates, but a lot of the important elements  
22 of that structure were changed by us.

23 Q I'd like to pull up page 3 of Appendix D.  
24 Should hopefully be the very next page.

1 Perfect.

2 Mr. Dodson, do you recognize the page that  
3 we've just pulled up from Appendix D of your  
4 report?

5 A Yes.

6 Q This is labeled Aesthetics Impacts Evaluation  
7 Chart. Can you -- and I notice this is all in  
8 red. Am I correct this the significance of that  
9 means this is all of your work, not annotation  
10 of Mr. DeWan's work?

11 A Yes. These are big changes.

12 Q Can you describe these big changes?

13 MR. NEEDLEMAN: Objection. This is all  
14 basic material that's in his report.

15 PRESIDING OFFICER HONIGBERG: Literally in  
16 the report.

17 BY MS. CONNOR:

18 Q Can you describe, Mr. Dodson, how your work with  
19 regard to aesthetics impacts is different than  
20 Mr. DeWan's?

21 MR. NEEDLEMAN: Same objection.

22 PRESIDING OFFICER HONIGBERG: That's what  
23 his report was about. He submitted a report  
24 that was different from Mr. DeWan's, and in that

1 report he described what he did and how it  
2 differed from what Mr. DeWan did.

3 MS. CONNOR: I understand that, but I don't  
4 understand why I am limited on cross-examination  
5 from exploring those differences.

6 PRESIDING OFFICER HONIGBERG: You're not  
7 exploring. You're reiterating. When you start  
8 exploring, that would be good.

9 MS. CONNOR: Then by asking him how his  
10 approach differed from Mr. DeWan's --

11 PRESIDING OFFICER HONIGBERG: I think he  
12 could probably refer us to a page in his report  
13 that describes that. I can't find it as I'm  
14 sitting here. I mean that's not a "how."  
15 That's a "what." The red describes all the  
16 differences. You want to know why it's there  
17 different, and I'll bet you if we asked him he  
18 could tell us which page of the report describes  
19 what he did to produce the red.

20 MS. CONNOR: For purposes of clarification,  
21 I need to understand why he did that. Perhaps  
22 if I rephrase the question as a "why."

23 PRESIDING OFFICER HONIGBERG: Let's see how  
24 it sounds.

1 MS. CONNOR: Certainly do my best.

2 BY MS. CONNOR:

3 Q Mr. Dodson, can you describe for me why your  
4 aesthetics impact evaluation chart is different  
5 than the approach followed by Mr. DeWan?

6 A It has the same structure as Mr. DeWan's. It  
7 has different content, and I don't think I  
8 should go into detail on all of this. But  
9 perhaps to just take one of them and describe  
10 it? Would that be appropriate?

11 PRESIDING OFFICER HONIGBERG: Sure. As an  
12 example.

13 A Extent, nature and duration of use. High impact  
14 would be many viewers regularly and seasonally  
15 viewers spend relatively large amounts of time  
16 viewing the scenic resource. That is high.  
17 Medium is moderate number of viewers drawn to  
18 the site in part by the scenery. Moderate  
19 periods of time. And low impact would be few  
20 viewers regularly or seasonally drawn to the  
21 site for reasons other than scenery. Short  
22 periods of time. So these are modifications to  
23 DeWan & Associates' description of the same  
24 things.

1 Q And why is it that you felt the need to make  
2 that modification?

3 A We felt that DeWan & Associates' interpretation  
4 of extent, nature and duration of use was skewed  
5 too far in the direction of the very well-known,  
6 very popular destination points. The Rocks  
7 Estate, for example, the views of the White  
8 Mountains from Route 2, the very highest  
9 classified Scenic Byways. These are all  
10 important, and it's important to list them as  
11 being very high impact sensitive, but what we  
12 did was expand the level of review for some of  
13 the less famous sites. Sites that might be off  
14 the beaten track a little bit. Sites that would  
15 maybe not be used for as long a duration but  
16 still could be very significant, and we tended  
17 not to limit the extent, nature and duration of  
18 use to people who just come there to see the  
19 scenery. We think people that come there to  
20 fish, to walk, to hike, to boat also should be  
21 considered under that category.

22 Q In your report, you talk about dividing the area  
23 through which the Project goes into categories,  
24 and you reference the fact that in your opinion

1           it was important to review the distinctive  
2           regional characteristics of each region because  
3           they differ. Can you explain how you determined  
4           the characteristics, for example, of the Great  
5           North Woods and how that differed from the other  
6           regions? How do you go about doing that?

7       A    Well, I think you start with the Tourism  
8           Bureau's definitions and the reasons that they  
9           use to create their tourism areas. Their  
10          definitions are in part based on where people  
11          visit and how they experience the tourism  
12          process. It's also based on some of the actual  
13          physical features of each of the areas.

14                 For example, the Great North Woods has  
15                 rolling to small mountains, heavily wooded, many  
16                 small streams and rivers. So they deal with the  
17                 physical characteristics, but they also deal  
18                 with what traveling to that area and  
19                 experiencing it involves. That you're likely to  
20                 find a number of small scenic roads, you're  
21                 probably going to see a lot of wildlife because  
22                 the area is relatively undeveloped, and you'll  
23                 have views and vistas of hills and mountains  
24                 going off into the distance.

1           So I think the definition of these tourism  
2           areas and the reason they were selected, you  
3           know, is based on physical aspects, but it's  
4           also based on how people experienced them.

5       Q     And as part of your analysis, did your  
6           evaluation of the impact of the Project differ  
7           based upon the characteristics you attributed to  
8           the different regions?

9       A     Yes. The ways that we evaluated focused on the  
10          special attributes of each of the areas. So in  
11          the Great North Woods, the evaluation included  
12          information on terrain, on the vegetation of the  
13          area, it focused on scenic roads and the  
14          traveling experience.

15                In a different tourism area such as the  
16          Merrimack Valley, it focused more on historic  
17          resources like village centers such as Deerfield  
18          Center, and the scenic roads linking those  
19          centers. There's more farmland there. So  
20          historic farmsteads and farm fields that have  
21          been around for hundreds of years were part of  
22          the analysis that made that tourism area  
23          different. This is all included in the basic  
24          framework that we used to evaluate, but we took



1 into consideration what was important about each  
2 of the tourism cells.

3 Q I want to pull up a couple of pages from your  
4 report. First page 16. And am I correct that  
5 page 16 your report is actually a photograph  
6 taken by Mr. DeWan, and that shows the current  
7 existing conditions at Moose Path?

8 A Yes.

9 Q And then page 17 is Mr. DeWan's simulation with  
10 your annotations; is that correct?

11 A Yes.

12 Q Now, it's my understanding that when you  
13 reviewed aesthetic quality, scenic significance  
14 and visual impact at this location, you came up  
15 with a different opinion than Mr. DeWan; is that  
16 correct?

17 A Yes, we did.

18 Q Can you explain why your opinion is different?

19 MR. NEEDLEMAN: Objection. It's all in the  
20 record.

21 PRESIDING OFFICER HONIGBERG: I'm looking  
22 at the report. That explanation has got to be  
23 here. So what do you want him to do? You want  
24 him to repeat what's in the report?

1 MS. CONNOR: Let me ask it a different way.  
2 I will attempt to address that.

3 BY MS. CONNOR:

4 Q Mr. Dodson, can you explain your criticism of  
5 Mr. DeWan's ratings with regard to the Project  
6 impact on Moose Path?

7 MR. NEEDLEMAN: Same objection. I think  
8 that's all contained in the report. There's  
9 certainly nothing new after April 17th on this  
10 issue.

11 PRESIDING OFFICER HONIGBERG: I'm looking  
12 at page 15 of the report which is three dense  
13 single-spaced columns of text. Let's ask him if  
14 it's in there.

15 BY MS. CONNOR:

16 Q Mr. Dodson, did you include in your report your  
17 criticism of Mr. DeWan's visual impact ratings  
18 with regard to this particular site?

19 A Yes. We did.

20 Q That was a yes or no.

21 PRESIDING OFFICER HONIGBERG: Okay. That's  
22 a yes or no question which you've answered.

23 Q Mr. Dodson, in response to questions from the  
24 Panel, I believe it was Commissioner Bailey,

1 Mr. DeWan testified that this Project would not  
2 be visible from Deerfield Fairgrounds. Do you  
3 agree or disagree with that testimony?

4 A This is the fairgrounds as opposed to the  
5 Deerfield Center?

6 Q Correct.

7 A We didn't address the fairgrounds.

8 Q Mr. DeWan testified that the public must have  
9 both a visual and a physical access to property  
10 before it can qualify as a scenic resource. Do  
11 you agree with that testimony?

12 A I strongly disagree. The example being a view  
13 from a public road towards a mountain that's  
14 also a public National Forest, for example. In  
15 between those two public properties are a  
16 historic farmstead with fields that have been in  
17 agriculture for hundreds of years with forests  
18 and streams, all of which are private property,  
19 but they're part of the view from the public  
20 way. So the fact that a lot of what's being  
21 looked at is private property is still  
22 legitimate to consider it as a scenic resource  
23 because the private property along with the  
24 public property is part of the scenic resource.

1 Q Would that include items such as agricultural  
2 districts that have been recognized as eligible  
3 for historic recognition?

4 A Yes, it would. Agriculture preservation  
5 restrictions are an important tool to making  
6 sure that agriculture can continue, but it's  
7 also a recognition that agriculture is important  
8 for its past history as well. But these private  
9 property elements can be views across a property  
10 towards a lake. The lake might be public, the  
11 views along the private property are private,  
12 but they're seen from the public way so they  
13 shouldn't be considered off limits.

14 Q So am I correct that from the definition or the  
15 testimony that you just gave, if there is a  
16 historic home that is recognized as such that  
17 can be viewed from the public street or from the  
18 public sidewalk but to which the public is not  
19 invited inside, would that still qualify as a  
20 scenic resource?

21 A If it were visible from a public way, it would  
22 be. For example, if that same resource was on a  
23 private driveway, and it could only be seen from  
24 the end of the private driveway where it goes

1 into the woods, then that would not be  
2 considered a visual resource because you'd have  
3 to go on private property just to get to that  
4 historic structure And it would be out of sight  
5 of the public way. So that's an example of how  
6 private property can restrict a visual resource.  
7 But if that same property were visible from the  
8 public road, then it would be part of a visual  
9 resource.

10 Q When Mr. DeWan was on the stand, he testified  
11 that land receiving the 20 percent tax discount  
12 for public access did not qualify as scenic  
13 resource. Do you include such lands as scenic  
14 resources?

15 A Could you repeat the question?

16 Q Sure. Actually, could we read it back?

17 COURT REPORTER: The question was: When  
18 Mr. DeWan was on the stand, he testified that  
19 land receiving the 20 percent tax discount for  
20 public access did not qualify as scenic  
21 resource. Do you include such lands as scenic  
22 resources?

23 A Yes. If it involves public access. Even though  
24 it's private property, public access has been

1 granted so that should be considered a public  
2 visual resource.

3 Q Mr. DeWan also challenged T.J. Boyle's  
4 conclusion that there were almost 4,000 scenic  
5 drives on public roads constituting a scenic  
6 resource. Do you agree that public roads that  
7 possess a scenic quality can constitute a scenic  
8 resource?

9 A Yes.

10 Q Is that something, that being a review or an  
11 inventory of public roads that possess a scenic  
12 quality, is that something that you  
13 traditionally include when you're inventorying  
14 scenic resources?

15 A Yes, it is. We take a look at the number of  
16 scenic roads and evaluate their quality.

17 Q And why do you do that?

18 A Because the scenic roads are scenic in and of  
19 themselves, but they also provide visual access  
20 to the larger landscape. So without the roads  
21 there wouldn't be any way for the public to see  
22 a given landscape resource.

23 Q I want to switch gears a little bit to  
24 mitigation. You wrote in your report that you

1 found it particularly egregious that there were  
2 39 instances where the new transmission lines  
3 will be seen along the summits of high hills or  
4 ridges silhouetted against the sky. Why did you  
5 find that particularly egregious?

6 MR. NEEDLEMAN: Objection.

7 PRESIDING OFFICER HONIGBERG: Ms. Connor?

8 MS. CONNOR: I'm asking the basis for the  
9 statement. In his conclusion, he does not  
10 explain why. He simply makes that comment.

11 PRESIDING OFFICER HONIGBERG: Overruled.  
12 You can answer.

13 A In our text we describe why towers and  
14 conductors silhouetted against the sky are  
15 visually significant and have higher impact.  
16 It's because when they're silhouetted against  
17 the sky, they're much more contrasting with  
18 their background, and they stand out much more  
19 clearly so they have a much larger visual impact  
20 than structures and conductors that are located  
21 in the forest, for example.

22 PRESIDING OFFICER HONIGBERG: Ms. Connor, I  
23 should have sustained that objection in light of  
24 his answer.

1 MS. CONNOR: I understand that. I did not  
2 expect that to be the answer.

3 BY MS. CONNOR:

4 Q Mr. Dodson, outside of the silhouetting that was  
5 referenced in your report, did you review  
6 mitigation methods that would reduce the impact  
7 of this Project?

8 A My feeling is that most mitigation measures that  
9 have been proposed by other parties are not  
10 adequate to remediate the visual impacts of this  
11 Project because of the scale, linear and  
12 vertical scale, of the Project. There are not  
13 enough trees, and the trees are too short to  
14 screen these very large facilities, and we  
15 reached the conclusion that the only really  
16 viable mitigation measures is burying the  
17 Project.

18 Q Okay. Can I have a minute? I don't have any  
19 further questions.

20 PRESIDING OFFICER HONIGBERG: Next on the  
21 list is the Municipal Counsel. Ms. Fillmore?  
22 Okay. I'm notified the Committee needs a break  
23 so we'll break for ten minutes. Off the record.

24 (Recess taken 11:17 - 11:30 a.m.)



1                   PRESIDING OFFICER HONIGBERG: We're going  
2                   to resume questioning. Mr. Cote, you are up.

3                   **CROSS-EXAMINATION**

4                   **BY MR. COTE:**

5                   Q     Thank you. Bob Cote with the Deerfield  
6                   Abutters, and Dawn, could I have Apple TV?

7                   PRESIDING OFFICER HONIGBERG: Raise your  
8                   hand, Mr. Cote.

9                   Q     Just waiting a minute here to get connected.  
10                  Good morning, Mr. Dodson.

11                  A     Good morning.

12                  Q     And I would like to start off the questions with  
13                  a couple of items from the DOE Environmental  
14                  Impact Statement report, and I don't know if  
15                  you're familiar with this report or have had a  
16                  chance to look at it, but, in particular, there  
17                  are these two tables, and I'll just zoom in on  
18                  this one first.

19                  My question is do you know what this table  
20                  is trying to communicate and what does the  
21                  information in this table mean?

22                  A     It's showing the increase in the visible area of  
23                  the Project in relation to the existing  
24                  transmission line, and it's listing the area of

1 the viewshed in square miles, and it's doing  
2 this for each of the alternatives.

3 Q I'm getting a hum. I don't know if it's from my  
4 mic?

5 A I can hear you.

6 Q Okay. So Alternative number 7 is the Northern  
7 Pass Project as proposed. So what does it mean  
8 to you that there's a 65 percent increase as far  
9 as assessing the visual impact of the Project?

10 A That's a considerable increase over the existing  
11 transmission lines' visibility. It's not the  
12 very highest, but it's certainly right up there  
13 in terms of percentage increase.

14 Q Okay. Well, let me scroll down here to Table  
15 4.2 and the same question. It's a little more  
16 confusing to me because it's talking about, for  
17 example, aggregate scenic impact, and, again,  
18 comparing the existing case, which is 1, to the  
19 proposed, which is 7. Do those numbers tell us  
20 anything important?

21 A I'm not sure what's meant by "aggregate scenic  
22 impact." I'm assuming it is the overall scenic  
23 impact of the Project. I'm assuming that the  
24 net change for the existing facility is zero.

1 The aggregate is 86. I'm assuming that means  
2 that the aggregate scenic impact is going to be  
3 considerable compared with the existing scenic  
4 impact.

5 Q Okay. I'm going to move on. This is also the  
6 DOE report, and I think it brings up a concept  
7 that I haven't really heard discussed much as  
8 far as visual impacts go. It's cumulative  
9 visual impact, and maybe you've covered this,  
10 but my question is what role should cumulative  
11 impacts play in assessing whether the visual  
12 impacts are unreasonable?

13 A I think it should play a very important role.  
14 Cumulative is usually a term that's associated  
15 with wind turbines, but I think a parallel  
16 concept for the Northern Pass Project is overall  
17 visual impacts, not just a collection of Key  
18 Observation Points, but impacts that will occur  
19 throughout the 132 miles of aboveground Project  
20 area and what the total sum of those impacts  
21 would be, both Key Observation Points and what  
22 we talked about earlier, linear impacts  
23 associated with roads, rivers, streams, and  
24 lakes. So I say that overall impacts are the

1           sum total of the many individual impacts that  
2           occur over the 132 miles.

3       Q     How is your approach different than, as far as  
4           connectioner of cumulative impacts, would you  
5           say that your approach to the Project was  
6           different than the approach of DeWan &  
7           Associates?

8       A     We've mentioned in our text that overall visual  
9           impacts are important, and we've also got a  
10          section where the overall visual impacts can be  
11          noted.  So we've included overall or cumulative  
12          impacts in our analysis.

13      Q     Okay.  Thank you.  I'm bringing this photo  
14          simulation up because it was the subject of  
15          cross-examination with Mr. DeWan when he was  
16          here testifying.  But keeping this photograph in  
17          mind, Deerfield Abutter 144, here is a page from  
18          a transcript from Day 33 where Mr. DeWan was  
19          being asked about the photo that we just looked  
20          at.  So you can see that there was some  
21          discussion there about whether or not he did an  
22          evaluation on that area which was Nottingham  
23          Road in Deerfield.

24                   And you can see that he, the question to

1 him was would you consider this a Key  
2 Observation Point, and his answer was we would  
3 not. What would your answer to that question  
4 have been? Would you have considered that a Key  
5 Observation Point?

6 A From that photo, I'm not aware of the entire  
7 context of this particular view, but from what I  
8 do know of the photo, it's taken from a public  
9 road so there is road traffic and visitors who  
10 will see this part of the Project as it crosses  
11 the road. It has a pretty extensive length and  
12 width of view. It shows the proposed Project  
13 very clearly, and it's set in a wooded, slightly  
14 rolling landscape so my sense is it should be a  
15 Key Observation Point based on my knowledge of  
16 the site.

17 Q You can see that farther down here in the  
18 transcript, part of his answer was that it's not  
19 a Key Observation Point because it's not a  
20 scenic resource. Is it your understanding that  
21 a Key Observation Point must be a scenic  
22 resource?

23 A Yes. It should be a scenic resource. I  
24 wouldn't disqualify a view of the landscape with

1 the Project in the view from being considered as  
2 a scenic resource.

3 Q I'm going to move on here. This is also the  
4 Draft Environmental Impact Statement, and it  
5 relates to that same scene that I put the  
6 picture, the photo up of, and it's their  
7 assessment of that view. And seeing the green  
8 highlight, they say the contrast dominance  
9 rating would be severe and go on to say that it  
10 would likely be considered unreasonably adverse  
11 by a casual observer. Would you agree with that  
12 rating? I can put the photo back up if that  
13 would be helpful.

14 A No. That's okay. Thanks. I'm just taking a  
15 closer look at the text. So this statement  
16 considers the contrast dominance as severe even  
17 though there's an existing transmission line in  
18 the view. I agree that the visual change would  
19 be very large because the new proposed Project's  
20 towers and conductors are much larger and more  
21 prominently visual than the existing towers. I  
22 agree that it would be unreasonably adverse  
23 because of the greatly enlarged scale of the  
24 proposed Project.

1 Q So thinking about mitigation measures, would you  
2 have had any specific thoughts on what would be  
3 appropriate mitigation in a situation like this?

4 A You could plant a hedge of trees that would  
5 screen the bottom part of this view from  
6 passersby. The structures are so tall and the  
7 conductors are so high that it wouldn't be  
8 possible to completely screen this Project from  
9 view because of its scale. We're talking maybe  
10 over a period of 30 or 40 years screening trees  
11 that might be 20 to 30 feet high. The height of  
12 the trees is limited by the extent that they can  
13 intrude on the conductors. So there would be  
14 partial visual mitigation in that case but not  
15 full. It's very hard to fully screen very  
16 large, lengthy projects like this using little  
17 hedges and screening areas.

18 The other thing to consider under  
19 mitigation is that it might be mitigating  
20 portions of this particular view but over the  
21 extent of this Project just in the area that we  
22 see there can be other locations where the  
23 Project would be seen. And a small screening of  
24 trees in this particular location isn't going to

1 by any means screen the entire length of the  
2 transmission line in this location. It just  
3 wouldn't be physically possible to find the  
4 screening element that's big enough to do that,  
5 and you're also limited by the height of  
6 vegetation under the conductors.

7 Q Do you think it would have been reasonable for  
8 the lattice tower to have been a monopole?

9 MR. NEEDLEMAN: Mr. Chair, I'm going to  
10 object at this point. There is a full section  
11 in Mr. Dodson's report on mitigation, and he  
12 certainly could have addressed these issues if  
13 he chose to.

14 PRESIDING OFFICER HONIGBERG: Mr. Cote?

15 MR. COTE: This particular case was the  
16 subject of discussion with Mr. DeWan during his  
17 testimony so it was my understanding that it was  
18 acceptable to discuss in this part of the  
19 proceedings the prior testimony and how the  
20 current witness's perspective on that testimony  
21 would be.

22 PRESIDING OFFICER HONIGBERG: And focus on  
23 that. Not the more general questions you're  
24 asking right now.



1 MR. COTE: I believe I did specifically ask  
2 Mr. DeWan his opinion about monopoles for this  
3 area. Is that not a question I can ask Mr.  
4 Dodson?

5 PRESIDING OFFICER HONIGBERG: Well, what  
6 did Mr. DeWan say? Do you want to tell the  
7 witness what Mr. DeWan said?

8 MR. COTE: I can bring that up, I believe.  
9 Actually, what Mr. DeWan said is that because  
10 this was not a Key Observation Point he did not  
11 do an assessment on this area and could not  
12 answer the question.

13 PRESIDING OFFICER HONIGBERG: The objection  
14 is sustained. Move to your next question. Or  
15 make an offer of proof as to what you think Mr.  
16 Dodson would say if he were allowed to answer  
17 that question.

18 MR. COTE: Well, my question would have  
19 followed up with another question so I guess I  
20 can't really go down that path.

21 PRESIDING OFFICER HONIGBERG: Don't give up  
22 so fast. If you want to make an offer of proof  
23 about what you'd get from this witness, do it.

24 MR. COTE: I think he would have said it

1 would have been reasonable to have proposed  
2 monopoles in this area, but then I would have  
3 asked the followup question about whether the  
4 visual impact would still have been unreasonable  
5 or severe in that circumstance.

6 PRESIDING OFFICER HONIGBERG: And what do  
7 you think he would have said?

8 MR. COTE: I think we have said yes, it is  
9 still severe due to the height and the wires  
10 against the sky.

11 PRESIDING OFFICER HONIGBERG: All right.  
12 Why don't you continue then and move on to your  
13 next question.

14 BY MR. COTE:

15 Q I can't find the Exhibit I was specifically  
16 looking for, but I can describe to you in  
17 general what it showed, and it's a similar  
18 wetland to the one that I just had up on the  
19 photo prior, but it was out looking over a  
20 wetland, and this is also part of the  
21 questioning of Mr. DeWan and the area in  
22 question includes a lot of conservation land.

23 So the question posed to Mr. DeWan was  
24 regarding the scenic resources, the property

{WITNESS: DODSON}

1 which was Menard property, was identified but  
2 assigned as a cultural value of low, and as  
3 you're aware he did that with some frequency.  
4 And I know that that's a difference between your  
5 evaluations and Mr. DeWan's, but given that a  
6 lot of the property in this part of Deerfield is  
7 conservation land, how would your evaluation of  
8 cultural value be different?

9 MR. NEEDLEMAN: Objection. I think that is  
10 addressed in his report.

11 PRESIDING OFFICER HONIGBERG: Mr. Cote?

12 MR. COTE: Well --

13 PRESIDING OFFICER HONIGBERG: Actually,  
14 let's see if we can shortcut this. Mr. Dodson,  
15 the question that Mr. Cote just asked you, is  
16 that addressed in your report?

17 WITNESS DODSON: No.

18 PRESIDING OFFICER HONIGBERG: Would it be a  
19 new opinion in light of what you know?

20 WITNESS DODSON: It would be helpful to see  
21 the photograph.

22 PRESIDING OFFICER HONIGBERG: Let's see  
23 what you've got, Mr. Cote. Its probably going  
24 to draw an objection. Let's find out what you

1 want to do.

2 BY MR. COTE:

3 Q Okay. This is the area in question and most of  
4 what you see in this area is conservation land,  
5 under conservation easement. So I was trying to  
6 explore the idea of cultural value given that  
7 it's mostly conserved land, and would it merit a  
8 rating of low?

9 MR. IACOPINO: Mr. Cote, can you identify  
10 what we're looking at on the screen, please?

11 A There is Deerfield Abutter 34, page 2.

12 MR. IACOPINO: And I assume this is a  
13 simulation?

14 Q There is an actual photograph of existing  
15 conditions.

16 MR. IACOPINO: Existing. Thank you.

17 MR. NEEDLEMAN: Mr. Chair, I will object.  
18 Mr. Dodson evaluated a number of scenic  
19 resources in Deerfield in his report and could  
20 have evaluated this if he chose to.

21 PRESIDING OFFICER HONIGBERG: Mr. Cote?  
22 You want to ask him questions about an area in  
23 Deerfield that he hasn't already evaluated? Is  
24 that right?

{WITNESS: DODSON}

1 MR. COTE: I believe that I was trying to  
2 explore the differences in a case such as this  
3 if your assessment would have been different.

4 WITNESS DODSON: Knowing that it's  
5 conservation land?

6 PRESIDING OFFICER HONIGBERG: I'm a little  
7 confused about what it is you're trying to do  
8 that's related to -- I thought we were talking  
9 about things that Mr. DeWan testified to in  
10 Deerfield, and you were looking for his  
11 reactions and responses to those. And so now  
12 I'm confused about what you're doing. And I  
13 apologize. It may just be me.

14 MR. COTE: I think, my concern was  
15 regarding cultural value and how it was used to  
16 eliminate areas like this from evaluation by the  
17 DeWan report, and it's a topic that we covered  
18 during Mr. DeWan's cross-examination.

19 PRESIDING OFFICER HONIGBERG: So you want  
20 to ask him if an area like this would have Low  
21 Cultural Value or some other level of cultural  
22 value.

23 MR. COTE: Yes.

24 PRESIDING OFFICER HONIGBERG: Let's ask him

1           that. Do you understand the question, Mr.  
2           Dodson?

3           A     (Dodson) Yes. It depends on the type of road.  
4           I'm assuming this is taken from a road.

5           Q     Private field.

6           A     And it would depend on the usage of the road.  
7           Another variable would be whether there is  
8           public access to the conservation land on  
9           trails. And in terms of determining the impacts  
10          it would be useful to see a simulation of the  
11          proposed Project, but based on this photo, to  
12          say that it's Key Observation Point, I think,  
13          depends on the public access to the conservation  
14          area.

15          Q     My final question is regarding a discussion that  
16          took place when T. J. Boyle & Associates were  
17          here, and one of the issues that was discussed  
18          was their involvement in the DOE report and  
19          their involvement here for Counsel for the  
20          Public with a separate report regarding the  
21          Project. Are you familiar with both reports and  
22          the conclusions that were reached?

23          A     I am. I'm more familiar with the Counsel for  
24          the Public portion of the work as opposed to the

1 DOE.

2 Q Do you understand that there were somewhat  
3 differing conclusions reached about the overall  
4 impact of the Project in those two reports?

5 A Yes.

6 Q So how do you reconcile that two different  
7 assessments of the same Project by the same  
8 group would result in different findings?

9 A As I understand it --

10 PRESIDING OFFICER HONIGBERG: Hang on, Mr.  
11 Dodson.

12 MR. NEEDLEMAN: It sounds to me that it is  
13 calling for opinions of documents that he had  
14 access to when he did his work.

15 PRESIDING OFFICER HONIGBERG: It may have  
16 other problems as well. Mr. Cote, what are you  
17 trying to do here?

18 MR. COTE: Trying to clarify why T.J. Boyle  
19 may have what had appeared to be differing  
20 opinions on the visual impact of the Project  
21 depending on whether you look at the DOE report  
22 or their report.

23 PRESIDING OFFICER HONIGBERG: Did you ask  
24 T.J. Boyle those questions?

1 MR. COTE: Those, that discussion came up  
2 at the end of the Boyle cross-examination so it  
3 was after we were able to ask that question.

4 PRESIDING OFFICER HONIGBERG: And so you're  
5 asking somebody else why T.J. Boyle took what in  
6 your view appear to be differing views on the  
7 same thing but in two different contexts? Is  
8 that what's happening here?

9 MR. COTE: Yes. Based on his understanding  
10 of the reports if he's familiar with them.

11 PRESIDING OFFICER HONIGBERG: Are you  
12 familiar with the two reports Mr. Cote is asking  
13 you about, Mr. Dodson?

14 A (Dodson) Yes.

15 PRESIDING OFFICER HONIGBERG: Do you have  
16 an opinion as to what T.J. Boyle did differently  
17 in the two?

18 A (Dodson) It's my understanding that the Project  
19 scope and specific aspects of the Project  
20 changed from when the DOE report was done versus  
21 the Counsel for the Public report. For example,  
22 the section through the White Mountains was part  
23 of the DOE report and was no longer part of the  
24 Counsel for the Public report. There also have





1           Testimony, and I understand that Ms. Boepple  
2           covered some of this this morning but in  
3           speaking with her, I'm fairly certain that my  
4           questions were not covered.

5                     So Dawn, is the Apple TV on?

6                     MS. GAGNON: Yes.

7 BY MR. WHITLEY:

8 Q           Okay. You should have coming up on your screen,  
9           Mr. Dodson, let me know when it pops up.

10 A           I have a text here.

11 Q           Okay. So this is a portion of Mr. DeWan's  
12           Supplemental Testimony, and that is Applicant's  
13           Exhibit 92. We're looking at here page 58, and  
14           here he's providing a critique of the cultural  
15           value ratings that you used in your Visual  
16           Impact Assessment, and I want to focus on just  
17           lines 21 through 27 on this page so I'll give  
18           you a second just to read that just to refresh  
19           your memory so let me know once you've done  
20           that, please.

21 A           (Witness reading document.) I guess the  
22           statement is --

23 Q           Hold on, Mr. Dodson. I just need to know once  
24           you've reviewed that, and then I'll follow up

1 with another question.

2 A Okay. Yes. I've read it.

3 Q Okay. Thank you very much.

4 Now I want to turn to your Visual Impact  
5 Assessment, and I believe this has been marked  
6 as SPNHF 69 and we're going to be looking at  
7 Appendix F of that document, specifically page  
8 2. And you'll see on this page the two examples  
9 that were cited by Mr. DeWan, Bear Brook State  
10 Park in Allenstown right here and then a little  
11 further down the page, you see North Mountain  
12 Overlook right there. Do you see those two,  
13 sir?

14 A Yes.

15 Q And it doesn't say it here, but is it your  
16 understanding that North Mountain Overlook is  
17 part of Pawtuckaway State Park?

18 A Yes.

19 Q Okay. And you see if we go over here to the  
20 cultural value column or row, you see you've  
21 given North Mountain Overlook a 3 for cultural  
22 value, and if we go back up to Bear Brook State  
23 Park, you've also given Bear Brook State Park a  
24 3 there. Do you see that?

1 A Yes.

2 Q Okay. And then we're going to turn now to  
3 Appendix D of your Visual Impact Assessment, and  
4 this is where I believe Mr. DeWan's questions  
5 stemmed from because you see here on this page,  
6 and this is Appendix D, page 3, of your VIA,  
7 there's on the left hand you start talking about  
8 high cultural value, and you give some examples.  
9 And on the next column, there's a bullet, and  
10 I've just put the cursor right there. It says  
11 State Parks, those are noteworthy for the  
12 quality of their scenic resources. And so the  
13 question that I'd like you to clarify is why you  
14 listed those State Parks as a 3 when you  
15 included State Parks here as examples of high  
16 value. And if you'd like, I can turn back to  
17 Appendix F.

18 A That would be helpful.

19 Q So here is Appendix F, and, again, it's in  
20 relation to Bear Brook State Park right there  
21 and North Mountain Overlook down there.

22 A I think our cultural value rating of 3 balanced  
23 the amount of visitation to the parks versus  
24 some of the other aspects of cultural value, the

1 enjoyment of the resource. I know in  
2 Pawtuckaway there's rock climbing because my  
3 father climbed there in high school. And I  
4 think those aspects are positive. So I think  
5 they balance out to a 3 in terms of cultural  
6 value.

7 Q Okay. So even though in Appendix D you list  
8 State Park as examples of high cultural value,  
9 it sounds like your opinion hasn't changed that  
10 these two particular State Parks got a 3.

11 A In terms of their cultural value?

12 Q Yes. In terms of their cultural value.

13 A Yes. I think that, yeah, I think that State  
14 Parks in general are very valued places.  
15 Perhaps we should have given it a higher rating.

16 Q Do you feel like you need to correct your  
17 testimony to provide a higher rating?

18 A I'd have to do a more complete analysis as  
19 opposed to just doing it right now.

20 Q Okay. Thank you. I want to turn now back to  
21 Mr. DeWan's Supplemental, and so this is back to  
22 Applicant's Exhibit 92, and I'm going to go down  
23 to the following page so that's page 59, and  
24 we're going to look at this portion of his

1 critique of the overall visual impact rating  
2 which is at lines 14 through 26.

3 So just like before, I want to give you a  
4 chance to read that and just familiarize, just  
5 kind of refresh your memory, and when you're  
6 done reading it, I have some questions for you  
7 about it. So just let me know once you've had a  
8 chance to read it.

9 A (Witness reading document.) I think the chart  
10 in Appendix D --

11 Q Mr. Dodson. Wait for me to ask you a question.

12 A Okay.

13 Q So you've read that now and refreshed your  
14 memory?

15 A Yes.

16 Q Okay. So I just want to go to the two examples  
17 that Mr. DeWan mentions here just so you can  
18 refresh yourself with the scoring that you gave  
19 it. The first is Bear Brook State Park again  
20 which we just looked at, but we're going to look  
21 at a different scoring for that now.

22 So we're going to go back to Appendix F of  
23 your VIA which, again, is SPNHF 69, and we're  
24 going to go to page 2 of Appendix F. Which

1 we're already on. Amazing.

2 And so we're looking at Bear Brook State  
3 Park here, and Mr. DeWan had mentioned that this  
4 received 3's in all categories, got a medium  
5 overall visual impact which you see at the very  
6 end here and the overall visual impact was a 4.  
7 So that's the Bear Brook State Park exhibit, and  
8 then I want to go now to the Route 28 in  
9 Pembroke example which is going to be page 3,  
10 also from Appendix F, to look at that one.

11 And you see here, here's Route 28 at  
12 Pembroke and the concern raised by Mr. DeWan  
13 here was that the overall visual impact all the  
14 way over here on the right was a 3 but was  
15 described as medium-high under the overall  
16 visual impact.

17 So my question is could you clarify how the  
18 numerical scores and the qualitative expressions  
19 relate to one another, in particular to these  
20 two examples?

21 A Well, the overall visual impact in the numerical  
22 column is on a scale of 1 to 5, and the overall  
23 visual impact in the descriptive column is low,  
24 medium-low, medium-high, and high. So the

1 description of 3 can be seen as medium-high.

2 Q Okay. That's for the Route 28 example. But on  
3 the previous page, and I'll go back so you can  
4 see it again, so I'm going back to page 2 of  
5 Appendix F of your VIA. This is the Bear Brook  
6 State Park example. Here, let me go up a little  
7 further so you can see all the words. Overall  
8 visual impact of 4 and descriptor overall of  
9 visual impact of medium. So same question  
10 there. Can you clarify how the numerical score  
11 and the qualitative expression relate to one  
12 another?

13 A The overall visual impact quantitative --

14 MS. BOEPPLE: Excuse me, Chair. I believe  
15 that Attorney Whitley is looking at an incorrect  
16 page. We had corrected a page in Mr. Dodson's  
17 report and filed that with the Supplemental  
18 Testimony.

19 PRESIDING OFFICER HONIGBERG: Okay.

20 MS. BOEPPLE: So if we could get the right  
21 example.

22 MR. WHITLEY: Do you know the number?

23 MS. BOEPPLE: We filed corrected pages to  
24 the report as, I believe, Exhibit 2 to Mr.



1 Dodson's Supplemental, and it is in fact page 2  
2 to Appendix F. I believe those pages were filed  
3 as part of the Supplemental Testimony which was  
4 Exhibit 66.

5 MR. WHITLEY: Thank you, Attorney Boepple,  
6 and I've now been handed that corrected exhibit.

7 Q And I see and I'll represent to you, Mr. Dodson,  
8 that in this corrected page for Bear Brook State  
9 Park the overall visual impact is a 3 and the  
10 descriptor has remained as a medium which would  
11 kind of moot my question to you about explaining  
12 the difference there, and I believe addressed  
13 Mr. DeWan's critique as well. So is that your  
14 understanding is that that correction was made  
15 to this particular resource?

16 A Yes.

17 Q Okay. And I'm now going to go back to the other  
18 one I just asked you and make sure that the  
19 record is clear. So in the amended pages, the  
20 Route 28, Route 28 did not change. Is that your  
21 understanding for overall visual impact  
22 numerical score and overall visual impact  
23 descriptor?

24 A In the corrected version?

1 Q In the corrected version they're the same as you  
2 see on the screen. It was given a 3 for overall  
3 visual impact and a medium-high for overall  
4 visual impact.

5 A I don't have access here to the corrected  
6 version.

7 Q I'll represent to you that it appears that this  
8 resource was not changed. Those two scores  
9 there.

10 A Okay.

11 Q So with that, I have no further questions.  
12 Thank you.

13 PRESIDING OFFICER HONIGBERG: Ms. Pacik?

14 **CROSS-EXAMINATION**

15 **BY MS. PACIK:**

16 Q Good afternoon, Mr. Dodson. My name is Danielle  
17 Pacik. I'm the attorney for the City of  
18 Concord, and I'm also the spokesperson for  
19 Municipal Group 3-South.

20 We're just going to try to get the Apple TV  
21 back up because I did want to show you one page  
22 from your VIA and ask you about it or your  
23 report on the VIA. Here we go. But before we  
24 go to that particular page, I did want to just

1 ask you a more general question which is in your  
2 review, you looked at public roads which have  
3 not been officially designated as either a  
4 local, state or federal agency as a Scenic  
5 Byway, and that was criticized by Terrence DeWan  
6 in his Supplemental Report.

7 So my first question is why is it your  
8 opinion that public roads that haven't been  
9 designated can be a scenic resource?

10 MR. NEEDLEMAN: Objection. Wasn't this  
11 specifically addressed on Direct?

12 PRESIDING OFFICER HONIGBERG: Ms. Pacik?

13 MS. PACIK: If it was, I apologize. I  
14 don't recall hearing it in terms of a response.

15 PRESIDING OFFICER HONIGBERG: And I don't  
16 recall either.

17 MR. NEEDLEMAN: I thought Ms. Boepple  
18 specifically asked him about this issue.

19 MS. PACIK: I did miss a portion of it so I  
20 could maybe ask Ms. Boepple if she covered that.

21 PRESIDING OFFICER HONIGBERG: Ms. Boepple?

22 MS. BOEPPLE: I apologize. Could I hear  
23 the question repeated again, please?

24 MS. PACIK: My question was why is it Mr.

1 Dodson's opinion that public roads can be scenic  
2 resources.

3 MS. BOEPPLE: I actually don't believe he  
4 went into detail in explaining that in his  
5 Direct.

6 PRESIDING OFFICER HONIGBERG: Thank you Ms.  
7 Boepple. Is that in the report?

8 MS. PACIK: Yes. He does review public  
9 roads, and he was criticized for doing that so  
10 my question was as a followup in response to the  
11 criticism of why he included it.

12 PRESIDING OFFICER HONIGBERG: Is the "why"  
13 in the report? That's the question.

14 MS. PACIK: No. I'm asking for a  
15 clarification. I did not see it in there.

16 PRESIDING OFFICER HONIGBERG: Okay. You  
17 may proceed.

18 A (Dodson) It's included. I'm sorry. Did you  
19 have another question?

20 Q So the question was, generally speaking, why are  
21 public roads considered by you to be scenic  
22 resources or why do you think they can be scenic  
23 resources?

24 A I think they can be scenic resources if they

1 represent the scenic character of a particular  
2 area. I think we shouldn't paint the issue of  
3 scenic resources and scenic roads with two broad  
4 a brush. I think we need to look at what is  
5 scenic given the surrounding characteristics of  
6 the area, and Pembroke Road in Concord is part  
7 of a suburban neighborhood with its own distinct  
8 visual character. It's not rural, it's not  
9 mountainous, but it is very distinct in its own  
10 right, and we selected the Pembroke Road image  
11 because it represented the situation in a  
12 residential neighborhood facing the greatly  
13 increased size of the structures and conductors  
14 of the Project. So we viewed this as a  
15 legitimate scenic resource because it is very  
16 typical of the visual environment of this  
17 neighborhood.

18 Q Okay. And you did just jump to my next question  
19 which was, more specifically, why did you  
20 include Pembroke Road, and you just answered  
21 that so I won't ask that question.

22 In terms of the photo simulation that you  
23 did of Pembroke Road, I have it up now, and on  
24 the next page is actually the, that's the

1 current conditions, and the next page is the  
2 photo simulation that you did, correct?

3 A Correct.

4 Q Okay. And just to confirm, in the front of the,  
5 nearest the road you can see two structures, but  
6 there will actually be three structures located  
7 because within the frame of the photograph, you  
8 can't see the rebuilt V 182 line; is that  
9 correct?

10 A Yes. Not in the structures that are closest to  
11 the road.

12 Q Okay. So there will be a third structure that  
13 you just can't see within this photograph that's  
14 closest to the road?

15 A Yes.

16 Q Okay. In terms of your opinion that the  
17 proposed Project in this particular area will  
18 have a medium to high aesthetic impact, I had a  
19 question of how you came to that opinion even  
20 though the area is currently rated as having a  
21 low cultural value and low aesthetic quality.

22 A Well, it will have a medium-high visual impact  
23 on that particular resource.

24 Q And my question was can you explain how you can

1           come to that opinion when currently you  
2           determined that this particular area has a low  
3           aesthetic quality and low cultural value?

4       A     Because within the rubric of low aesthetic and  
5           low cultural value, you can still have impacts  
6           to a site, and those impacts can be moderate to  
7           high.

8       Q     Okay. What particularly about this site made  
9           you determine that the impacts would be moderate  
10          or medium to high?

11      A     Because the new Project is much taller and  
12          visible than the existing transmission line.

13      Q     Okay. Anything else?

14      A     Those are the two main characteristics. I don't  
15          believe that cleared corridor is being expanded  
16          here. So we're mainly talking at height and  
17          bulk of the structures.

18      Q     Okay. Thank you. I have nothing further.

19                   PRESIDING OFFICER HONIGBERG: We're going  
20           to take our lunch break and resume at about  
21           1:30.

22                                   (Lunch recess taken at 12:23  
23                                   p.m. and concludes the **Day 55**  
24                                   **Morning Session.** The hearing

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continues under separate cover  
in the transcript noted as **Day  
55 Afternoon Session ONLY.**)



**C E R T I F I C A T E**

1  
2 I, Cynthia Foster, Registered Professional  
3 Reporter and Licensed Court Reporter, duly authorized  
4 to practice Shorthand Court Reporting in the State of  
5 New Hampshire, hereby certify that the foregoing  
6 pages are a true and accurate transcription of my  
7 stenographic notes of the hearing for use in the  
8 matter indicated on the title sheet, as to which a  
9 transcript was duly ordered;

10 I further certify that I am neither  
11 attorney nor counsel for, nor related to or employed  
12 by any of the parties to the action in which this  
13 transcript was produced, and further that I am not a  
14 relative or employee of any attorney or counsel  
15 employed in this case, nor am I financially  
16 interested in this action.

17 Dated at West Lebanon, New Hampshire, this 15th  
18 day of November, 2017.

19  
20 \_\_\_\_\_  
Cynthia Foster, LCR  
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