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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

November 8, 2017 - 1:25 p.m. DAY 58
49 Donovan Street AFTERNOON Session ONLY
Concord, New Hampshire

{Electronically filed with SEC on 11-24-17}

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

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:
Chrmn. Martin P. Honigberg Public Utilities Comm.
(Presiding as Presiding Officer)

Cmsr. Kathryn M. Bailey Public Utilities Comm.
Dir. Craig Wright, Designee Dept. of Environ. Serv.
Christopher Way, Designee Dept. of Resources &
Economic Development
William Oldenburg, Designee Dept. of Transportation
Patricia Weathersby Public Member

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

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

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

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WITNESS PANEL: CHERYL JENSEN
 CASSANDRA LALEME

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

2 (Hearing resumed at 1:25 p.m.)

3 CHAIRMAN HONIGBERG: Mr. Pappas.

4 You may continue.

5 MR. PAPPAS: Thank you, Mr.

6 Chairman.

7 DIRECT EXAMINATION

8 BY MR. PAPPAS:

9 Q. Good afternoon, ladies. This morning I had
10 asked you about some impacts from
11 construction on the overhead portion in
12 Bethlehem. I now want to move to ask you a
13 few questions about impacts from construction
14 of the underground portion of the line
15 through Bethlehem.

16 On the screen now is the second page of
17 Counsel for the Public's Exhibit 606 which we
18 saw earlier, which shows Main Street,
19 Route 302 in Bethlehem. Do you have that in
20 front of you?

21 A. (Laleme) Yes.

22 A. (Jensen) We have 1445 in front of us.

23 Q. Yes. And if you look to the left-hand side
24 you can see where it shows 302, and to the

1 left of that can you see the right-of-way,
2 the current right-of-way? It's right near
3 that large pond.

4 A. (Laleme) Yes.

5 Q. And is it your understanding that, as we
6 talked about this morning, the proposed
7 Transition Station No. 5 would be directly
8 across 302 from the pond, right adjacent to
9 the right-of-way; correct?

10 A. (Jensen) Yes.

11 Q. And that would be the beginning of the
12 underground in Bethlehem; is that right?

13 A. (Laleme) Yes.

14 A. (Jensen) Yes.

15 Q. And in Bethlehem, the underground would begin
16 there, go down Route 302 and then go down
17 Route 18. You see 18 right on the left-hand
18 side of this picture?

19 A. (Laleme) Yes.

20 Q. Okay. Now, there's been testimony that
21 during construction there will be rolling
22 construction zones up to 1600 feet, and
23 during that 1600 feet rolling zone there will
24 be -- that one lane will be closed. Do you

1 understand that?

2 A. (Jensen) Hmm-hmm.

3 Q. Okay. On the screen now in front of you is
4 Applicant's Exhibit 176. And this is the
5 first page of the Traffic Control Plan. Do
6 you recognize that? Do you see where it
7 has --

8 A. (Laleme) Yes.

9 A. (Jensen) yes.

10 Q. Okay. If you look at this, you can see on
11 the left-hand side I-93, and you can see 302
12 Main Street going across the page. Do you
13 see that?

14 A. (Jensen) Yes.

15 Q. All right. So is it your understanding that
16 as part of the underground, where 302
17 intersects with Route 18 there will be a lane
18 closure in order to construct the underground
19 in that area? Do you understand that?

20 A. (Laleme) Yes.

21 Q. Okay. On the screen now is the next page of
22 that Traffic Control Plan, which is Phase 2
23 of that same intersection where they'll be
24 closing the other side of the intersection of

1 302 and Route 18. Do you see that?

2 A. (Jensen) Yes.

3 Q. And on the screen now is Phase 3 of this
4 intersection work where it shows an
5 additional area on Route 18 that will be
6 closed to traffic during this underground
7 construction work. Do you see that?

8 A. (Laleme) Are you saying closed totally to
9 traffic or --

10 Q. Only one lane. The work area that you see in
11 red will be the closed area, because you can
12 see a fine red line coming down Route 302 and
13 turning down Route 18. Do you see that thin
14 red line?

15 A. (Laleme) Yes.

16 Q. That's the proposed transmission line. And
17 in the intersection area you see sort of the
18 dotted red area as the construction area for
19 the lane closure in that section. Do you see
20 that?

21 A. (Laleme) Yes.

22 A. (Jensen) Yes.

23 Q. Okay. So, this morning you indicated -- I
24 asked you your basis for your belief that

1 construction of the overhead would have an
2 impact on business in Bethlehem. Could you
3 tell me the basis of your belief that
4 construction of the underground with the one
5 lane closure that we saw for the rolling
6 construction, along with the lane closure for
7 the intersection of Route 302 and 18, what
8 the basis is of your view that this work will
9 have an adverse impact on business in
10 Bethlehem?

11 A. (Laleme) Well, primarily it's the same
12 concerns. You're going to have delays. That
13 is the off-ramp right beside 18 from 93. If
14 you're coming and you want to go toward
15 Bethlehem, it's just as easy to keep right on
16 going toward Littleton, because you don't
17 want to get hung up with construction delays
18 right there. Plus the fact you have traffic
19 coming off 18. Primarily you have school
20 buses coming off 18 two times a day. So our
21 high school is out there, and our high school
22 is a combination high school of Bethlehem,
23 Franconia, Easton. So you've got traffic
24 coming off 18. All the seniors have cars, as

1 you all know. And so rather than get tangled
2 up with 25 teenagers in their autos and
3 school buses, I would just keep going down
4 93. So those delays could really be a
5 detriment to people coming onto 302 and
6 heading east.

7 Q. Is that essentially the gateway to your
8 business district?

9 A. (Laleme) No. The gateway is farther up.
10 It's east of where the transmission -- the
11 transition station would go. There's some
12 residential areas here. But as you can see,
13 there's also the Forest Society has tree
14 farms there and there's some residential,
15 but...

16 Q. Okay.

17 A. (Jensen) And I'm glad Sandy mentioned the
18 schools because that's a concern.

19 Q. Okay. All right. Now, attached to your
20 testimony was an article that is Joint Muni
21 Exhibit 4853 [sic]. Now, this was an article
22 that ran on January 18, 2017, in The
23 Littleton Courier about a culvert replacement
24 in Bethlehem. It's a DOT project. This was

1 attached to your testimony. Do you recall
2 that?

3 A. (Jensen) Yes, I do. I submitted that with my
4 testimony.

5 Q. Okay. Good. And the article, I won't go
6 through it, but it talks about having a lane
7 closed for three or four months. And I just
8 want to be able to identify the location of
9 that potential lane closure.

10 But first, if you look -- boy, this is
11 really small. If you look at what's on the
12 screen now, it indicates the number of cars
13 per day at 6,200. And it says the section of
14 road from Congress Street to Maple Street
15 will be reduced to one-lane passage. Do you
16 see that?

17 A. (Laleme) Yes.

18 A. (Jensen) Yes. Stereo.

19 A. (Laleme) We speak as one.

20 Q. And you can see here where the DOT estimates
21 the Project completion time to be three to
22 four months. Do you see that?

23 A. (Jensen) Yes.

24 Q. So, keep in mind it's going to be one lane

1 from Congress Street to Maple Street.

2 So, back on the screen now is the second
3 page of Counsel for the exhibits -- Counsel
4 for the Public's Exhibit 606, Bates Stamp
5 1445, showing streets in Bethlehem. And do
6 you see where it says on the top "Maple
7 Street"?

8 A. (Laleme) Yes.

9 Q. Is that the Maple Street referred to in the
10 article?

11 A. (Laleme) Yes. It starts -- well, you can see
12 where it starts. It's 142.

13 Q. Okay. And where would Congress Street be?

14 A. (Laleme) Congress Street would be -- it's not
15 far up, but it would -- I can tell you better
16 with businesses. From Maple Street to
17 Congress, you've got the town building, the
18 fire department, the police department, the
19 post office, Maia Papaya, a transmission
20 repair shop on one side. On the other side
21 you would have the Irving gas station, only
22 one in Bethlehem, and then a residential
23 house, and then you're up -- and you just --
24 if you get onto Congress Street, you can get

1 to the bank.

2 So there was discussion at two separate
3 select board meetings from the Maia Papaya
4 business owners that said it's a small shop
5 where they have coffee and lattes and crepes
6 or whatever. I'm not sure.

7 A. (Jensen) Wraps.

8 A. (Laleme) Whatever. And they felt that if
9 they didn't give them egress into Main
10 Street, that they could lose their business
11 in one season's time because their business
12 depends on Main Street traffic.

13 Q. Okay. But looking at this map, could you
14 tell me at least which direction Congress
15 Street would be?

16 A. (Laleme) Oh, okay. It would be where you see
17 the word "Bethlehem" and then the little 302.
18 It would be possibly that next street heading
19 down.

20 Q. So it's right in the middle, if you will.

21 A. (Laleme) It is. Yeah. This is right in the
22 center of town.

23 Q. Okay. And so that article indicated that
24 that's proposed to be done either next year

1 or the year after?

2 A. (Laleme) Right. It was possibly 2017, now
3 it's possibly 2018, or it might be 2019.

4 Q. And 2018 is the proposed start for Northern
5 Pass if they get all their permits; correct?

6 A. (Laleme) Right. That's what I referred to
7 earlier when I said there could be four
8 construction projects in Bethlehem.

9 And if it's permissible, I can also tell
10 you this affects us economically. We have a
11 village district within the town, which is
12 not common. They're looking at a cost of
13 \$80,000 because their water lines go through
14 the right-of-way for the state, and we have
15 to absorb that cost. So that's another
16 taxpayer expense.

17 Q. Now, the Applicant has indicated that they
18 need to locate some additional laydown areas
19 and staging areas. Do you recall that?

20 A. (Jensen) Yes.

21 Q. And they indicated that those could be
22 anywhere from 5 to 50 acres in size of
23 previously disturbed land. Do you recall
24 that?

1 A. (Jensen) I recall they said previously
2 disturbed land. I am not sure how they can
3 actually be certain it's going to be
4 previously disturbed land.

5 Q. Well, let me ask you this question: If you
6 look at the map on the screen in front of
7 you, heading away from 93 into your business
8 district and beyond, are you aware of any
9 previously disturbed locations there in the
10 5- to 50-acre range?

11 A. (Laleme) Well, I guess it depends on how you
12 describe "previously disturbed." But no,
13 there are empty areas there where nothing is
14 built. But there's also an inn, there's a
15 fuel depot, there are residential houses. I
16 can't see anywhere where you could just find
17 50 acres of previously disturbed land.

18 Q. Okay. If the Applicant found a staging area
19 or laydown area along 302 for either the
20 underground or the overhead or both
21 construction in your area, would that impact
22 traffic in your business district?

23 A. (Laleme) Common sense tells me yes.

24 A. (Jensen) Yeah, I would think so, too. There

1 would be traffic pulling in and out and...

2 Q. All right. So the last topic I want to ask
3 you about is impact on natural resources.
4 Your direct testimony and supplemental
5 testimony discussed that, so I just have a
6 few questions on that topic.

7 Now, your direct testimony discussed
8 that construction of the Northern Pass
9 Transmission line will adversely affect
10 natural resources in Bethlehem, and
11 specifically wetlands and rivers and streams.
12 Do you recall that?

13 A. (Jensen) Yes, I do.

14 Q. And earlier today we saw when we were looking
15 at the alteration-of-train maps, we saw the
16 Ammonoosuc River located along the
17 right-of-way. Do you recall that?

18 A. (Jensen) Yes.

19 Q. And do I understand correctly that, in
20 addition, the Barrett Brook and the Black
21 Brook are also within the right-of-way area?

22 A. (Jensen) Yes.

23 Q. Okay. So on the screen now is Joint Muni
24 Exhibit 96. And this is an assessment of the

1 transmission line proposal done on behalf of
2 the Town of Bethlehem by two certified
3 wetland scientists. Do you recognize this
4 document?

5 A. (Jensen) Yes.

6 Q. Okay. On the screen now is Bates Stamp 4762
7 from this exhibit, and there's Table 7. Do
8 you see Table 7?

9 A. (Jensen) Yes.

10 Q. And that indicates the area of permanent
11 impact in Bethlehem. Do you see that?

12 A. (Jensen) Yes, I do.

13 Q. At 16,908 square feet, .39 acres?

14 A. (Jensen) Yes.

15 Q. And it shows the temporary impact area of
16 5.68 acres. Do you see that?

17 A. (Jensen) Hmm-hmm.

18 Q. And I understand that this data comes from
19 the Applicant themselves; correct?

20 A. (Jensen) Yes.

21 Q. All right. And this is impact within the
22 right-of-way; am I correct?

23 A. (Jensen) Yes.

24 Q. Okay. Now, you testified that the Project

1 will impact wetlands beyond the right-of-way;
2 is that right?

3 A. (Jensen) Yes.

4 Q. Okay. Could you tell us what wetlands you
5 believe will be impacted beyond the
6 right-of-way?

7 A. (Jensen) I hope so.

8 Q. Well, if it would help --

9 A. (Jensen) The wetlands in the right-of-way
10 connect to a whole series of wetlands beyond
11 the right-of-way. And our consultants talk
12 about five areas of concern that they have
13 because of the additional impacts. And you
14 can see them on the map here.

15 Q. Correct. And the Committee has this and they
16 can read the areas of impact, but I'm --

17 A. (Jensen) Yes. I wasn't going to go there.

18 Q. All right. Just tell us what additional
19 impact you understand to be.

20 A. (Jensen) Well, as I understand it, these
21 areas are all interconnected by streams and
22 rivers, so any impact such as erosion, soil
23 compaction... trying to think of the other --
24 anything that happens within the

1 right-of-way, the wetlands in the
2 right-of-way can, I guess you could say, leak
3 out into the other wetlands, the streams.
4 And one of the issues is that all these
5 things lead to the Ammonoosuc River and some
6 aquifers along the Ammonoosuc River. The
7 Ammonoosuc River is a designated river in the
8 River Protection Program. So we are
9 concerned. And we're concerned about
10 aquifers and these other wetlands which
11 aren't accounted for in the Application. The
12 only wetlands being looked at are within the
13 right-of-way. And I understand from the
14 technical sessions that Normandeau looked a
15 little bit beyond the right-of-way. But
16 everything that is connected is not being
17 looked at, and therefore I don't think all
18 the impacts -- I would have to agree with our
19 consultants, that all the impacts are just
20 not being considered.

21 Q. Are these temporary impacts, permanent or
22 both?

23 A. (Jensen) Well, I think both. And Bethlehem
24 is going to bear the brunt of the permanent

1 impacts. From Normandeau's own assessment,
2 Bethlehem is one of four areas that will have
3 the majority. I think it was -- let me look
4 here -- 89 percent of the permanent impacts
5 are associated with Transition Station No. 1,
6 5 which is in Bethlehem, and then the
7 proposed expansions of the Deerfield and the
8 Scobie substations. So I think we're going
9 to have a pretty big permanent impact. And
10 we are also concerned about so-called
11 "temporary impacts" turning into permanent
12 impacts.

13 Q. Have you been able to quantify the size of
14 these impacts?

15 A. (Jensen) No.

16 Q. Okay.

17 A. (Laleme) May I add something?

18 Q. Sure.

19 A. (Laleme) In the Wetlands Bureau Progress
20 Report of May 16, 2016, No. 11 talks about
21 moving Transfer Station No. 5 because of the
22 16,378 square feet of wetlands for the yard
23 and stormwater pond, and they're talking
24 about the steep slopes.

1 Secondarily, and again I know this
2 doesn't apply, but Bethlehem has an aquifer
3 ordinance because we treasure our groundwater
4 so much, and so the town enacted an ordinance
5 to protect groundwater. I realize Northern
6 Pass doesn't have to adhere to our
7 ordinances, but it shows the concern that
8 Bethlehem has for its own environment. So,
9 just to add to what Cheryl said.

10 Q. Thank you.

11 Now, you've testified that the Northern
12 Pass Project will have these temporary and
13 permanent impacts within the right-of-way, as
14 well as outside the right-of-way to wetlands
15 and perennial streams and vernal pools, as
16 well as impacts to the shores of rivers and
17 ponds; correct?

18 A. (Jensen) Yeah, there are like seven rivers
19 and perennial streams, three intermittent
20 streams, one ephemeral stream, five vernal
21 pools, two of which were deemed high quality.
22 I don't know if that helps quantify anything,
23 but --

24 Q. Do you believe that all of these various

1 impacts constitute unreasonable adverse
2 impacts to wetlands and other water bodies in
3 Bethlehem?

4 A. I do --

5 MR. NEEDLEMAN: Objection. This
6 is all stuff that could have been and should
7 have been included. And I'm not even sure
8 these witnesses are capable of rendering that
9 kind of opinion.

10 CHAIRMAN HONIGBERG: Mr. Pappas.

11 MR. PAPPAS: Well, I'll take the
12 second one first. I think Ms. Jensen is on the
13 conservation commission. I think she has
14 worked with the consultants they've hired. I
15 think she's reviewed the report. I think she's
16 qualified to give her opinion, and the
17 Committee can take it for its weight on the
18 issue of whether she believes the unreasonably
19 adverse -- this is my last question. I just
20 think it's an appropriate question for the
21 Committee to hear what her opinion is because
22 she's testifying on behalf of the Town and the
23 conservation commission?

24 CHAIRMAN HONIGBERG: Is it not a

1 new opinion?

2 MR. PAPPAS: I'm not sure if
3 it's a new opinion or not. I mean, she talks
4 about her view of adverse impacts, but she
5 doesn't phrase it in the -- according to your
6 regulation. So I thought --

7 CHAIRMAN HONIGBERG: I think
8 it's fairly apparent how she feels about the
9 Project, so I know what the answer is going to
10 be. But --

11 MR. PAPPAS: I just thought it
12 would be appropriate in terms of your
13 regulations as opposed to the way she phrased
14 it. But I think --

15 CHAIRMAN HONIGBERG: Overruled.
16 You can --

17 BY MR. PAPPAS:

18 Q. Do you have the question in mind?

19 A. (Jensen) I do believe it will have an
20 unreasonable adverse effect.

21 Q. Okay. Thank you. I have no other questions.

22 CHAIRMAN HONIGBERG: The Muni
23 Group. Looks like Ms. Pacik is grabbing the
24 microphone.

1 MS. PACIK: I do, and I was
2 going to use ELMO, please. Steven's back to
3 help me, so now I can use exhibits again.

4 CHAIRMAN HONIGBERG: He is so
5 good with the machines.

6 MS. PACIK: He's much better
7 than I am.

8 (Discussion off the record.)

9 CROSS-EXAMINATION

10 BY MS. PACIK:

11 Q. Good afternoon. I'm sitting over here if you
12 can't see me. My name is Danielle Pacik.
13 I'm from the City of Concord. I'm legal
14 counsel for the City of Concord and also the
15 spokesperson for Municipal Group 3 South. I
16 just had a quick follow-up question on
17 something you had said earlier about the
18 importance of tax payments from the hotel.

19 I believe you referenced that the
20 potential new tax payments from the hotel
21 would be about \$350,000 each year; is that
22 right?

23 A. (Jensen) Three hundred eighty-five.

24 Q. Okay. And you also said you needed that tax

1 revenue for economic development; is that
2 right?

3 A. (Jensen) Everything. Schools, everything.

4 Q. Okay. So what I have up on the screen is a
5 document that was prepared by Dr. Lisa
6 Shapiro for the Applicants. And it was
7 included as Applicants' Exhibit 1,
8 Appendix 44, and I believe it's Page 17. Is
9 that correct? Yes. And on this sheet it
10 shows you some of the estimates of potential
11 tax revenue that Northern Pass would pay if
12 it is approved and built as currently
13 anticipated. And the range for the first
14 year is between approximately \$840,000 on the
15 low end, on the high end it would be
16 \$1.5 million, and the midpoint was about
17 \$1.1 million estimated in tax payments. Do
18 you see that?

19 A. (Laleme) Yes.

20 A. (Jensen) I do.

21 Q. So my question is -- I understand your town
22 is opposed to this project; is that correct?

23 A. (Laleme) Yes.

24 A. (Jensen) Yes.

1 Q. To the extent you are looking for new
2 opportunities for tax payments, why is it
3 that those funds aren't sufficient to make
4 you support the Project?

5 A. (Laleme) I'll try to answer that as briefly
6 as I can.

7 There comes with this tax -- well, with
8 this tax payment comes the potential for
9 negative impacts that could outweigh the
10 taxes paid. We've just heard Cheryl talk
11 about damage to the environment in the
12 wetlands. We have the Ammonoosuc River. We
13 have the Gale River. There's a lot of
14 underground water. There are aquifers, a
15 very large aquifer in Bethlehem. So we want
16 to protect all of that.

17 Secondly, our town in March voted out
18 our largest taxpayer because they're a
19 landfill. That meant that we had a \$3
20 increase -- \$3.03 I think -- but a \$3
21 increase in our tax rate this past Monday
22 night. Bethlehem is willing to absorb the
23 higher taxes because of the environment.

24 We have a very special place. And

1 unless you live in the North Country, I'm not
2 sure you can really appreciate that we give
3 up a lot to live up there. We pay higher
4 taxes. A lot of people pay high taxes. But
5 we're paying more now. It's difficult. We
6 don't have box stores, or a lot of them.
7 Bethlehem doesn't have any. We want our town
8 to be consistent with what our master plan
9 and the town wants, which is a rural, quiet,
10 orderly developed community that doesn't have
11 105-foot towers and thousand-volt lines going
12 across it. So we don't just sell out, if you
13 want for a better word, maybe a North Country
14 word. I would love the taxes. It would make
15 my tax rate go down. But do I want the tax
16 rate to go down at the expense of what could
17 potentially be a change in our entire North
18 Country? This will affect our scenery, our
19 tourism, our travel. It really is not just
20 about money. And I know there's a lot of
21 money floating around in this state with this
22 project. But this is not for Bethlehem, the
23 only factor we look at. So would we like
24 that amount of money? Sure, we would. Are

1 we willing to compromise? And when I say
2 "home," it's not just my home. Our home is
3 our community. We're a little mountaintop
4 community, and we squabble and we carry on,
5 but we all agree on what we want for our
6 community. And what we don't want is this
7 project. So, a million dollars? Yeah, I'm
8 sure it looks good. Will that convince us?
9 No. I hope that's sufficient.

10 Q. That answered my question. Thank you. I
11 have nothing further.

12 A. (Jensen) May I add something to that?

13 CHAIRMAN HONIGBERG: I think
14 that question got answered really thoroughly,
15 well beyond what was asked. But yes, if you'd
16 like to add something briefly, Ms. Jensen, you
17 may.

18 WITNESS JENSEN: I would like to
19 add something briefly. I guess this is a
20 possible tax estimate. But we're also aware
21 that Eversource has gone to a number of
22 communities and is involved in litigation in
23 trying to, I don't know the correct words to
24 use --

1 CHAIRMAN HONIGBERG: It's called
2 seeking an abatement from taxes generally.

3 WITNESS JENSEN: Yes. Thank
4 you.

5 CHAIRMAN HONIGBERG: And I think
6 you've now gone beyond the question that Ms.
7 Pacik asked, which was why isn't this amount of
8 money sufficient.

9 WITNESS JENSEN: Okay.

10 CHAIRMAN HONIGBERG: Maybe your
11 short version of that is you're not certain it
12 will actually come.

13 WITNESS JENSEN: That is it.

14 CHAIRMAN HONIGBERG: All right.
15 Anything else, Ms. Pacik?

16 MS. PACIK: Nothing further.
17 Thank you.

18 CHAIRMAN HONIGBERG: Do other
19 members of the group, that cluster of munis,
20 have questions?

21 [No verbal response]

22 CHAIRMAN HONIGBERG: All right.
23 Thank you.

24 Ms. Saffo. I think I saw her

1 getting into her car, so I don't think she's
2 here anymore.

3 Ms. Boepple, you have
4 questions?

5 MS. BOEPPLE: No questions.
6 Thank you.

7 CHAIRMAN HONIGBERG: Well, why
8 don't I just find out who else has questions.
9 Ms. Menard, Mr. Lakes. Is that it? Mrs.
10 Draper. All right. Actually, I think on the
11 list Mr. Lakes is first of that three.

12 MR. LAKES: Thank you very much.

13 CROSS-EXAMINATION

14 BY MR. LAKES:

15 Q. Ms. Laleme, in your testimony you mentioned
16 that you are unaware of any permanent jobs
17 created in Bethlehem related to the Northern
18 Pass Project. Is this still the case
19 currently?

20 A. (Laleme) Yes.

21 Q. As you mentioned in your pretrial testimony,
22 I'm summarizing here, small towns like
23 Bethlehem with limited resources are trapped
24 in a SEC process that requires payment of

1 legal fees, creating an unfair playing field.
2 What's the "unfair playing field" that you're
3 talking about?

4 A. (Laleme) Well, let me explain it this way --
5 and I mean no disrespect to any of the
6 parties to these proceedings. I understand
7 that it's a legislative process that results
8 in an appointed board. But I think that as
9 individual citizens and as representative of
10 a small town, approximately 2500, without the
11 resources to hire legal counsel we're at a
12 distinct disadvantage. Our ordinances are
13 disregarded. And we work very hard. The
14 state wants us to have master plans, wants us
15 to have planning boards, and we do all that.
16 And we work very hard for our community. But
17 our input is limited. And this is it. We
18 file testimony. But we're a very small voice
19 in the scheme of things.

20 And I just hope that people understand
21 that what we have in the North Country -- and
22 I'm speaking only for the North Country
23 because that's where I've lived for the last
24 70 years. It's very special place. And to

1 see a swath of towers coming down to the
2 North Country really takes a great deal away
3 from what that place is. And once you
4 destroy something, whether it's a vernal
5 pool, whether it's the 25.6 acres of winter
6 deer yards that will be gone, whether it's
7 the trees, beech trees will be gone, whether
8 it's any of that, you can never, ever get it
9 back. And I think most of us in Bethlehem
10 are very passionate. We live there because
11 we want to. It's harder, but it's worth it.
12 And we don't want to see any part of what
13 that place is changed in a way that makes it
14 less beautiful, less sustainable, less like
15 home.

16 Q. My last question to you is: You mentioned in
17 your testimony that preemption of local
18 zoning is an affront. You used the word
19 "affront." What do you mean by that?

20 A. (Laleme) Well, I would have to say probably I
21 just think that local control is important.
22 And when the state takes that control away
23 from you -- again, with no disrespect to any
24 board member -- when the state takes local

1 control, it minimizes how government
2 functions and how the citizen can control
3 their own destiny, what they can do in their
4 own environment. And therefore, it is an
5 affront to me personally. And I believe it's
6 an affront to most New Hampshireites we have a
7 motto, "Live free or die." It should mean
8 something. So that's what it is. I just
9 think Northern Pass should -- or Eversource
10 maybe should have gone to every town and
11 said, "Let us meet your requirements." Maybe
12 that's not feasible. This is a huge project.
13 But I think that that has to be taken into
14 account.

15 Q. Thank you. Ms. Jensen, in light of earlier
16 testimony by Applicant experts, are you
17 confident that the use of BMPs will prevent
18 or eliminate environmental concerns?

19 A. (Jensen) I have thought a lot about BMPs
20 because they've been mentioned all over the
21 place. It's "We have these BMPs, and
22 everything is going to be fine." There are
23 problems with BMPs, and people violate them
24 all the time. I mean, we have one example in

1 Bethlehem. A number of years ago there was
2 logging around Baker Brook Pond, which is
3 across from where this transition station is
4 going to be. The logger did a lot of damage
5 to the wetlands there, so much so that there
6 was actually an article written about it in
7 either The Caledonia Record or The Littleton
8 Courier. And as a conservation commission,
9 we looked into this. One of our members went
10 to the Littleton courthouse and looked at
11 loggers and logging violations. The logger
12 who logged that area had other violations. A
13 number of other loggers had violations. It
14 looks like you violate a BMP, you damage
15 wetlands, you pay a fine, and it's the cost
16 of doing business. And so, you know, we have
17 examples that people don't follow BMPs. You
18 read the paper every day, and you see things
19 where, gee, you know, so-and-so didn't do
20 such-and-such, and you have a coal ash spill.

21 You have -- I write about the auto
22 industry. And I believe that the Federal
23 Bureau of Motor Vehicle Safety Standards are
24 similar to BMPs. And they're minimums,

1 actually. They get violated all the time.
2 There was just a thing where the federal
3 government opened up an investigation on Ford
4 vehicles because the steering wheel could
5 come loose and detach. So the feds are
6 looking at maybe recalling 840,000 Ford
7 vehicles because somebody didn't follow what
8 they were supposed to follow.

9 And I want to mention this because I
10 would like to introduce some reality in the
11 way things work. Going back to that logging
12 violation, I called DES because I was sort of
13 new on the conservation commission at the
14 time. And I was saying, Well, what can we do
15 about this? And I don't remember who I spoke
16 to. And actually, if I could remember, I
17 wouldn't want to mention the name. But I was
18 just looking for information. And this
19 person -- I was looking to see how we could
20 keep it from happening again. And this
21 person ended up yelling at me into the phone,
22 "We can't put these people out of business."

23 And I said, "I'm not trying to put them
24 out of business. I just want to see how we

1 can keep this from happening again." And I
2 got hung up on. I have to say that that is
3 the only time anyone from DES has ever been
4 rude to me. Generally, you know, I have no
5 problem with the people at DES that I've
6 interacted with. But I just want to let
7 people know how these things work in the real
8 world because I don't think everything is
9 going to go as planned.

10 Q. Thank you for that.

11 You also mentioned in pretrial testimony
12 that current SEC rules may dilute and
13 underestimate environmental impacts. What do
14 you mean by that?

15 A. (Jensen) Okay. This gets complicated --

16 CHAIRMAN HONIGBERG: Mr. Lakes,
17 are you asking for something other than what's
18 in her testimony, which is extensive on
19 environmental effects?

20 MR. LAKES: I'm just asking her
21 to explain what it is in the SEC rules that may
22 cause a dilution or underestimate of
23 environmental impacts.

24 CHAIRMAN HONIGBERG: And I guess

1 I would ask, Ms. Jensen, if you feel you've
2 answered it in your prefiled testimony, that we
3 leave it there. But if you have something to
4 add briefly, you certainly can.

5 A. (Jensen) I think there was some confusion
6 about my prefiled testimony, and maybe I
7 didn't explain things well in my prefiled
8 testimony. But what's happening is that,
9 with impacts such as wildlife, let's say --
10 Sandy mentioned the deer yards being
11 destroyed in Bethlehem. What is being said
12 is, well, there is no unreasonable adverse
13 effect because it doesn't affect the deer
14 population of the entire state. Well, it
15 doesn't have to affect the deer population of
16 the entire state. In fact, the SEC -- I
17 think what I said was the SEC rules are being
18 misinterpreted, because the SEC rules
19 themselves say that it has to... just a
20 second.

21 (Witness reviews document.)

22 A. (Jensen) It talks about the -- it has to do
23 with the viability of the populations in or
24 using the area, not spread across the entire

1 state. If you talk about deer being impacted
2 and you say, well, it's not an impact really
3 because you got a big deer population in the
4 entire state, well, that's not what we're
5 talking about, and that's not what the SEC
6 rules say. We're talking about what's
7 impacted in the area. And I don't know that
8 I've even given a good explanation now. But
9 it's just they're trying to water down the
10 impacts so you can't say that there is an
11 unreasonable effect. I don't know if I made
12 myself clear, but that's what I was trying to
13 get at.

14 A. (Laleme) To clarify, just so there's no
15 misunderstanding, DES says there will be a
16 total of 25.6 acres of deer wintering yards
17 affected or cleared, not necessarily all of
18 that in Bethlehem. They didn't specify
19 exactly where, so...

20 MR. LAKES: Thank you very much.
21 I'm done with my questioning.

22 CHAIRMAN HONIGBERG: Ms. Menard.

23 MS. MENARD: Good afternoon,
24 members of the Committee.

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CROSS-EXAMINATION

BY MS. MENARD:

Q. My name is Jeanne Menard, and I'm a representative from the Deerfield Abutter Group. And I just have couple questions for you, Ms. Jensen.

Given your concern about endangered species, you are aware that there will be environmental monitors present to sweep for endangered species in the construction zone?

A. (Jensen) Yes, that's what I understand.

Q. And there was discussion earlier this week with the Counsel for the Public's environmental panel that the environmental monitors will have plan maps that show the habitat types marked on them. And these maps will help them fine-tune their search areas and help set up a safety zone for the species.

Are you aware of any documents that spell out with any degree of detail what the environmental monitor or the assigned construction worker will do with the endangered species if they do locate them in

1 the construction zone?

2 A. (Jensen) No, I'm not. One thing that I can
3 think of, in terms of like the right-of-way
4 in Bethlehem and the fact that the wetlands
5 like outside of that right-of-way weren't
6 delineated, I guess if the species is found
7 and has to be relocated, I'm not sure if they
8 would know where the habitat was in that area
9 outside of the right-of-way.

10 And then the other thing that just
11 occurred to me is when I was at the technical
12 session for the environment panel, I think it
13 was Ms. Barnum from Normandeau who was
14 talking about the turtles, said in her
15 testimony that they weren't going to find all
16 the turtles. I mean, she out and out said
17 they weren't going to find all the turtles.
18 So I don't know if that gets to your
19 question.

20 Q. Actually, that --

21 A. (Jensen) Sometimes I feel like I'm not --

22 Q. -- pretty much wraps into my last question
23 and answers it to some degree.

24 So, given that the Applicant has only

1 mapped within the right-of-way, do you have
2 any concerns that the environmental monitor
3 will know where the appropriate location is
4 to relocate the species?

5 A. (Jensen) No. As I said, I don't. I mean, if
6 it hasn't been delineated and whatever, then
7 it's an unknown.

8 Q. Okay. Thank you. I don't have any other
9 questions.

10 A. (Jensen) I don't know if that answers you.
11 I'm sorry.

12 CHAIRMAN HONIGBERG: She seems
13 satisfied.

14 WITNESS JENSEN: Okay. I often
15 can't read people, so...

16 CHAIRMAN HONIGBERG: Ms. Draper.

17 CROSS-EXAMINATION

18 BY MS. DRAPER:

19 Q. Good afternoon. I'm Gretchen Draper, and I'm
20 representing the Pemigewasset River Local
21 Advisory Committee. I have questions about
22 what mitigation has been offered to Bethlehem
23 for the wetlands impact.

24 A. (Jensen) As far as I know, and I guess I

1 would know, we haven't been offered any
2 Bethlehem-specific mitigations.

3 Q. Have you been -- okay. Have you been
4 offered, you know, some of the mitigation
5 that's been offered to other areas, to put
6 money into the ARM fund? Have you heard
7 about that?

8 A. (Jensen) I have heard about that. That's
9 what, about \$3 million or something?

10 Q. Have you received letters on that?

11 A. (Jensen) I mean, I've seen it in the
12 testimony and I've seen it in the
13 Application. We haven't gotten any letters
14 related to that and --

15 A. (Laleme) Excuse me. Are you referring to the
16 DES report where there's \$3.3 million for the
17 land that cannot be mitigated? As I
18 understand it, there's like 6 million-plus
19 square feet that will be affected, five-plus
20 million mitigated, and then there's 3.3 paid
21 over three years to essentially make up for
22 the unmitigated areas. Is that what you're
23 referring to?

24 Q. Yes, both. If they have offered mitigation

1 plans for the wetlands right within
2 Bethlehem, that would -- I was wondering if
3 anything happened there, too.

4 A. (Jensen) No. And we talk about this at the
5 conservation commission. And it actually
6 came up recently with another project. We
7 aren't really mollified by mitigations that
8 are done elsewhere. The money goes into the
9 fund. It's almost like -- I'm sorry. It's
10 almost like a bribe. It's like you let us
11 destroy the wetlands here, and we'll do
12 something over down south or on the seacoast.

13 And we just had a project, a development
14 on a piece of land that's not really suited
15 for development. And there's a huge wetlands
16 area there. We made it very clear, I mean as
17 clear as we can to the developer, as well as
18 to DES in terms of the wetlands application,
19 that we wanted a conservation easement on the
20 wetlands on that property because it's very
21 nice for wildlife, and we didn't want to see
22 any more of it destroyed. So we really made
23 it clear at every opportunity we could that
24 we didn't want mitigation elsewhere. And,

1 you know, we feel that way in general.

2 Q. And has there been a conclusion to this
3 latest example?

4 A. (Jensen) Well, I think, I think the
5 conservation easement is going to take place.
6 So we are very happy with that.

7 Q. So if something -- if Northern Pass came up
8 with something that was much more within your
9 area, at least it would be more of an act of
10 good faith then.

11 A. (Jensen) We'd have to look at it. I can't --

12 Q. You'd have to look at it. Okay. Thank you
13 very much.

14 CHAIRMAN HONIGBERG: Did I miss
15 any of the intervenors who have questions for
16 the panel?

17 [No verbal response]

18 CHAIRMAN HONIGBERG: Mr. Walker.

19 CROSS-EXAMINATION

20 BY MR. WALKER:

21 Q. Good afternoon, Ms. Laleme and Ms. Jensen.
22 My name is Jeremy Walker, counsel for the
23 Applicants. I think we met at the technical
24 session.

1 A. (Jensen) Yes.

2 Q. Nice to see you again.

3 I want to talk with you first about the
4 budget issues and the tax payments that we
5 alluded to and mentioned a little bit here.
6 I want to -- Danielle -- Attorney Pacik asked
7 about the proposed tax payment to the town in
8 the first year if the Project were to go
9 forward, and it was in the range of \$1.1
10 million. Do you recall that?

11 A. (Laleme) Yes.

12 Q. I'll represent to you that I have information
13 from the Town of Bethlehem for the top ten
14 taxpayers in the year 2016. And the highest
15 taxpayer in the year 2016 was in the amount
16 of \$461,000. Does that sound --

17 A. (Laleme) Sounds correct.

18 Q. And the second highest was around \$107,000.
19 Does that sound correct?

20 A. (Laleme) I'm not sure.

21 Q. Okay. I will represent to you this is
22 information we pulled from the Town. And the
23 total amount of the top ten taxpayers was
24 approximately \$875,000. Does that sound

1 about right?

2 A. (Laleme) Thereabouts.

3 Q. Assuming that is correct, the amount proposed
4 for the first year by the Project, which is,
5 again, approximately \$1.1 million, would
6 exceed the top ten taxpayers. And I take it,
7 it would at least assist you with some of
8 your budget concerns that you raised earlier.

9 A. (Laleme) Was there a question --

10 Q. Well, I'm asking you --

11 A. (Laleme) -- or were you just --

12 Q. -- that amount, exceeding the top ten
13 taxpayers, I take it, it would alleviate some
14 of your budget concerns, or at least assist
15 you with your budget issues that you raise?

16 A. (Laleme) Well, increased taxes would assist
17 us. It would assist any town. The town has
18 made a decision to oppose this project, just
19 as they made a decision to vote to close the
20 landfill. They did that knowing what the tax
21 repercussions would be. So my mandate from
22 the town is, yes, taxes help. Where we get
23 those taxes, the town has an issue with the
24 development in town and where those taxes

1 come from. We are more than happy that they
2 built the Arlington Hotel. We will be more
3 than happy if they build the Hilton. We are
4 a town -- our history is the grand hotels.
5 Our town was -- our entire tourism when I was
6 growing up was based on the grand hotels.
7 You've been to the Grand View. Well, we had
8 a dozen of those in Bethlehem. So, we'd
9 rather see the hotel at 385,000 three times
10 than possibly the towers with that amount all
11 in one lump sum.

12 Q. I want to talk with you about the hotel in a
13 minute. But let me ask you about some of the
14 issues that were raised with regard to
15 Transition Station No. 5.

16 A. (Laleme) Okay. If you could just speak up a
17 little bit.

18 Q. I'm sorry.

19 A. (Laleme) It's my age showing I think.

20 Q. The Notice of Option that was brought up
21 earlier today, I think it was Ms. Jensen that
22 brought that up --

23 A. (Jensen) Yes.

24 Q. -- that was dated back in April of 2017; is

1 that right?

2 A. (Jensen) March 23rd.

3 Q. Well, there's two signatures on it. But the
4 signature by the Project is actually dated
5 April of 2017. But either way --

6 A. (Jensen) Oh, I see. Okay.

7 Q. Either way, spring of this year; correct?

8 A. (Jensen) Yeah.

9 Q. Were you here for the testimony of the
10 Applicant's construction panel in this
11 matter? And it was back in May and June.

12 A. (Jensen) No.

13 Q. I will represent to you that there was
14 testimony by the Project's construction team,
15 and it was both in May and in June. So it
16 was after this Notice of Option that you
17 raised.

18 A. (Jensen) Yes.

19 Q. And there was testimony by the construction
20 panel that the location of Transition 5, as
21 proposed on the plans, is the location. That
22 is the planned location, and there is no plan
23 change to that location. Are you aware of
24 that?

1 A. (Jensen) Yes, I saw that. That was Day 9.

2 Q. That was -- well, actually, I have a
3 reference to -- and for the record, to make
4 it clear, that was -- the record that I have
5 is Day 10, and it's in the morning. And it's
6 Pages 55 to 56, and it was in response -- or
7 it was a question that was answered by Mr.
8 Johnson --

9 A. (Jensen) Okay.

10 Q. -- from the construction panel. And I will
11 quote. He said, "...at this time, the
12 transition station is being located where the
13 permit application is, and exactly on that
14 property," meaning we're not planning on
15 moving that transition station at this time.
16 Okay. That's the quote.

17 And there was a question to the panel
18 from Attorney Iacopino on the panel asking,
19 "Well, what would happen if there was a
20 change?"

21 And the answer, and I'll paraphrase it,
22 was, We would have to submit all new plans,
23 perhaps a wetlands application. And I will
24 represent to you that that has not happened.

1 So this Notice of Option that you
2 brought up was back in April of 2017, prior
3 to this testimony. And as you know, the
4 developer is continuing forward with its
5 plans, correct, the developer of the hotel?

6 A. (Jensen) Yes.

7 Q. And I think I heard you say that there is a
8 planing board meeting coming up to address
9 his particular plan.

10 A. (Jensen) Yes, November 15th.

11 Q. He's moving forward and nearing the final
12 stages; correct?

13 A. (Laleme) Well, his application is for the
14 15th. That's when his application will be
15 heard. He submitted this Notice of Option
16 with his application. So that's the first
17 time the Town actually received a copy of it.

18 Q. Sure.

19 A. (Laleme) And neither one of us were here for
20 the testimony at that time. But, anyway,
21 that's how it came about is he submitted this
22 with his application.

23 Q. And at this point there is no change to the
24 location of the transition station being

1 planned by the Applicants. You've seen that
2 testimony. And the Project is moving
3 forward, the hotel project. He's pushing
4 forward with his development plans; correct?

5 A. (Laleme) He's made an application --

6 A. (Jensen) My question is --

7 (Court Reporter interrupts.)

8 A. (Jensen) Now, this is the thing. Is he
9 moving forward because he thinks that this
10 land swap is going to take place? And then
11 we have people on the construction panel
12 saying, hey, we're -- the Applicant thinks
13 that the transition station -- I'm sorry.
14 Mr. Rudich, who owns the property for the
15 hotel, thinks that the transition station is
16 going to be moved so it is less
17 conspicuous --

18 Q. Ms. Jensen, I don't mean to interrupt you.
19 You're speculating; correct? Right now
20 you're speculating.

21 A. (Jensen) I'm not really speculating. I was
22 at a zoning board meeting where his
23 representative said this, that there is going
24 to be a land swap. And I even -- he said

1 that as far as Mr. Rudich was concerned, he
2 wouldn't build, he wouldn't do the hotel if
3 the towers were there.

4 Q. And Ms. Jensen, you're referring to a zoning
5 board meeting that occurred much earlier than
6 the testimony by the construction panel in
7 this case; correct?

8 A. (Jensen) Yes.

9 Q. Okay. And you've raised concerns about
10 tourism and the impact on tourism. It's fair
11 to say that this developer who's planning to
12 go forward with an 80-suite hotel does not
13 share your concerns that this will impact the
14 level of tourism in Bethlehem; fair to say?

15 A. (Jensen) Because he doesn't think the
16 transition station is going to be abutting
17 his hotel. He thinks it's going to be in a
18 different location.

19 Q. And again, you're speculating.

20 A. (Jensen) Well, I don't think it's
21 speculation.

22 A. (Laleme) And I would just add to that, that I
23 haven't personally talked to Mr. Rudich for
24 over a year, so I can't say what he thinks.

1 But at the planning board meeting on
2 November 15th, I think we will have a better
3 idea of who thinks what. We know now what
4 you think or what you've said or what the
5 testimony says, that it's not moving. We
6 haven't heard from Mr. Rudich to tell us what
7 he thinks. So it's not real speculation.
8 It's based on what we've heard from him in
9 the past. And now we have to wait to hear
10 from him again because this Notice of Option,
11 which came in with the application, gave the
12 impression that he still retained that idea
13 that the transfer station may be moved.
14 Because he had told me well over a year ago
15 that he had hoped to talk with Eversource to
16 do this type of thing. I haven't talked to
17 him since then. But I don't know that
18 anybody knows for sure what's going on.

19 Q. You're not aware of the communications
20 between the Project and Mr. --

21 A. (Laleme) Rudich. No.

22 Q. Okay. Let me ask you -- and Ms. Laleme, I
23 think this is best directed to you because
24 you're on the select board.

1 A. (Laleme) Not any longer.

2 Q. Oh, okay. When did you get off the select
3 board?

4 A. (Laleme) I got off in March.

5 Q. March. When you were on the select board, I
6 take it you were familiar with the
7 communications and some of the interactions
8 between the Project and the Town going back a
9 few years?

10 A. (Laleme) Well, I don't recall really any
11 interactions. The discussion on an MOU took
12 place I believe after I left the board.

13 Q. Okay. Fair enough.

14 MR. WALKER: Let me -- Dawn, if
15 you could pull up Applicant's Exhibit 405,
16 please.

17 BY MR. WALKER:

18 Q. And can you see that on your screen?

19 A. (Laleme) Yes.

20 Q. And this is the first page. I'll represent
21 to you that this is a document that's been
22 prepared by the Project. And it's a summary
23 of its outreach efforts with the Town. And
24 it has done this with a number of different

1 towns. I'm not going to go through all of
2 this, Ms. Laleme. But you would agree with
3 me that there have been, early on in the
4 Project, a number of open houses and public
5 information sessions; correct?

6 A. (Laleme) I see a document that says that
7 there's a schedule --

8 Q. Well, these are actually events that
9 occurred. Are you familiar with the
10 different public open houses that were held
11 in Bethlehem? There's one referenced on
12 September 10, 2013. Do you see that?

13 A. (Jensen) I'm sorry.

14 A. (Laleme) I don't recall seeing this document.
15 But I most likely did if it was --

16 Q. No, you probably have not seen this document
17 before. I'm asking you if you're familiar
18 with the different events that are listed on
19 this document. So, for instance, the public
20 open house back in September of 2013, this
21 was an open house and it was held in
22 Lancaster for four towns, including
23 Bethlehem. Do you recall that?

24 A. (Laleme) I do not recall.

1 Q. We don't have to focus on the public
2 information sessions and the public hearings.

3 A. (Laleme) Okay.

4 Q. I want to go down to the outreach to the town
5 officials. And you'll see at the bottom of
6 that page the outreach letters, and in
7 particular, the March 14, 2017 letter. Were
8 you still on the board at that time?

9 A. (Laleme) I would have been in December of
10 2016.

11 Q. Well, I'm asking about the letter that's
12 listed at the very bottom, March 14, 2017.
13 And I'll represent there was a letter sent to
14 the selectmen by the Project.

15 A. (Laleme) I would not have been on the board.

16 A. (Jensen) I know --

17 Q. Well, you mentioned the Memorandum of
18 Understanding. This March 14, 2017 is
19 referencing a Memorandum of Understanding, a
20 construction Memorandum of Understanding
21 proposed by the Project and sent to the Town
22 of Bethlehem. Have you seen that?

23 A. (Laleme) I have seen a draft of that.

24 Q. Okay.

1 A. (Jensen) I have seen it.

2 Q. Ms. Jensen, your --

3 A. (Jensen) I have seen it.

4 Q. You're not on the board of selectmen, are
5 you?

6 A. (Jensen) No, but I am on the conservation
7 commission, so I was at those meetings.

8 Q. Okay. Good. And you're aware --

9 CHAIRMAN HONIGBERG: And Dawn,
10 if you could turn to the second page, please.

11 BY MR. WALKER:

12 Q. On the bottom of this page there is a
13 reference to other-correspondence. And Ms.
14 Jensen, if you have information related to
15 this, either you or Ms. Laleme. There's a
16 date of March 28, 2017. "Project attorney
17 conferred with the Town's attorney, Attorney
18 Fillmore, and confirmed the Town's interest
19 in discussing a construction Memorandum of
20 Understanding."

21 Are either of you aware of that, that
22 there's been, through the Town attorney,
23 there's been some interest conveyed to
24 discussing --

1 A. (Jensen) I'm aware.

2 Q. And in fact, there was a -- if you look at
3 the very bottom, July 24, 2017, the Project
4 Attorney sent a revised draft Memorandum of
5 Understanding reflecting the Town comments to
6 the Town's attorney for review by the Town.

7 So, fair to say there's been some
8 interaction back and forth with regard to a
9 proposed construction Memorandum of
10 Understanding?

11 A. (Jensen) Yes.

12 Q. Are you both aware of that?

13 A. (Jensen) Yes.

14 A. (Laleme) Yes. I'm also aware that it has not
15 been signed.

16 Q. Right. In fact, after the July 24, 2017
17 entry here, the Project has asked to meet
18 with the select board to discuss the
19 construction Memorandum of Understanding, or
20 any construction concerns that the Town has.
21 Are you aware of that?

22 A. (Laleme) I am aware that the Memorandum of
23 Understanding went back and forth. And I
24 understand there's attorney/client privilege

1 in here somewhere, or attorney/attorney
2 privilege, so I'm not sure -- you know, I
3 don't want to jeopardize the Town in any way
4 by saying something I shouldn't say.

5 Q. And I don't want -- you're right. And that's
6 a fair point. And I don't want you to
7 discuss with me --

8 A. I'm sitting here --

9 (Court Reporter interrupts.)

10 Q. Ms. Laleme, I don't want you to discuss with
11 me any communications that you've had with
12 your Town attorney. But what I am interested
13 in, has the Project reached out to meet with
14 the Town to go over the proposed Memorandum
15 of Understanding? Are you aware of that?

16 A. (Laleme) I am aware that there was a
17 discussion between the Project and the Town
18 on a Memorandum of Understanding, yes.

19 Q. And are you aware that the Town has opted not
20 to meet with the Project to go over the last
21 draft of the Memorandum of Understanding?

22 A. I am aware that they do not wish to sign the
23 last draft, that it was not acceptable.

24 Q. In fact, they're not willing to meet with the

1 Project to discuss any lingering concerns.

2 A. Well, they didn't say to me directly, "We're
3 not willing to meet with them." I just know
4 that they did not meet with you because it's
5 not signed.

6 Q. Okay. You reviewed the terms of the proposed
7 MOU. And some of those terms deal with
8 construction, traffic control, construction
9 schedules were some of the concerns raised by
10 the Town; is that right?

11 A. (Laleme) Yes.

12 Q. I mean, you would agree that it would be
13 helpful to work out some of those issues with
14 the Project.

15 A. (Laleme) I agree the Town has to serve the
16 best interests of the town -- the board has
17 to serve the best interests of the town. If
18 that involves meeting with the Project, that
19 would be beneficial. If they feel they
20 cannot, you know, if it's not beneficial to
21 the town, then they don't meet with you. So
22 I do know that they were not willing to sign
23 it because it is so vague and lacks specific
24 items that they wanted to see spelled out in

1 a much more concise way. The terms, "when
2 practical" or "reasonable," which are not
3 well defined, were seen as not conducive to
4 the Town's signing that agreement.

5 Q. And not willing to meet with the Project to
6 discuss it.

7 A. (Laleme) I don't know that they said they
8 weren't going to meet --

9 A. (Jensen) Yeah, I don't know. I'm not sure
10 what happened after a certain point. So I
11 don't know that it can be characterized that
12 way.

13 Q. You referenced earlier, and I can't remember,
14 I'm sorry, the name of -- you mentioned some
15 annual events that the town holds, and you're
16 concerned about traffic and traffic
17 management when those events are held; is
18 that right?

19 A. (Laleme) Well, we have a lot of events going
20 on in town, not just annually. Weekly during
21 the summer, that is our busy -- you know, we
22 have a busy time during the summer and we
23 have a busy time during the fall. So, as I
24 said, we have some unique situations. We

1 have the Colonial Theater, which is the
2 longest, continuously running theater. We
3 have the women's entrepreneur organization,
4 which is an organization that helps
5 especially women get started in businesses
6 and whatever. We have a lot of --

7 Q. And my question is -- and I appreciate that,
8 and I realize you have a lot of events.
9 Wouldn't it be helpful to work with the
10 Project and at least discuss some of the
11 concerns related to traffic management and
12 traffic control related to those different
13 events that the town holds?

14 A. (Laleme) I think the town has to have a sense
15 that the Project is willing to work with
16 them.

17 Q. Okay. Let me show you, for instance --

18 MR. WALKER: Dawn, if you could
19 pull up Exhibit 208, please. This is a
20 construction Memorandum of Agreement that the
21 Project has entered into with the Town of
22 Thornton. And this has been an executed and
23 signed Memorandum of Understanding.

24 A. (Laleme) What was the --

1 Q. I'm not going to ask you to read through it
2 all, but I would like to refer to Section
3 2.3, please.

4 MR. WALKER: And, Dawn, if you
5 can blow that up, please.

6 BY MR. WALKER:

7 Q. And I'll represent to you that this is a
8 provision dealing with traffic control, and
9 it references the town's annual Blue Grass
10 Festival and Blues Festival. And I will
11 represent to you that shows up in other areas
12 of this agreement. The Town is working -- or
13 the Project is working with the Town to deal
14 with Thornton's concerns about some of its
15 annual events. And I show that to you, and I
16 would assume something like that would be
17 similarly helpful with the Town of Bethlehem
18 with regard to the vents you've mentioned,
19 Ms. Laleme.

20 A. (Laleme) Well, I think you would have to
21 present it to the Town and let them review
22 it. We consider ourselves a bit unique, so
23 we can't take a template and just fill it in.
24 We really are a bit unique because we sit on

1 a mountain. So, right after your
2 construction area, you go up probably, I
3 don't know --

4 Q. I think you answered my question, Ms. Laleme.
5 I think the issue I was talking about was
6 different towns have different annual events,
7 and there's different concerns associated
8 with those.

9 A. (Laleme) Right. So you would have to speak
10 specifically with the board of selectmen
11 about Bethlehem and not a template for some
12 other town.

13 A. (Jensen) May I add something?

14 Q. Is it different than the answer that Ms.
15 Laleme has given, Ms. Jensen?

16 A. (Jensen) Yes.

17 Q. Okay.

18 A. (Jensen) Anywhere in this Memo of
19 Understanding, does it say anything about
20 promising to keep one lane of traffic open at
21 all times?

22 Q. Honestly, as I'm sitting here, I'm not
23 familiar with this particular one. But I can
24 tell you that different towns have raised

1 different concerns, and there are different
2 provisions with regard to each individual
3 town's concerns. So I can't tell you, and I
4 don't want to spend the time before this
5 committee today going through Thornton's.

6 Let me turn the discussion to wetlands,
7 because -- and the environment. We've talked
8 a little bit about this today.

9 Ms. Jensen, probably I should direct
10 these to you because you've been the one
11 offering testimony, and I understand you're
12 on the conservation commission.

13 A. (Jensen) Yes.

14 Q. Let me be certain here of your background.
15 You are not a wetlands scientist; correct?

16 A. (Jensen) I am not, and I do not play one on
17 television as they say. But we did hire
18 wetlands consultants.

19 Q. Right. And that's the Lawson and Severance
20 report you submitted here?

21 A. (Jensen) Yes.

22 Q. And you're not a biologist?

23 A. (Jensen) I am not.

24 Q. You mentioned you're a freelance writer and

1 you write about automotive issues and such.
2 Do you write about the wetlands issues or
3 environmental issues?

4 A. (Jensen) I do not. But I use the same
5 research skills and interview skills when I
6 delve into a project like this, the same way
7 I do when I'm working on an article for The
8 New York Times on the auto industry.

9 Q. And as far as the information that you have
10 presented with regard to wetlands, you're
11 relying on the report prepared by the
12 consultants, Lawson and Severance; correct?

13 A. (Jensen) I am. Plus reading the Normandeau
14 reports, attending the technical session in
15 Concord when Normandeau's consultants were
16 being questioned.

17 Q. Okay.

18 MR. WALKER: Dawn, if you could
19 pull up the Lawson and Severance report, which
20 is Joint Muni Bates 04395, please.

21 BY MR. WALKER:

22 Q. This is the report you were discussing
23 earlier, right, Ms. Jensen?

24 A. (Jensen) Yes.

1 Q. And the two authors are both wetlands
2 scientists?

3 A. (Jensen) Yes.

4 Q. On Page 2 of the report, and we don't have to
5 go through all of it, but I will represent to
6 you that they describe that their work
7 entailed walking along the right-of-way on
8 one day in November of 2015 in Bethlehem;
9 correct?

10 A. (Jensen) Yes.

11 Q. They also reviewed some of the materials that
12 were submitted by the Applicant at that time?

13 A. (Jensen) Yes.

14 Q. They did not do, though, their own wetlands
15 delineation of the wetlands in Bethlehem;
16 correct?

17 A. (Jensen) They did not.

18 Q. And they've also confirmed the accuracy of
19 the delineation of the wetlands in Bethlehem
20 by the Applicant's consultants; is that
21 right?

22 A. (Jensen) Yeah, I would have to say that I
23 consider that to be a basic competency. I
24 mean --

1 Q. But just my question is --

2 A. (Jensen) -- not a virtue.

3 Q. -- they have confirmed the accuracy of the
4 delineation by the consultants; right?

5 A. (Jensen) Yes.

6 Q. And you have no reason to disagree with the
7 conclusion of Lawson and Severance?

8 A. (Jensen) No. Our problem is that --

9 Q. Ms. Jensen, let me just get to my question.

10 A. (Jensen) Oh, sure. Sorry.

11 Q. I'm not trying to interrupt you, but I want
12 to try to move this along.

13 A. (Jensen) I'm sorry. And I know it's not good
14 for her either.

15 Q. Ms. Jensen, they have not provided any
16 supplement to this 2015, December 2015
17 report; correct?

18 A. (Jensen) Correct.

19 Q. You talked a little bit about the standard
20 that the SEC has to consider when it's
21 considering the impact on the natural
22 environment and water quality and this notion
23 of unreasonable adverse effect. And I heard
24 your opinion that it will have unreasonable

1 adverse effect. Nowhere in this report from
2 the two wetland scientists that you've
3 submitted on behalf of the Town of Bethlehem
4 have they concluded that the Project would
5 have an unreasonable adverse effect on
6 wetlands; correct?

7 A. (Jensen) Correct.

8 Q. Nor on water quality or the environment;
9 correct?

10 A. (Jensen) They have a lot of concerns if you
11 read the report about water quality and the
12 environment.

13 Q. And I'll go through some of their
14 conclusions.

15 A. (Jensen) Yeah.

16 Q. But you've also raised -- the Town of
17 Bethlehem has raised its concerns
18 particularly with regard to Transition
19 Station 5 to the Department of Environmental
20 Services, the DES; right?

21 A. (Jensen) Yes.

22 Q. And you're aware now that the DES, in March
23 of 2017, has approved the wetlands
24 application; correct?

1 A. (Jensen) Yes.

2 Q. Have you had a chance to review the 2015
3 decision by the DES?

4 A. (Jensen) I did a while ago.

5 Q. Okay. Well, we can go through it. But there
6 are sections of that permit approval where
7 the DES addresses particularly the area of
8 Transition Station 5 in Miller Pond. You're
9 aware of that?

10 A. (Jensen) Hmm-hmm.

11 Q. So the DES had the information before it, had
12 the concerns that you raised, and made the
13 decision to approve the permit; correct?

14 A. (Jensen) Yes.

15 Q. And back to the Lawson and Severance report.
16 On Page 13 of this report, they conclude
17 that, if the Project goes forward, there
18 needs to be careful monitoring to ensure Best
19 Management Practices. And I take it you
20 would agree with that conclusion and
21 recommendations; right?

22 A. (Jensen) Yes.

23 Q. And you're aware that the requirements set
24 out in the DES permit approval require

1 monitoring by certified wetlands scientists?

2 A. (Jensen) I am.

3 Q. So this is consistent with what your
4 consultants have recommended; is that right?

5 A. (Jensen) Yes. May I say something about
6 that?

7 Q. Well, you've answered my question, Ms.
8 Jensen, so I'm going to keep moving forward
9 here.

10 A. (Jensen) Sure.

11 Q. In your testimony, your supplemental prefiled
12 testimony, you note, and it's on Page 1 of
13 your supplemental prefiled testimony --

14 MR. WALKER: And Dawn, if you
15 could bring that up, please. It's Joint
16 Muni 97.

17 BY MR. WALKER:

18 Q. I take it you would agree with me that the
19 DES, certainly with its employees dealing
20 with wetlands and other issues with the
21 environment, have more expertise and
22 experience than you do?

23 A. (Jensen) I probably have to agree to that.

24 Q. In your prefiled testimony, on Line 10, you

1 note that the DES is essentially a permitting
2 agency that denies relatively few wetlands
3 permits. The DES is not an agency that lives
4 up to its mission statement.

5 A. (Jensen) Yes.

6 Q. I take it it's your position you think the
7 DES got it wrong with regard to the approval
8 of the wetlands application.

9 A. (Jensen) I do think so, yes.

10 Q. One minute.

11 A. (Jensen) Yeah's.

12 (Pause)

13 Q. Thank you for your time.

14 MR. WALKER: No further
15 questions.

16 CHAIRMAN HONIGBERG: Members of
17 the Committee, who has questions for the panel?
18 Ms. Weathersby.

19 QUESTIONS BY SUBCOMMITTEE MEMBERS AND SEC COUNSEL:

20 BY MS. WEATHERSBY:

21 Q. Good afternoon.

22 A. (Jensen) Good afternoon.

23 A. (Laleme) Good afternoon.

24 Q. I'm Patricia Weathersby. I'm a public member

1 on the Committee.

2 A couple questions about the proposed
3 hotel development. Do you happen to know if
4 the site plans submitted for the November
5 planning board meeting showed the transition
6 station on Lot 27, the hotel property?

7 A. (Jensen) It shows it on 26.

8 Q. Okay.

9 A. (Laleme) Yes.

10 A. (Jensen) But they were the plans for the
11 hotel, not the transition station.

12 A. (Laleme) What they submitted was, it looked
13 like a hand-drawn map that shows where the
14 hotel will be, where the septic system will
15 be. It's not like a mylar type of drawing.
16 It's just a two-page, hand-drawn. And that
17 shows the station still on 26.

18 Q. Okay. You stated in your prefiled testimony
19 that the developer indicated that they
20 wouldn't build the hotel if the transition
21 station was built --

22 A. (Jensen) Yes.

23 Q. -- on Lot 26. And I know you base that in
24 part on Mr. Eckman's representation at that,

1 I think it was the February meeting of the
2 zoning board.

3 A. (Jensen) Yes.

4 Q. But do you know if that is still the case?
5 Do you have any -- sounds like from your
6 conversation perhaps with Counsel for the
7 Applicant, you're not certain if that's still
8 the case; is that correct?

9 A. (Jensen) You mean that he wouldn't build the
10 hotel if the towers were there?

11 Q. Yes.

12 A. (Jensen) I don't know. But common sense
13 tells me he wouldn't have changed his mind.

14 A. (Laleme) I think I addressed that when I say
15 that we won't know about the move on the
16 transfer station until we have the site plan
17 hearing on the 15th because nobody's talked
18 to Mr. Rudich at this point.

19 Q. And so, also the same answer. Mr. Rudich, in
20 the past, has submitted a letter in support
21 of this project. But you don't know -- do
22 you know whether he's still supportive of the
23 Northern Pass Project?

24 A. (Jensen) Do not know.

1 Q. Okay. In your prefiled testimony, and I
2 can't remember which one of you, but one of
3 you indicated there was a Bethlehem Economic
4 Committee established in connection with UNH?

5 A. (Laleme) Yes.

6 Q. Can you tell me what that is, what its scope
7 is?

8 A. (Laleme) The scope was how to guide Bethlehem
9 how to keep businesses in town and how to
10 attract more businesses to town and the types
11 of businesses that Bethlehem wanted to see --
12 small shop, restaurants, those type of shops.
13 They're still meeting. There was a lull in
14 which they didn't meet because of the
15 transition of the board and restarting up the
16 meetings. But they are continuing to meet.
17 And I believe that their plan was, hopefully
18 by next spring, putting out like a survey to
19 businesses or talking to businesses to get
20 their input and then trying to develop a plan
21 on how best to, you know, advertise with what
22 few dollars we have or how to promote
23 Bethlehem in itself. We no longer have a
24 chamber of commerce. So we're also looking

1 at joining one of the adjoining towns,
2 whether it be Franconia, although they may
3 have their own problems, or Littleton, which
4 is larger; they're about twice our size. So
5 those are the efforts we're taking to try to
6 get some economic development. But every
7 town in the north is doing the same thing.
8 So it depends on what you have to offer, and
9 that's why maintaining "as is" the
10 environment is so important.

11 Q. Earlier the morning you mentioned something
12 about a methane gas conversion station. Can
13 you tell me what that is and whether it has
14 any bearing on this project, just briefly?

15 A. (Laleme) It doesn't have bearing directly on
16 the Project. It's through the North Country
17 Environmental Services, which is the name of
18 the landfill that's on the east side of town.
19 That's the one that will be closing within
20 the next three to four years, maybe five, who
21 knows. But they have been using methane gas.
22 They built greenhouses, and they heat their
23 garage with it. And now they're proposing a
24 multimillion-dollar conversion plant which

1 would be located in the same area, which is
2 outside of town, and it would be a small
3 structure. They would convert methane gas
4 into usable gas. So it would be a commercial
5 product. The initial estimate is
6 \$12 million. It would be worth \$12 million.
7 So Bethlehem is very interested in clean,
8 renewable energy. And I know you're going to
9 say this project is renewable energy, but
10 only as long as Hydro-Quebec can keep
11 flooding lands. So, basically we're looking
12 for, like, the gas conversion. It doesn't
13 affect this project, except that it makes
14 those tax dollars even more irrelevant.

15 Q. There was testimony concerning a Christmas
16 tree farm that may go out of business as a
17 result of the Northern Pass Transmission
18 Project.

19 A. (Laleme) No, I don't think it would go out of
20 business. But that's the Rocks Estate, and
21 they do -- they're a non-profit. It's for
22 the Society of the Protection of New
23 Hampshire Forests. And they have a lot of
24 conservation land. That was an estate built

1 by a business executive years and years ago
2 when Bethlehem was the grand hotel town of
3 the north. And they have plots of land
4 everywhere. People let them -- either give
5 them a conservation easement or they purchase
6 land or whatever. And one section runs along
7 the side of 93. You can see that on one of
8 the plans. I just mentioned that. I don't
9 believe that will be damaged. But that's an
10 important aesthetic and environmental
11 business that's very important to the North
12 Country. The Rocks Estate is held in high
13 esteem. And I think on your first visit to
14 the North Country the bus came to the Rocks
15 Estate. Nobody got off, but you came to the
16 driveway. Yes, Pam got off and said,
17 "They're not getting off," because I was
18 there and she was saying it to me, "They're
19 not getting off." But that's just another
20 aspect of Bethlehem wanting to preserve those
21 types of industries.

22 Q. My last question concerns Baker Pond.

23 A. (Jensen) May I just -- I think you might have
24 been referring to our consultants, what our

1 consultant said on the final page of the
2 assessment about their talking to somebody
3 who had a business, a Christmas tree --

4 Q. Christmas trees were growing in the
5 right-of-way.

6 A. (Jensen) Yeah. And he was concerned about
7 his business with the construction of
8 Northern Pass. That's all I know.

9 Q. You don't have any further details on that.

10 A. (Jensen)) That's all I have.

11 Q. My last question concerns Baker Pond. You
12 had indicated there were some efforts
13 underway to develop uses of Baker Pond,
14 perhaps bring some things back. Could you
15 tell me what has been done to date?

16 A. (Laleme) Well, Baker Pond kind of belongs to
17 Baker Brook, which was -- in the past it was
18 cabins on both sides of the road. This
19 development is primarily for the section
20 across the road from the pond, adjacent to
21 where the transfer station will go. The pond
22 needs a lot of work. It's a public waterway
23 because it's large enough to qualify for
24 that, so people fish in there. They used to

1 paddle boat in there. There's a lot of
2 invasive stuff in there now which we hope
3 to -- we would like to see cleaned up. As
4 part of the initial discussions with Baker
5 Brook, there was hope that when they -- after
6 they built the hotel, they would go across
7 the road, put the cabins back up and
8 revitalize that pond. But people still fish
9 in there. The public stops there. It is a
10 public waterway, so --

11 A. (Jensen) But I'm glad you did bring that up
12 because that's supposedly a second phase of
13 this development after the hotel.

14 Q. So that was my next question. That sounds
15 like those efforts are dependent on the hotel
16 being constructed across the way.

17 A. (Jensen) It is, yeah.

18 MS. WEATHERSBY: Thank you. I
19 have nothing further.

20 CHAIRMAN HONIGBERG: Mr. Wright.

21 QUESTIONS BY DIR. WRIGHT:

22 Q. Good afternoon.

23 A. (Jensen) Hi.

24 Q. Craig Wright, with the Department of

1 Environmental Services. Just for the record,
2 Pam would not let us get off the bus. We all
3 wanted to get off the bus.

4 A. (Jensen) Oh, so she was kind of instrumental
5 in that, huh. Was she afraid of what we
6 might do?

7 Q. Yeah. She was afraid of us, I think. Sorry
8 about that.

9 Ms. Jensen, I just wanted to follow up
10 on the DES ARM Fund. You seem to have a
11 negative opinion of the ARM Fund. And I
12 think your opinion is grounded in the fact
13 that you feel like the mitigation that could
14 be funded through the ARM Fund is not
15 necessarily back in the community where the
16 impact occurs. Is that a fair assessment?

17 A. (Jensen) Yes. And we've had several examples
18 of that throughout the years that I've been
19 on the conservation commission in Bethlehem.

20 Q. I thought that was your fundamental concern.

21 A. (Jensen) Yes.

22 Q. Has the town ever tried to take advantage of
23 the ARM Fund and put in for funding through
24 the ARM Fund? And irrespective of this

1 project --

2 A. (Jensen) You know --

3 Q. -- is that something you would consider in
4 the future?

5 A. (Jensen) Yes, if we have something to
6 mitigate. We're trying to keep from having
7 anything to mitigate. We're trying for
8 avoidance.

9 Q. Fair enough. Thank you.

10 A. (Jensen) Oh, and would you like to know why I
11 think DES got it wrong?

12 Q. I think when we -- I believe when Mr. Walker
13 was questioning you, you wanted to add
14 something to one of the questions he asked.
15 And is there something you would like to add
16 to that response --

17 A. (Jensen) Yeah.

18 Q. -- in summary?

19 A. (Jensen) Yeah, I'll try. I have been known
20 to go on, but I'll try. But I go on more in
21 writing than verbally.

22 We think that this Application was not
23 complete when it came to DES. And that is
24 one of our objections. You don't know where

1 all the staging areas are. You don't know
2 where all the laydown areas are. And I don't
3 think it's wrong -- I think it's wrong to say
4 we're going to approve the Application and
5 then we're going to deal with all these
6 things on a case-by-case basis. You approve
7 the Application when you don't know what the
8 total impact is going to be, it's like if I
9 submitted a wetlands application to DES, and
10 in my application I said I'd like to build a
11 house and a driveway on this piece of land,
12 and there are all these wetlands in here, but
13 I don't know where I want to build it yet.
14 Just give me a permit, and I'll tell you
15 later where I want to build it. And that's
16 kind of the best analogy I can come up with.
17 I don't think this plan was complete. It
18 shouldn't have been deemed complete, and it
19 shouldn't have been approved.

20 A. (Laleme) Plus, you have an approval with 77
21 conditions.

22 A. (Jensen) Yes. Thank you.

23 A. (Laleme) I mean, if you have to have 77
24 conditions on an approval, then it's not

1 complete is my opinion.

2 Q. Okay. Thank you.

3 CHAIRMAN HONIGBERG: Mr.
4 Iacopino.

5 MR. IACOPINO: Yes, I just have
6 one question.

7 QUESTIONS BY MR. IACOPINO:

8 Q. You mentioned a number of different projects
9 slated for your town, including the hotel,
10 the construction of the methane gas facility.
11 And I assume there are other construction
12 projects on tap in town. If the Committee
13 were to grant the certificate in this case,
14 would you want them to include a condition
15 requiring the Applicant to coordinate its
16 construction, especially the underground
17 portion, with those other projects?

18 A. (Laleme) Our druthers is do not grant the
19 permit.

20 Q. That wasn't the question.

21 A. (Laleme) Yeah. Well, the question is -- I
22 can't give you -- I can't accept any
23 conditions on behalf of the Town because we
24 don't know what they'd be. They change. And

1 so I guess I would just say no.

2 Q. Ms. Jensen, do you have the same answer?

3 A. (Jensen) I believe so.

4 Q. Thank you.

5 CHAIRMAN HONIGBERG: I think
6 that's all for questions that we have for you.
7 But I do have a request. Maybe if you could
8 coordinate with Mr. Whitley, who I know is not
9 representing the Town, but I think we'd be
10 interested in minutes of the upcoming meeting
11 of the planning board, the November -- the
12 zoning board. Whichever board is meeting that
13 you referenced earlier --

14 WITNESS JENSEN: Planning.

15 CHAIRMAN HONIGBERG: -- on
16 November 15, I think you said.

17 WITNESS JENSEN: Minutes are
18 often minimal.

19 CHAIRMAN HONIGBERG: I'm aware
20 of that.

21 WITNESS JENSEN: Would you want
22 more than that if we could arrange that?

23 CHAIRMAN HONIGBERG: No. I'm
24 not -- we're not looking to create things that

1 don't exist or aren't generated in the normal
2 course. But presumably the minutes will
3 reflect whatever decisions are made on whatever
4 items come before the board. That may spur
5 another round of discussions. But it sounds
6 like an open issue. You discussed it quite a
7 bit in your testimony. There were questions
8 about it, so we'd like to get copies of it.

9 Mr. Whitley?

10 MR. WHITLEY: I was going to
11 suggest, Mr. Chair, that if the hotel owner
12 submits anything to the Town for that meeting,
13 that might be helpful in clarifying the hotel
14 owner's plans and position that may not
15 necessarily be reflected in the minutes. So
16 that may help get the board to what they want
17 to know.

18 CHAIRMAN HONIGBERG: I agree,
19 Mr. Whitley. So I guess -- I know this isn't
20 your client, Mr. Whitley, but they are part of
21 your group generically. So if you can
22 quarterback that, I think that would be
23 helpful.

24 MR. WHITLEY: Certainly.

1 WITNESS JENSEN: Do you want the
2 site plan application?

3 CHAIRMAN HONIGBERG: I'm going
4 to let Mr. Whitley and you coordinate what
5 information would be appropriate to submit as
6 further information.

7 Mr. Whitley, do you want to
8 work through redirect with them, asking a
9 generic question, or do you want one of us to
10 do it?

11 MR. WHITLEY: I have some that I
12 was going to follow up with.

13 CHAIRMAN HONIGBERG: No, go
14 ahead.

15 MR. WHITLEY: If I could have
16 five minutes just to touch base with them, just
17 due to my unfamiliarity with what their
18 positions may be, that might help make it go a
19 little more efficiently.

20 CHAIRMAN HONIGBERG: Sure. That
21 might not have been the best way to ask, but
22 sure.

23 MR. WHITLEY: Thank you.

24 (Recess was taken at 2:57 p.m.)

1 and the hearing resumed at 3:10 p.m.)

2 CHAIRMAN HONIGBERG: Mr.

3 Whitley.

4 MR. WHITLEY: Thank you, Mr.

5 Chair.

6 REDIRECT EXAMINATION

7 BY MR. WHITLEY:

8 Q. Good afternoon, ladies. I just wanted to ask
9 you a little redirect based on the
10 questioning you got today. I want to start
11 with you were shown something by Attorney
12 Walker that had the communications with the
13 Town of Bethlehem all charted out. Do you
14 remember that?

15 A. (Jensen) Yes.

16 A. (Laleme) Yes.

17 Q. And the last entry was from July 24, 2017,
18 and it was described as a communication from
19 the Town attorney. Do you recall that?

20 A. (Jensen) Yes.

21 Q. Isn't it true, and am I remembering
22 correctly, that Bethlehem is no longer
23 represented by counsel?

24 A. (Jensen) Yes, as I said in the beginning.

1 Q. And do you recall when Bethlehem severed ties
2 with counsel?

3 A. (Jensen) I believe it was early July, 10th,
4 11th.

5 Q. Okay.

6 MR. WHITLEY: Can someone put on
7 the ELMO for me?

8 A. (Jensen) I'm sorry. There are just so many
9 numbers to remember.

10 BY MR. WHITLEY:

11 Q. I put on the screen there an e-mail from the
12 Town's former counsel. Do you see the date
13 on the right-hand corner there?

14 A. (Jensen) Yes.

15 A. (Laleme) Yes.

16 A. (Jensen) July 11th.

17 Q. So you see in this e-mail she's indicating to
18 the Project that she no longer represents the
19 Project [sic]; correct?

20 A. (Jensen) Yes.

21 Q. Is it fair to say that the July 24th
22 communication that was referenced by the
23 Applicant, that that did not come from your
24 Town counsel?

1 A. (Jensen) That would have to be true. It
2 would have to be correct.

3 Q. Okay. Now I want to talk to you a little bit
4 about the MOU that was put up. And now this
5 is --

6 MR. WHITLEY: Can somebody
7 hard-wire me now? Sorry. We're waiting for
8 something to come up on the screen right now.

9 BY MR. WHITLEY:

10 Q. But while we wait, I believe it was you, Ms.
11 Laleme, were asked -- or started to provide
12 an answer about the Town of Bethlehem and
13 unique traffic issues in town. Do you recall
14 that exchange with Attorney Walker?

15 A. (Laleme) Yes.

16 Q. What unique traffic issues did you want to --

17 A. (Laleme) Well, basically the lane closure and
18 the traffic control that you need down
19 through the area where the construction will
20 take place is just part of coming into our
21 town. You then have to go down a small hill,
22 around a corner and up a very steep hill.
23 So, especially with large trucks, we have a
24 real issue with, I don't think you're

1 supposed to say Jake Brakes anymore because
2 it's a brand name, or air brakes. That's a
3 real issue in our town because you hear them
4 all the time. Traffic is going to get slowed
5 again. And I should have thought of this
6 earlier. But you stop those trucks because
7 it's one lane, or you slow them down, they're
8 going to slow everybody behind them trying to
9 get up enough speed to get up the hill. It's
10 a very steep incline. I can't tell you the
11 degrees because geometry is not my best suit.
12 So that's another issue that we're going to
13 have. So you're going to have slow traffic.

14 The other thing they're not taking into
15 account I wanted to add is weather and
16 equipment breakdowns. So this is a
17 bottleneck that's going to create a huge
18 problem. And if we don't have a traffic
19 control plan that is specific to Bethlehem,
20 with a pond on one side, trucks turning into
21 a right-of-way on the other, construction of
22 a hotel, a short way where you go down a
23 hill, around a corner and then up a steep
24 grade, and it is a primary trucking route,

1 then I think we're going to have major issues
2 in that area.

3 Q. And was your earlier response intending to
4 show that what might work for Thornton in
5 terms of an MOU --

6 A. (Laleme) Right.

7 Q. -- may not necessarily work for the Town of
8 Bethlehem?

9 A. (Laleme) Right. You know, you drive through
10 Thornton, as far as I know, I've only been
11 through, you know, Thornton when I have to
12 go -- but we have a -- it's an extremely
13 steep grade, and that makes it unique coming
14 into our town. We do sit on that mountain.
15 And the trucks make it even more unique
16 because 302 is a trucker's route, and it's a
17 primary. So, to get in and out of Bethlehem
18 you have to either go up or down a hill.
19 They are no flat exits or entrances.

20 Q. Okay. Thank you.

21 I have on the screen there -- is that on
22 the screen before you?

23 A. (Laleme) Yes.

24 Q. This is Applicant's 208. You were shown this

1 earlier. This is the MOU that was executed
2 with the Town of Thornton.

3 A. (Laleme) Correct.

4 Q. And I forgot which one of you, but one of you
5 testified that one of the reasons that the
6 Town declined to enter into an MOU was
7 because of concerns of vagueness and kind of
8 non-committal in the MOU language. Do I have
9 that -- am I remembering that correctly?

10 A. (Lalame) You do. That was me. Much of the
11 terminology is such as "reasonably."
12 Reasonably to who? To the Applicant or to
13 the Town?

14 Q. Well, I didn't mean to cut you off. What I
15 wanted to ask you was in this Section 2.3,
16 you see the second line says, "Northern Pass
17 shall coordinate to reasonably minimize the
18 impact." And I didn't know if you had an
19 understanding of what it means to "reasonably
20 minimize the impact."

21 A. (Laleme) No. I think it would have to be
22 more defined. The other terms that were used
23 were "practical."

24 Q. And as a follow-up to that, do you -- can you

1 tell from the way this is written who gets to
2 decide whether it's been reasonably minimized
3 or not?

4 A. (Laleme) No.

5 Q. And similarly, a little later, let's see, the
6 fourth line down, the sentence starts out,
7 "To the extent practicable, Northern Pass
8 will work collaboratively..." Do you have an
9 understanding of what it means, "to the
10 extent practicable" there?

11 A. (Laleme) No.

12 Q. And do you have any sense of who gets to
13 decide what's practicable or not?

14 A. (Laleme) No.

15 Q. And the examples that we've just gone
16 through, is that consistent with your
17 concerns for some of the other language in
18 the MOU that you saw?

19 A. (Laleme) Yes.

20 Q. Ms. Jensen, you had an exchange with
21 Mr. Walker, and you were -- I believe you
22 were trying to mention the connectivity of
23 wetlands, but you weren't able to finish that
24 question. Is there something you want to add

1 about the connectivity of wetlands?
2 A. (Jensen) Yes. It came up because he said
3 that our consultants said Normandeau did a
4 good job of delineating the wetlands, and I
5 was saying that that wasn't our point. Our
6 concern is that Normandeau did not look at
7 the bigger picture, did not look at the
8 wetlands outside of that right-of-way. And I
9 am not an expert, but I know something about
10 water and how it works. And water moves.
11 And an impact in the right-of-way is going to
12 be felt outside of the right-of-way. And the
13 concern was that Normandeau was denying that
14 when I went to the technical sessions in
15 Concord. There was an exchange between Lee
16 Carbonneau and Counsel for the Public. And
17 she said since wetlands are stationary and
18 the impacts would be confined to the
19 right-of-way, that was an appropriate
20 assessment. Well, wetlands aren't
21 stationary. Granted, they don't move miles
22 down the road. But these are connected to
23 other wetlands by streams, et cetera, et
24 cetera. And I asked Elise Lawson about this

1 because I was actually appalled at the
2 statement. And she said she disagreed with
3 the statement for the five wetlands that were
4 identified in town. They involve perennial
5 streams and are extensive wetlands that
6 eventually flow or directly include the
7 Ammonoosuc River. I take issue saying
8 "wetlands are stationary." True, the
9 delineation of a wetland may not change for a
10 few to several years, but water flows
11 through. The presence of beaver ponds and
12 several perennial streams show that. So that
13 was our issue.

14 Q. Thank you.

15 And the last question I have is also for
16 you, Ms. Jensen. You were asked about your
17 opinion that there would be an unreasonable
18 adverse effect to natural resources, and I
19 don't think you got to finish your answer
20 about why you thought that. So is there
21 something you'd like to add?

22 A. (Jensen) I'm not the only one. I mean, I
23 talked about the fact that I research things
24 and come up with my opinions. And in

1 everything I read from Counsel for the
2 Public's experts, they also think there's
3 going to be an unreasonable, undue effect.

4 Q. Thank you. Thank you, both.

5 A. (Laleme) Thank you.

6 CHAIRMAN HONIGBERG: All right.
7 Thank you, ladies, for coming.

8 WITNESS JENSEN: Thank you very
9 much for listening.

10 CHAIRMAN HONIGBERG: Next up is
11 the group from Pembroke.

12 (WHEREUPON, STEPHANIE VERDILE, AMMY
13 HEISER, DAVID JODOIN were duly sworn
14 and cautioned by the Court Reporter.)

15 CHAIRMAN HONIGBERG: Mr.
16 Whitley.

17 MR. WHITLEY: Thank you Mr.
18 Chair.

19 DIRECT EXAMINATION

20 BY MR. WHITLEY:

21 Q. Good afternoon, everyone. I'm first going to
22 make sure that there are no changes in your
23 testimony and have you adopt them and swear
24 to them before the Committee. So I'm going

1 to start on the left, Ms. Verdile, with you
2 and work my way across the panel there.

3 So, Ms. Verdile, do you have with you
4 your November 2016 direct testimony, as well
5 as your April 2017 supplemental testimony and
6 your exhibits to those testimonies?

7 A. (Verdile) Yes, I do.

8 Q. And do you have your November 2016 direct
9 testimony as Joint Muni 146?

10 A. (Verdile) Yes.

11 Q. Can you speak into the microphone?

12 A. (Verdile) Oh, yes.

13 Q. And do you have your April 2017 supplemental
14 testimony as Joint Muni 147?

15 A. (Verdile) Yes.

16 Q. And are the exhibits to that testimony Joint
17 Muni 148?

18 A. (Verdile) Yes.

19 Q. Okay. Do you have any changes that you'd
20 like to make to either of those testimonies?

21 A. (Verdile) In the April testimony, I believe
22 it was the last question that I answered,
23 Page 19 of 20, Line No. 10.

24 Q. Go ahead.

1 A. (Verdile) The question was: Has the D as in
2 David, P as in Paul, B as in board, or DCC
3 ever denied a permit? That's not for the
4 Town of Pembroke.

5 Q. And would you like to change that so that it
6 reflects the Town of Pembroke?

7 A. (Verdile) Please. That would P as in Paul,
8 and the P as in Paul for the PCC --

9 (Court Reporter interrupts.)

10 Q. So you're replacing DPB with PPB and then DCC
11 with PCC.

12 A. (Verdile) Yes.

13 Q. Any other changes to either of your
14 testimonies?

15 A. (Verdile) No.

16 Q. With those changes, do you adopt and swear to
17 your testimonies?

18 A. (Verdile) Yes, I do.

19 Q. Okay. Ms. Heiser. Before you is your
20 November 2016 direct testimony, which is
21 labeled Joint Muni 149.

22 A. (Heiser) Yes.

23 Q. And can you pull the microphone closer to you
24 or sit closer?

1 A. (Heiser) Yes.

2 Q. Do you also have before you your April 2017
3 supplemental testimony marked as Joint Muni
4 150?

5 A. (Heiser) Yes.

6 Q. And the exhibits to that testimony are marked
7 as Joint Muni 151?

8 A. (Heiser) Yes.

9 Q. Okay. Do you have any changes to either of
10 those testimonies that you'd like to make?

11 A. (Heiser) On the November 15th testimony, I
12 wanted to add on Page 2: Are there concerns
13 that the Conservation Commission for the Town
14 of Pembroke has about the impacts of Northern
15 Pass? My answer said, "...impacts to natural
16 resources, historic," and I had omitted
17 "cultural." So I would like to put
18 "cultural" in front of "sites."

19 Q. And that's on Line 8 of Page 2?

20 A. (Heiser) Yes.

21 Q. Okay.

22 A. (Heiser) Otherwise, everything else...

23 Q. Any other changes?

24 A. (Heiser) No other changes.

1 Q. Okay. With those changes, do you swear to
2 and adopt your testimonies before the SEC
3 today?

4 A. (Heiser) I do.

5 Q. Okay. Mr. Jodoin, do you have before you the
6 November 2016 direct testimony of Justine
7 Courtemanche, labeled as Joint Muni 143?

8 A. (Jodoin) I do.

9 Q. Do you have the letter of substitution which
10 substituted yourself for Ms. Courtemanche
11 labeled as MUNI 144?

12 A. (Jodoin) I do.

13 Q. And do you have your April 2017 supplemental
14 testimony which is labeled as JT MUNI 145?

15 A. (Jodoin) I do.

16 Q. And do you have any changes to any of those
17 testimonies?

18 A. (Jodoin) Yes, I do. On 145 --

19 Q. So that's your April 2017?

20 A. April 2017, 145, it says Line No. 2, where it
21 talks about as Exhibits 1 through 4.

22 Q. Mr. Jodoin, could you give us a page number,
23 too?

24 A. (Jodoin) Sure. Page 4 of 6, Lines 2, 6, and

1 18, it talks about exhibits "as Exhibits 1
2 through 4." It should just stop at the word
3 "properties" on Line 2, 6 and 18.

4 Q. And are you replacing those words with
5 anything?

6 A. (Jodoin) No.

7 Q. No reference to the attachments at the end of
8 your testimony?

9 A. (Jodoin) To the assessment cards that are in
10 the packet, yes.

11 Q. Okay. So you're replacing that
12 strike-through with "See assessment cards"?

13 A. (Jodoin) Correct.

14 Q. Thank you. In all the places that you just
15 mentioned there; correct?

16 A. (Jodoin) Correct.

17 Q. Any other changes?

18 A. (Jodoin) None.

19 Q. With those changes, do you swear to and adopt
20 your testimonies, including the November 2016
21 testimony that was first offered by Ms.
22 Courtemanche?

23 A. (Jodoin) I do.

24 Q. Okay. I'm sorry if I didn't pronounce her

1 name correctly.

2 I want to ask you all some questions on
3 a couple of topics. And I'm going to start
4 out with the testimony that was given
5 previously in this proceeding by Mr. Varney.
6 Are you all generally aware of Mr. Varney's
7 opinion regarding the Project's consistency
8 with Pembroke's master plan?

9 A. (Verdile) Yes.

10 A. (Heiser) Yes.

11 A. (Jodoin) Yes.

12 Q. During his testimony before the SEC, he
13 provided some additional explanation for that
14 opinion, and I want to pull up a page of the
15 transcript here for you to look at.

16 What I put on the screen here is Day 37
17 in the morning, Pages 51 through 52. And you
18 see the highlighting there? It starts at
19 Line 14 and goes on to the next page to
20 Line 5. Is that up on your screens there?

21 A. (Verdile) Yes.

22 A. (Jodoin) Yes.

23 Q. So I'm paraphrasing his further explanation.
24 But he says that the Project is consistent

1 with the master plan because Pembroke's
2 master plan didn't specifically address
3 transmission lines, and the master plan is a
4 planning document, so it's not to be applied
5 to a specific project. Do you see that
6 explanation there?

7 A. (Jodoin) Yes.

8 A. (Heiser) Hmm-hmm.

9 A. (Verdile) Yes.

10 Q. Do you agree with Mr. Varney's explanation
11 for why the Project is consistent with
12 Pembroke's master plan?

13 A. (Verdile) No.

14 Q. And why not?

15 A. (Verdile) Because master plans are not the
16 document that would be in charge of
17 regulating transmission lines. The master
18 plan has two purposes. The master plan for
19 communities gathers general information from
20 the community, and from that comes the
21 regulations. So, to say that the master plan
22 doesn't specifically regulate transmission
23 lines is kind of a loose cannon because it
24 does. And when you're in the planning field

1 and the planning world, you understand that
2 the master plan is at the top of the food
3 chain. That is what the community wants.
4 That's where they want growth. That's where
5 they want development. And then the planning
6 board's job and the zoning board's job and
7 the rest of the boards of the town are
8 required to develop the regulations that
9 meets what the town wanted. It's a loaded
10 statement that is not really accurate.

11 Q. And do I take it from your answer that when
12 interpreting the master plan, that you
13 understand that even that general language
14 does apply to a project that's not specified
15 in the master plan?

16 A. (Verdile) Yes. We can't account for every
17 use that would be in the commercial world.
18 We don't necessarily allow nuclear power
19 plants. We don't list them in our table of
20 permitted uses. You can't account for every
21 use, every business use, every business
22 that's out there. So it is, again, in my
23 professional planning opinion, a little
24 inappropriate to make that kind of statement

1 when that's not the purpose of the master
2 plan to regulate uses.

3 Q. Okay. And Ms. Heiser, I don't know if you
4 have anything that you'd like to add to the
5 answer that Ms. Verdile just gave.

6 A. (Heiser) Only to say that I'm the chairman of
7 the conservation commission, so my major
8 concern is protecting the natural resources
9 in our town and also to -- we look, as a
10 conservation commission, we look to our
11 master plan for guidance. And our town has
12 prided itself on being a rural community.
13 And I've been to several meetings that show
14 that having these large towers in the town
15 would certainly be a deterrent to having a
16 rural community.

17 Q. And I posed this question to Ms. Verdile, but
18 I'll pose it to you, just to make sure that
19 you agree. When you interpret the master
20 plan, do you understand that the goals and
21 objectives in the plan can only be applied to
22 a specifically mentioned project in the
23 master plan?

24 A. (Heiser) No. I think we all have to use our

1 best judgment and try to keep the spirit of
2 that master plan when looking at individual
3 projects.

4 Q. Okay. Ms. Verdile, are you aware that as
5 part of Mr. Varney's documentation of his
6 opinion, he prepared a summary of Pembroke's
7 master plan?

8 A. (Verdile) Yes.

9 Q. And have you reviewed that summary?

10 A. (Verdile) Yes, I have.

11 Q. Okay. I'm going to put it up on the screen
12 here so we can take a look here.

13 Okay. Here it is on the screen. And
14 I'm showing you Applicant's 122, and this is
15 Page A-123 of that document. And if we go to
16 the top, this is the portion that pertains to
17 the Town of Pembroke. Do you see that, Ms.
18 Verdile?

19 A. (Verdile) Yes, I do.

20 Q. And in your review of Mr. Varney's summation
21 of the town's master plan, do you believe
22 that it accurately reflects the town master
23 plan goals and objectives?

24 MR. NEEDLEMAN: Objection. I

1 believe this document was available before the
2 April 17 testimony.

3 CHAIRMAN HONIGBERG: Mr.
4 Whitley.

5 MR. WHITLEY: I don't believe it
6 was available prior to April 17th. I believe
7 it was submitted along with his other materials
8 on April 17th, or thereafter. If you look at
9 the ShareFile site, it wasn't uploaded until
10 April 23rd.

11 CHAIRMAN HONIGBERG: Overruled.

12 BY MR. WHITLEY:

13 Q. Do you remember my question?

14 A. (Verdile) Please repeat it.

15 Q. Okay. I was asking you, when you reviewed
16 Mr. Varney's summary, do you believe it
17 accurately reflects the master plan's goals
18 and objectives?

19 A. (Verdile) No, I do not.

20 Q. And why not?

21 A. (Verdile) My first inclination that it does
22 not is if you look at the middle of the page
23 where it says "Each master plan chapter
24 includes goals and objectives summarized

1 below," his first one is just "History." He
2 neglected to name that chapter, "Historic and
3 Cultural Resources." That is a huge part of
4 what makes the Town of Pembroke the Town of
5 Pembroke. They are very proud of their
6 historic and cultural resources.

7 Q. And other -- I'm sorry. I didn't mean to cut
8 you off.

9 A. (Verdile) No, that's okay. And I just wanted
10 to make it very clear that that is not a
11 typo. That, in my opinion, is left out for a
12 reason.

13 Q. And other than not accurately stating the
14 title of a chapter, when you looked at the
15 objectives under that "History" heading, did
16 you notice any omissions?

17 A. (Verdile) There were many omissions which I
18 have referenced in my previous testimonies of
19 what exactly the goals and objectives are of
20 the natural resource -- I'm sorry, excuse
21 me -- the Historic and Cultural Resource
22 chapter.

23 Q. And do you have a particular exhibit or page
24 in mind that accurately reflects the goals

1 and objectives of this chapter?

2 A. (Verdile) Yes, I do. I mentioned it in my
3 testimonies and --

4 Q. Can you tell us what it is for the record?
5 Do you have that in front of you?

6 A. (Verdile) Yes. It's Chapter 3, Historic and
7 Cultural Resources of the 2004 Pembroke
8 master plan.

9 Q. And do you have a Bates page number for that
10 page by chance?

11 (Witness reviews document.)

12 A. (Verdile) I believe it was submitted with my
13 April testimony, but I am going through the
14 reams of paperwork.

15 Q. Let me see if I can pull it up and you can
16 confirm the page in question.

17 A. (Verdile) Please. Yeah, thank you.

18 CHAIRMAN HONIGBERG: Off the
19 record.

20 (Discussion off the record).

21 MR. WHITLEY: Dawn, can you turn
22 over to the Counsel for the Public's monitor
23 real quick?

24 BY MR. WHITLEY:

1 Q. Ms. Verdile, do you see that page on your
2 screen?

3 A. (Verdile) Yes, and I just found it as well.

4 Q. Is this the page you were looking for
5 earlier?

6 A. (Verdile) Yes, sir.

7 Q. In reviewing the summary that Mr. Varney
8 prepared, I believe you just testified that
9 there were some omissions; correct?

10 A. (Verdile) Omissions with the objectives of
11 the chapter. Correct.

12 Q. In looking at this page on the screen here,
13 which is Joint Muni 6410, which ones there
14 did not make it into Mr. Varney's summary?

15 A. (Verdile) All of them. And in particular,
16 halfway down the page, to develop measures
17 for retaining the visual quality and
18 character of the landscape of Pembroke. The
19 next three bulleted items is where I
20 reference a lot throughout my April 17th
21 testimony based on these recommendations and
22 objectives of the chapter of the master plan.
23 Preserve existing Range Roads as Class VI
24 roads or as Class B trails, or upgrade only

1 if necessary while preserving the historic
2 integrity of the roadway. Identify and
3 designate scenic roads within the community
4 to protect shade trees and stone walls and
5 other cultural landscape features. Protect
6 and preserve stone walls along Range Roads
7 and encourage landowners to consider
8 retaining or rebuilding stone walls during
9 alteration or development. Those are the
10 ones that jumped at me as being missing.

11 Q. Okay. And just to make sure we have it clear
12 for the record, that's what you noticed on
13 this page. Were there any others on the
14 following page, or were they only on this
15 page?

16 A. (Verdile) Yes, there's several more on
17 Page 6411.

18 Q. And we have that on the screen in front of
19 you there.

20 A. (Verdile) Correct.

21 Q. So, which ones of these did you not see in
22 Mr. Varney's section?

23 A. (Verdile) Oh, they were -- all of them were
24 not in Mr. Varney's report, from what I could

1 see.

2 Q. I want to turn the board to the panel's
3 attention now to what I'm going to put up.

4 MR. WHITLEY: Dawn, can you put
5 me back on my computer, please?

6 BY MR. WHITLEY

7 Q. Actually, before we go on, Ms. Verdile, I
8 neglected to ask you. So those goals and
9 objectives that were missing, do they relate
10 to your concerns about how the Project will
11 impact the town?

12 A. (Verdile) Yes. As I said, I referenced them
13 several times in my April 17th testimony, as
14 well as in my November 16th letter as how
15 important those resources are to the town.

16 Q. Okay. And I don't want you to rehash all
17 that testimony because everyone has it. But
18 just very quickly, can you just give the
19 Committee a sense of what those concerns
20 were?

21 MR. NEEDLEMAN: Objection. This
22 is just reiteration of testimony.

23 MR. WHITLEY: Okay. I'll move
24 on. That's fine.

1 BY MR. WHITLEY:

2 Q. So I'm going to put up on the screen now,
3 this is a letter that was the cover letter
4 introducing the Project's revised plans in
5 August of 2017. I'll just go to the top so
6 we can all see what we're looking at here.
7 It's dated August 25, 2017. And it's going
8 to be marked as Joint Muni 307.

9 So, was the panel aware that in August
10 of 2017, Northern Pass submitted another set
11 of Project plan sheets, alteration of terrain
12 permits and wetland maps showing revisions to
13 their previous design?

14 A. (Verdile) No, I was not.

15 Q. Anyone else on the panel?

16 A. (Jodoin) No.

17 Q. Ms. Heiser, you can't shake your head. You
18 have to say "Yes" or "No."

19 A. (Heiser) I'm sorry. I just got distracted
20 for one minute. So can you repeat that
21 question?

22 Q. Yeah. The question was whether anyone on the
23 panel was aware of the design changes that
24 the Project made in August of 2017.

1 A. (Heiser) No, I was not.

2 A. (Jodoin) No.

3 Q. And we'll go through it in a second, but I'll
4 represent to you that this letter describes
5 some of those design changes. Has the panel
6 reviewed those revisions, those design
7 revisions in Pembroke?

8 A. (Heiser) I just looked over them in the last
9 couple days. I reviewed those maps and
10 changes, yes.

11 A. (Verdile) Briefly, yes.

12 A. (Jodoin) Yes.

13 Q. Okay. So I'm going to turn now to Page 2 of
14 that letter. And you see the highlighted
15 text there. And it references some plan
16 sheets and some structures and some road
17 names. And do you recognize that these areas
18 are in the town of Pembroke?

19 A. (Jodoin) Yes.

20 A. (Verdile) Yes.

21 Q. Okay. So I want to you ask you now about
22 some of these design changes, and I'm going
23 to start with what's described as No. 2,
24 modifying a construction pad so it doesn't

1 impact Fourth Range Road in Pembroke. I'm
2 going to put up now the old design first so
3 we can all see what the change was, and then
4 I'm going to have some questions about it.

5 MR. WHITLEY: So, for the
6 record, the older AOT sheets that I'm going to
7 be showing the panel are Applicant's 1,
8 Appendix 6C. These revised plan sheets -- or
9 excuse me -- these revised AOT sheets are
10 Applicant's 200. And if I need to switch to
11 the August project maps, that's
12 Applicant's 201.

13 BY MR. WHITLEY:

14 Q. So, this first one pertains to Fourth Range
15 Road, and this is the older AOT design. And
16 this is AOT Sheet 315. And do you see on the
17 left-hand side there, Fourth Range Road?

18 A. (Heiser) Yes.

19 A. (Jodoin) Yes.

20 A. (Verdile) Yes.

21 Q. I'll zoom in a little bit just so we can get
22 a little better picture here.

23 So, there it is, Fourth Range Road;
24 correct?

1 A. (Panel Members) Yes.

2 Q. Now I'm going to show you the new design of
3 Fourth Range Road. And again, this is
4 Applicant's 200. This is also AOT Sheet 315.
5 I'm going to zoom in here so we can see a
6 little closer. So this is the new design.
7 And I'm going to flip back to the old one,
8 and I want you to tell me if you can see any
9 change in the construction pad as the letter
10 indicated.

11 So here's the new one and here's the old
12 one. Do you see any change in that
13 construction pad? And it's the one on the
14 right-hand side, I should specify.

15 A. (Jodoin) No.

16 A. (Heiser) I don't see any change.

17 Q. Okay.

18 CHAIRMAN HONIGBERG: Mr.
19 Whitley, humor us and do it again, please.

20 MR. WHITLEY: Absolutely. So,
21 just for the Committee's convenience, what's on
22 the screen right now is the old plan, which is
23 Applicant's 1, Appendix 6C. And I'm going to
24 show now the revised design, which is

1 Applicant's 200. So that's the old, here's the
2 new. And both of these are AOT Sheet 315, for
3 the record.

4 CHAIRMAN HONIGBERG: Thank you.

5 BY MR. WHITLEY:

6 Q. Now I want to go down to the next one in the
7 letter. And I'm not going to jump back to
8 the letter because it's in the record, but
9 I'll represent that the next item is also a
10 relocate or move a construction pad
11 associated with Cross Country Road. And as
12 before, I'm going to show the old design and
13 the new and then ask some questions about it.
14 I'm going to be looking at AOT Sheet 317 for
15 both of these.

16 So this is -- we'll do the old one
17 first. Here is 317, AOT 317. I'm going to
18 zoom in on the old design so we can see
19 what's here. And now I'm going to pull up
20 the new design for Cross Country Road. So
21 this is the new design. So I'm going to flip
22 back and forth, and then I'd like you to tell
23 me whether you see any sort of change in the
24 construction pads at Cross Country Road.

1 A. (Heiser) I don't see any change.

2 Q. Hold on. Let me go through the exercise
3 here.

4 So this is the old design, okay. Now
5 I'm going to show everyone the new design as
6 well. And here's the new design. Do you see
7 any change in either of those construction
8 pads that's in the vicinity of the road?

9 A. (Jodoin) No.

10 A. (Heiser) No.

11 A. (Verdile) No.

12 Q. So, not being able to detect any change, are
13 you able to assess whether this new design is
14 better or worse for the town?

15 CHAIRMAN HONIGBERG: Before you
16 ask that question since we're not as clued in
17 to what these look like as you are, can you
18 show us the two again, please?

19 MR. WHITLEY: Of course, of
20 course. So what's on the screen right now is
21 the older design. And I'll flip now to the
22 newer one. And I can flip again if the
23 Committee would like.

24 CHAIRMAN HONIGBERG: Okay. No,

1 you don't need to do it again, I don't think.

2 MR. WHITLEY: Okay.

3 BY MR. WHITLEY:

4 Q. I don't know if the panel was able to respond
5 to my question, so I'm going to ask it again.

6 Are you able to assess whether this
7 design change is better or worse for the
8 town?

9 A. (Jodoin) No.

10 A. (Heiser) No.

11 A. (Verdile) No.

12 Q. Now, the letter didn't mention any changes to
13 Brush Road. And I'll go back and just
14 confirm that. Do you see in Items 2 through
15 5 any changes to Brush Road indicated?

16 A. (Heiser) No.

17 A. (Jodoin) No.

18 Q. I'm going to go back now to... we're going to
19 be looking at AOT Sheet 316 this time. And
20 on the left-hand side of the page here,
21 confirm for me that that is indeed Brush
22 Road. Is that correct?

23 A. (Verdile) Yes.

24 A. (Heiser) Yes.

1 Q. I'm going to zoom in so we see what we're
2 looking at here. There is the old design of
3 Brush Road. And I'm going to go now to the
4 same location on the new design. And here's
5 the new design also on Brush Road; correct?

6 A. (Jodoin) Correct.

7 A. (Heiser) Yes, correct.

8 Q. So I'm going to flip back and forth again so
9 we see what the change was. So here is the
10 old design of Brush Road. Can you just
11 confirm for me, does it appear that the
12 construction pad encroaches into the road?

13 A. (Panel Members) Yes.

14 Q. Okay. And does it appear in the old design
15 that the Project intended to use the
16 right-of-way corridor to access both sides of
17 the road?

18 A. (Verdile) Yes.

19 Q. Okay. I'm going to show you the new design
20 now. You see that that construction pad
21 there was adjusted; correct?

22 A. (Verdile) Yes.

23 A. (Heiser) Yes.

24 Q. Do you also see kind of the triangles, the

1 red triangles on either side of the road?

2 A. (Verdile) Yes.

3 A. (Heiser) Yes.

4 Q. I didn't mean to talk over you. Sorry.

5 A. (Jodoin) Correct.

6 Q. And do you understand those to mean that the
7 Project now intends to use Brush Road to
8 access the right-of-way corridor?

9 A. (Jodoin) Yes.

10 A. (Verdile) Yes.

11 A. (Heiser) That's what it appears to me.

12 Q. Okay. I want to go on to the next one now,
13 and that's going to be AOT Sheet 318. And
14 this is going to relate to Sixth Range Road.

15 MR. WHITLEY: Actually, Mr.
16 Chair, I don't know if you guys want to take
17 your break now because I don't know how long
18 it's going to take to get through this next one
19 if your call is at 4:00. It's up to you.

20 CHAIRMAN HONIGBERG: We're going
21 to stop two minutes to four, regardless of
22 what's going on, so...

23 MR. WHITLEY: I'll plow ahead.

24 BY MR. WHITLEY:

1 Q. So as I was saying, we're going to look now
2 at Sixth Range Road. And what I've got on
3 the screen here is the older design. And you
4 see Sixth Range Road in the middle of the
5 page there?

6 A. (Panel Members) Yes.

7 Q. And you see the old design there. And in the
8 letter of August 25th, it was described as
9 "shifting the access road to remove a
10 turnaround at Sixth Range Road." I'll
11 represent that that's what the letter said.

12 So this is the old design. And to
13 reflect that change, look at the new design.
14 And you see on Sixth Range Road that that
15 turnaround is no longer there; correct?

16 A. (Panel Members) Correct.

17 Q. But as before, you see the red triangles that
18 exit and enter the road. Do you see those?

19 A. (Panel Members) Yes.

20 Q. Do you understand that the Project now
21 intends to use Sixth Range Road to access the
22 right-of-way corridor?

23 A. (Panel Members) Yes.

24 Q. And is that different from the old version of

1 the design panel?

2 A. (Panel Members) Yes.

3 Q. All right. The last item in the letter had
4 to do with a construction pad associated with
5 Flagg Road. That's also on AOT 318, so that
6 makes this a little easier. So I'm going to
7 go now to the old design first. And it's
8 just further -- I don't know what direction,
9 but it's further to the right in this
10 drawing. You see on the page here Flagg
11 Road?

12 A. (Panel Members) Yes.

13 Q. And you see the construction pad there that
14 appears to encroach into the road?

15 A. (Panel Members) Yes.

16 Q. So I'll show you now the newer design also at
17 Flagg Road. Do you see in the newer design
18 that the construction pad has been adjusted
19 so that it no longer encroaches?

20 A. (Panel Members) Yes.

21 Q. Do you also see the red triangle there that
22 would appear to indicate that the Project
23 intends to use Flagg Road to access the
24 right-of-way corridor?

1 A. (Panel Members) Yes.

2 CHAIRMAN HONIGBERG: Okay.
3 We're going to take our break. I expect it
4 will be 15, maybe 20 minutes.

5 (Recess was taken at 3:58 p.m.
6 and the hearing resumed at 4:27 p.m.)

7 CHAIRMAN HONIGBERG: Mr.
8 Whitley, you may continue.

9 MR. WHITLEY: Thank you, Mr.
10 Chair.

11 BY MR. WHITLEY:

12 Q. Good afternoon again, everyone. Just to set
13 the stage a little bit for some questions
14 that are going to follow all the build-up
15 here, we just looked at a number of the AOT
16 plans, old ones and then the more recent
17 ones, and we took a look at the changes that
18 were made. And what I wanted to just note
19 for you was, would you agree that there were
20 new access points into and out of the
21 right-of-way from Sixth Range Road, Flagg
22 Road and Brush Road? Does that sound
23 accurate?

24 A. (Jodoin) Yes.

1 A. (Heiser) Yes.

2 A. (Verdile) Yes.

3 Q. Thank you. And there was the letter, that
4 August 25th letter, mentioned design changes
5 at Cross Country Road and Fourth Range Road,
6 but I believe you would agree that those
7 changes were not apparent from looking at
8 the -- comparing the old plan to the new
9 plan; is that accurate?

10 A. (Heiser) Yes.

11 A. (Verdile) Yes.

12 Q. Okay. And the roads that we've just touched
13 on -- and I'll ask you so there's no
14 confusion. Sixth Range Road is that a Class
15 V or VI road, or something else?

16 A. (Heiser) Class VI.

17 A. (Verdile) Class VI road.

18 Q. And same question for Flagg Road.

19 A. (Verdile) Yes, Class VI road.

20 Q. Class VI road. Thank you. Same question for
21 Brush Road.

22 A. (Verdile) Correct. Class VI road.

23 A. (Jodoin) Brush Road has a portion of it as
24 Class V.

1 Q. Okay. And do you recall if the portion that
2 we looked at was the Class V portion or the
3 Class VI portion? And I can pull that up
4 again if that would be helpful.

5 A. (Jodoin) I don't know the exact dimensions
6 and the length of the road. It's probably
7 1500 feet I would say in from Cross Country,
8 Class V.

9 Q. And Cross Country Road, what's the status of
10 Cross Country Road?

11 A. (Heiser) Class V.

12 A. (Verdile) Class V.

13 Q. And Fourth Range Road?

14 A. (Heiser) At that point...

15 A. (Jodoin) That's Class VI.

16 A. (Heiser) It's Class VI I think at that point.

17 Q. Okay. Thank you.

18 So the design changes that we just
19 reviewed that added three new access points
20 to the right-of-way, does that cause concern
21 for any of you on the panel?

22 A. (Jodoin) Yes.

23 A. (Verdile) Yes.

24 Q. And can you describe why, please?

1 A. (Jodoin) I'm not sure exactly from looking at
2 this if these plans are up to date, are
3 accurate.

4 Q. Well, the one -- just to clarify, Mr. Jodoin,
5 the one on the screen right now is the older
6 version of the plan. I can flip to the new
7 one. My question, though, was really kind of
8 a general one, in that I understand that your
9 testimony has been you're concerned about how
10 the Project may impact the roads in this
11 area. And I want to know if adding three new
12 access points to the right-of-way makes those
13 concerns worse.

14 A. (Jodoin) Yes.

15 A. (Verdile) Yes.

16 Q. And could you explain why it makes your
17 concerns worse?

18 A. (Verdile) Just as we --

19 Q. Let's start with Ms. Verdile, and then we can
20 go down the line.

21 Ms. Verdile, please explain why it makes
22 those concerns worse.

23 A. (Verdile) Because in my opinion, from what it
24 looks like they're representing is that they

1 are now planning to use the Class VI roads in
2 town, the ones that are highly regarded and
3 are not maintained by the Town. They're a
4 cultural resource and everything else that we
5 have been talking about when it comes to the
6 Class VI roads. This is a bit troubling to
7 see their plans without approaching the Town
8 first about the access use of these Class VI
9 roads that are seasonal as well.

10 Q. And what's your understanding about what type
11 of vehicles would be using those roads to get
12 to the right-of-way?

13 A. (Verdile) Heavy construction equipment.

14 Q. And that concerns you for the reasons you
15 just stated.

16 A. (Verdile) Absolutely.

17 Q. Okay. Ms. Heiser, do you have anything you'd
18 like to add to Ms Verdile's statement?

19 A. (Heiser) Well, the conservation commission
20 has gone to great lengths to protect these
21 roads because we became aware a number of
22 years ago, and I wish I could be more
23 accurate than that, I'd say 2012, 2013, we
24 realized that a lot of our erosion had

1 occurred on these roads due to the increased
2 use of heavier vehicles, specifically the big
3 four-by-fours, mudders, that were using these
4 for recreational purposes. And we have a lot
5 of stream-side -- I mean roadside streams and
6 brooks that intersect the road. And it
7 created -- the major brooks were draining on
8 the road and causing huge erosion. So we
9 ended up doing a seasonal restriction. The
10 first seasonal restriction was February 15 to
11 May 31st. And the second seasonal
12 restriction we just updated in January of
13 this year, got the board of selectmen's
14 approval to close the roads to vehicles over
15 2,000 pounds from, now, December 15th,
16 virtually the last day of hunting season,
17 until May 31st.

18 Q. And you just mentioned impacts from
19 four-by-fours and mudding vehicles. Is your
20 concern that the construction vehicles would
21 have a similar impact on these roads?

22 A. (Heiser) I would think more so because
23 they're larger.

24 Q. Okay. Thank you.

1 Mr. Jodoin, I don't know if you want to
2 add anything.

3 A. (Jodoin) I have nothing to add.

4 Q. Okay. Thank you.

5 Is it fair to say, then, that the
6 August 2017 letter did not accurately reflect
7 the design changes in Pembroke?

8 MR. NEEDLEMAN: Objection. To
9 the extent that he's arguing that they don't
10 accurately reflect the changes because these
11 roads are being used, I think that's not
12 accurate. It doesn't say anything in that
13 letter about these roads being used everything.
14 Everything you've just heard is speculation.

15 CHAIRMAN HONIGBERG: Mr.
16 Whitley.

17 MR. WHITLEY: I believe the
18 letter indicates that there'd be some changes
19 to some construction pads. And I believe there
20 was testimony when we looked at some of the
21 maps that they couldn't detect any changes to
22 some of the construction pads, which has
23 nothing to do with using the roads to access
24 the right-of-way.

1 CHAIRMAN HONIGBERG: I think
2 that's what Mr. Needleman kind of just said,
3 isn't it?

4 MR. NEEDLEMAN: That's exactly
5 the point. We don't see them the same way, but
6 plainly the representations are in the letter
7 indicating what the changes have been. So to
8 now say without any basis that these changes
9 are not accurate I think is purely speculation.

10 MR. WHITLEY: I think the panel
11 has reviewed the letter and the old version and
12 the new version, and I think they can render an
13 opinion on whether or not they feel like the
14 letter accurately reflects the design changes.

15 CHAIRMAN HONIGBERG: They can
16 render that opinion. They certainly -- others
17 may draw different conclusions because in at
18 least one of those I think some people did see
19 a change, whereas this panel didn't. But
20 that's a detail. So, anyway, yeah, they can
21 answer the question you just articulated.
22 Whether it's the same as the one you asked, I'm
23 not sure. I don't think it is.

24 MR. WHITLEY: Okay. Sue, would

1 you mind reading back the question, the more
2 recent question I just posed to the Chair?

3 (Discussion off the record.)

4 BY MR. WHITLEY:

5 Q. So my question, to state it again is, do you
6 believe that, after reviewing the old version
7 of the design and going through the new
8 version, do you believe the August 2017
9 letter accurately reflects the design changes
10 in Pembroke?

11 A. (Heiser) No.

12 Q. Did anyone from Northern Pass reach out to
13 any of you to discuss these design changes
14 prior to you reviewing them today?

15 A. (Verdile) No.

16 A. (Heiser) No.

17 A. (Jodoin) No.

18 Q. Do the inaccuracies that you feel are
19 apparent in the letter make the town more
20 cautious to trust Northern Pass?

21 A. (Verdile) Yes.

22 A. (Heiser) Yes.

23 Q. Similarly, does it make you more unlikely to
24 accept their representations at face value?

1 A. (Verdile) Yes.

2 A. (Heiser) Yes.

3 Q. Is it fair to say, when there's a trust issue
4 like that, it's difficult to come to an
5 agreement on an MOU or some other sort of
6 document?

7 A. (Jodoin) Yes.

8 A. (Verdile) Yes.

9 A. (Heiser) Yes.

10 Q. I just mentioned it, and I want to address
11 the MOU a little more head on.

12 Are you -- is the panel aware that
13 Northern Pass has been engaging host
14 communities to sign MOUs?

15 A. (Jodoin) Yes.

16 Q. And are you -- strike that.

17 I'll represent that there's been
18 testimony by Northern Pass that these are
19 intended partly for the host municipalities
20 to try and resolve certain
21 construction-related concerns. And I'm going
22 to put up a sample of that which was attached
23 to Mr. Quinlan's supplemental testimony. And
24 this is Applicant's 6, and this is

1 Attachment H. Have any of you on the panel
2 seen this document before?

3 A. (Jodoin) Yes.

4 A. (Heiser) No.

5 A. (Verdile) No, I have not seen this.

6 Q. Okay. Mr. Jodoin, has the board of selectmen
7 discussed possibly signing an MOU with
8 Northern Pass?

9 A. (Jodoin) Yes, they met with them on
10 October 23rd.

11 Q. Okay. And as a result of this meeting, did
12 the board of selectmen sign an MOU with
13 Northern Pass?

14 A. (Jodoin) No, they did not.

15 Q. Very generally, can you give the Committee a
16 sense of what outstanding concerns prevented
17 them from doing so?

18 A. (Jodoin) They felt that the document was
19 rather vague, and it left a lot to be
20 desired. It was non-committal. There were a
21 lot of items -- you know, it had a lot of
22 language in it, but it didn't address certain
23 things like the construction sequencing,
24 whether there would be any type of blasting

1 in the area, whether or not there would be
2 any construction delays and so on. So they
3 did not -- they chose not to move forward
4 with it.

5 Q. Okay. Despite the board's position to not
6 sign, do you believe the board would be
7 willing to continue listening to Northern
8 Pass in the future about entering into an MOU
9 or some other agreement?

10 A. (Jodoin) I am sure they would.

11 Q. Okay. And do you have any sense of what the
12 board might be looking for from Northern Pass
13 to feel comfortable entering into an
14 agreement?

15 A. (Jodoin) The board's real concern is with the
16 overall project. A lot of it has to do with,
17 obviously, the heights of the towers. But it
18 also concerns the roads and the potential
19 damage to the roads, whether they be Class V
20 or Class VI roads. The Town of Pembroke
21 spends a lot of money on their roads, and
22 they're on a 15-year replacement plan. And
23 some of the roads have been recently paved
24 that you mentioned in prior exhibits.

1 Q. And it sounded like, in answer to one of my
2 prior questions, you mentioned a lack of
3 specificity. Is that also a concern of the
4 board of selectmen?

5 A. (Jodoin) It is.

6 Q. Okay. And so is it fair to say the board is
7 looking for more details and commitments from
8 Northern Pass than they've gotten to date?

9 A. (Jodoin) I would say yes.

10 Q. Okay.

11 MR. WHITLEY: That's all I have,
12 Mr. Chair. Thank you.

13 CHAIRMAN HONIGBERG: Mr. Aslin.

14 CROSS-EXAMINATION

15 BY MR. ASLIN:

16 Q. Good afternoon.

17 A. (Panel Members) Good afternoon.

18 Q. My name's Chris Aslin. I'm designated as
19 Counsel for the Public in this proceeding. I
20 have a few questions to follow up on Mr.
21 Whitley's questions.

22 I wanted to start with the town votes
23 that were included in the testimony and
24 attachment to Ms. Heiser's testimony, and

1 perhaps others.

2 A. (Heiser) Yes.

3 Q. In your testimony you referred to two town
4 votes: One in 2011 and one in 2014; is that
5 correct?

6 A. (Heiser) That's correct.

7 Q. And if I understand those correctly, in 2011,
8 the town voted to oppose the Project as
9 presently proposed at that time?

10 A. (Heiser) Yes.

11 Q. And then in 2014 there was a subsequent
12 article approved by the Town that was in
13 opposition to any new overhead transmission
14 lines in the town; is that correct?

15 A. (Heiser) Yes.

16 Q. So at this point in time -- well, first, let
17 me ask: Have there been any subsequent votes
18 by the town regarding Northern Pass?

19 A. (Heiser) No.

20 Q. Okay. And so at this point in time, the 2014
21 vote is a general opposition to overhead, and
22 it does not have to do with the specific
23 design of this project; is that correct?

24 A. (Heiser) I would say primarily. This might

1 have fact and opinion mixed in. Primarily
2 the people were very much opposed to the
3 visual impact to the town, and so burying it
4 was a better alternative. But there still
5 remains to be a lot of concern even burying
6 it because there will certainly be still --
7 if you're going to bury it within our town,
8 within the 6.2 miles of the right-of-way,
9 it's going to impact major wetlands. It's
10 crossing two rivers, and it crosses two major
11 wetlands in our town. I think we have 56
12 wetland units that will be impacted by this
13 project. So, because of that, I would not
14 say people are feeling like they want to see
15 this project go. And it's certainly the
16 position of the conservation commission that
17 this project is not desirable.

18 Q. Okay. So if I could summarize that. The
19 conservation commission is opposed to the
20 Project in general. Your position is that
21 that's also reflected by the town's people.
22 But as I read the actual article that was
23 adopted in 2014, the article itself is
24 opposed to new overhead transmission lines

1 and prefers burial.

2 A. (Heiser) Yes, that's what the vote was.

3 Q. Okay. And Ms. Heiser, you, in your
4 testimony, also raised a concern regarding
5 ATV or OHRV use of the Range Roads I think in
6 particular, but a concern that this project
7 would increase potentially access to those
8 roads; is that correct?

9 A. (Heiser) Yes, that's been our -- right now, a
10 lot of people, because we have seasonal
11 closures of those Range Roads, the feedback
12 that we're getting from people that are found
13 on those Range Roads when they're not
14 supposed to be there is they're accessing
15 them through the Public Service
16 right-of-ways.

17 Q. Okay. That was going to be my question.
18 Because there's currently a right-of-way in
19 place. There's an existing right-of-way that
20 could provide some access.

21 A. (Heiser) Yeah, there are several that provide
22 access to the Range Roads.

23 Q. Is the concern with the proposal that they
24 would increase that level of access because

1 it's creating new access roads or widening
2 the right-of-way?

3 A. (Heiser) Yes, and the size of the vehicles
4 that are using the roads, sometimes they need
5 wider access to effectively gain entrance on
6 those Range Roads.

7 Q. And you recommended or raised the suggestion
8 in your testimony that gating would be
9 appropriate if the Project went forward.
10 Have you had any discussions with the
11 Applicant, or has the conservation commission
12 had any discussions with the Applicant about
13 agreeing to put up gates to restrict access
14 to the right-of-way or to the Range Roads.

15 A. (Heiser) The conservation commission hasn't
16 been approached by Northern Pass to come
17 speak to us about any of these issues.

18 Q. Okay. And have you affirmatively reached out
19 to the Applicant to raise these concerns --

20 A. (Heiser) No, I haven't.

21 Q. -- other than in your testimony? Okay.
22 Thank you.

23 You also raised -- well, I'm not sure
24 which of you it was, but I'll just ask it

1 generally to the panel.

2 There were some concerns raised about
3 stone walls and impacts to stone walls in the
4 town. And my question is: Is there an
5 inventory of stone walls that the Town of
6 Pembroke has created?

7 A. (Heiser) I'm not sure of that. But I could
8 say that James Garvin, who is head of
9 historic and archeological for the state is a
10 Pembroke resident, and my suspicion, but only
11 that, would be he has done his due diligence.

12 Q. Okay. As a citizen and member of the
13 conservation commission, are you aware of
14 stone walls in the vicinity of the Project's
15 corridor?

16 A. (Heiser) I know that some stone walls do
17 exist in the corridors.

18 Q. Okay. I think Mr. Whitley adequately covered
19 the Range Roads, so I'll skip over that and
20 ask Mr. Jodoin. First of all, am I
21 pronouncing your name correctly?

22 A. (Jodoin) You are.

23 Q. Great. Thank you.

24 You have raised a concern, or maybe not

1 a concern. But in your testimony you state
2 that there is currently a depreciation
3 adjustment for properties along the
4 right-of-way, the existing right-of-way. And
5 I wanted to understand a little more what
6 that adjustment is. You submitted along with
7 your testimony a number of tax cards. I
8 wasn't able to perfectly understand what the
9 depreciation adjustment was or where it was
10 reflected on those tax cards. Could you give
11 me a little help understanding that?

12 A. (Jodoin) I'll try. Most of that is built
13 into the computer, so you don't really see a
14 whole lot of it on the assessment cards. You
15 just see terminology that talks about
16 easements. And those easements are handled
17 by the town assessor. They factor in things
18 like the closeness and proximity of the
19 current tower to the current location of the
20 home and things like that, and that's how
21 they come up with what they call "functional
22 obsolescence" or depreciation on the
23 property.

24 Q. If I understand you correctly, then, your

1 testimony is that the proximity of these
2 homes to the right-of-way, or perhaps the
3 crossing of right-of-way over the properties
4 has resulted in a diminished assessment for
5 those properties from the town's perspective?

6 A. (Jodoin) Correct.

7 Q. So it's the existence of the easement rather
8 than the particular structures within the
9 easement that is -- or are you testifying
10 that the adjustment incorporates the specific
11 structures as well as --

12 A. (Jodoin) The current property adjustments
13 reflect what is there as of today, let's say
14 the easement and whatever structure's there.
15 If that's structure were to change in height
16 requirements or get closer to the residents,
17 then the depreciation would be that much
18 higher.

19 Q. Okay. And I think you put a number of 5 to
20 50 percent adjustment in your testimony?

21 A. (Jodoin) I don't remember putting any number
22 on.

23 Q. I will refer you to Page 2 of what I guess is
24 your supplemental testimony -- your first

1 testimony. And it's in the middle, on Line
2 10 and 11. You state the current tax cards
3 also take into consideration a depreciation
4 adjustment which is anywhere from 5 to
5 50 percent. Do I understand that to mean
6 that the property assessment, the value
7 assessment has been reduced by 5 to
8 50 percent?

9 A. (Jodoin) Whatever's impacted. If it's the
10 land, then that would be affected between 5
11 to 50 percent, yes. Those numbers came from
12 the assessor.

13 Q. Okay. And I think your testimony is that
14 it's more than simply the property rights
15 encompassed by the easement that affects the
16 adjustment; it also includes the number of
17 structures, height of the structures.

18 A. (Jodoin) Correct.

19 Q. Okay. Thank you. You also raised a concern
20 with abatement requests following the
21 construction of the Project. Is that concern
22 that neighboring properties, property owners
23 will come to the town for abatement requests
24 or that the Project owner, Northern Pass,

1 would seek abatements?

2 A. (Jodoin) That's a twofold question. First of
3 all, if the Project goes through and a tower
4 increases, say from 75 to 150 feet, I'm sure
5 the property owner will be looking for some
6 type of remediation resulting in a decrease
7 in their assessed valuation. I think it will
8 be that way along the line of the entire
9 Project. If there's a visual impact that
10 they feel is necessary, yeah, they will apply
11 for an abatement with the town.

12 Q. Okay. And so that was the first half of my
13 question. Is there also a concern about
14 abatements by the Project owner?

15 A. (Jodoin) Only if you get into their tax
16 structure of what they say they will be
17 giving to the communities. That's a twofold
18 example.

19 Q. Okay. And as a consequence of that, you have
20 testimony that the extra tax revenue is
21 likely to be offset by the reductions in
22 property values. Has the town done any sort
23 of analysis to put -- quantify that in any
24 way?

1 A. (Jodoin) No.

2 Q. So that's just a --

3 A. (Jodoin) It's an opinion.

4 Q. -- general opinion. Thank you.

5 Ms. Verdile, you included in your
6 testimony a concern about three town wells
7 that are in or adjacent to the right-of-way;
8 is that correct?

9 A. (Verdile) I mentioned a little bit through
10 the zoning ordinance --

11 (Court Reporter interrupts.)

12 A. (Verdile) I mentioned in my testimony that I
13 believe one of the beginning areas in the C1
14 zone through the zoning ordinance that it was
15 in the wellhead protection area.

16 Q. Do you recall, do you have a map included as
17 Exhibit 2 in your supplemental testimony?
18 And I'll see if we can get that up.

19 A. (Verdile) Yes.

20 Q. Thank you. So do I understand that the green
21 hashed circle -- or it's not quite a full
22 circle, I guess, but is the wellhead
23 protection area for the town?

24 A. (Verdile) Yes, that is correct.

1 Q. And are the wells shown on this map?

2 A. (Verdile) Without having the legend in front
3 of me, I believe that the wells are the
4 orange triangles. So, yes, they are.

5 Q. Okay. So the orange triangles that are sort
6 of right of center of the page and then --

7 A. (Verdile) Yes --

8 Q. -- up a little ways.

9 A. (Verdile) -- that's my understanding of it.

10 Q. Whatever road that is. Okay.

11 And so the wells themselves are not in
12 the right-of-way, but they're in the -- the
13 wellhead protection area is crossed by the
14 right-of-way; is that correct?

15 A. (Verdile) Correct.

16 Q. Okay. That helps clarify.

17 You raised concerns about impacts to the
18 area. Are there specific concerns that you
19 have about -- what type of impacts are you
20 concerned about?

21 A. (Verdile) Construction impacts to the area.

22 You can see on the map that is a pretty
23 sensitive area with rivers and wetlands
24 there. So that would be a major concern for

1 construction activities and placement of
2 permanent structures in that area above the
3 wellhead protection for the town of Pembroke
4 and for the city of Concord.

5 Q. And in terms of the water resource, the
6 concern would be sedimentation or
7 contamination?

8 A. (Verdile) Yes.

9 Q. Any other concerns regarding the water
10 resource itself?

11 A. (Verdile) Those are pretty accurate.

12 Q. Okay. Thank you. On Page 11 of your
13 supplemental testimony, you make the
14 statement that public and private utilities
15 are permitted in the R3 zone, but only
16 through first obtaining a special exception
17 from the zoning board; is that correct?

18 A. (Verdile) Yes.

19 Q. I believe you included with your testimony --

20 A. (Verdile) Which testimony are you referring
21 to?

22 Q. April testimony.

23 A. (Verdile) April. Okay.

24 Q. And that's Page 11 of 20.

1 A. (Verdile) Yes.

2 Q. And you included as Exhibit 1 a page from, I
3 believe it's the zoning ordinance?

4 A. (Verdile) Correct, the Table of Permitted
5 Uses.

6 Q. And that's a portion of the table?

7 A. (Verdile) Yes, it is.

8 Q. Why don't we put that up. So, under No. 12
9 here on the top of the page, is that what
10 you're referring to?

11 A. (Verdile) Yes, sir.

12 Q. And the "S" under the R3 zone represents a
13 special exception?

14 A. (Verdile) Correct.

15 Q. I would like to -- I'm going to pull up what
16 we've marked as something... on the Table of
17 Uses it references Section 143-113 of the
18 zoning ordinance, and I'm going to pull that
19 up in a minute.

20 Okay. So do you recognize this as the
21 town zoning ordinance?

22 A. (Verdile) Yes.

23 Q. And it's updated in 2017. So this is the
24 current zoning ordinance?

1 A. (Verdile) Correct. It's updated annually.

2 Q. Oh, sorry. This has been marked as Counsel
3 for the Public 607. And I'll represent it's
4 excerpts from the zoning ordinance rather
5 than putting in the whole 160-page document.

6 So if you'd go to the third page,
7 please. So is this the Table of Uses that
8 you were referencing a minute ago?

9 A. (Verdile) Yes, it is.

10 Q. If we flip through the pages, we'll
11 eventually get to Page 37, which is the page
12 we were looking at a moment ago. And this is
13 where it reference Section 113, or special
14 conditions; is that correct?

15 A. (Verdile) Yes.

16 Q. So we'll flip to the next page, 156. Is this
17 that section of the zoning order down on the
18 bottom half of the page?

19 A. (Verdile) Yes.

20 Q. Am I correct that this Town's provision for
21 dealing with special exceptions when they're
22 required for activity in the town?

23 A. (Verdile) Yes, that is correct.

24 Q. In your testimony you state that -- well, we

1 just established that a special exception
2 would be required for a public or private
3 utility in the R3 zone. Does the
4 right-of-way pass through the R3 zone in the
5 town of Pembroke?

6 A. (Verdile) Yes, it does.

7 Q. Okay. You state down on Line 6 that you do
8 not believe the proposed NPT as a use meets
9 the spirit and intent of the Pembroke Zoning
10 Ordinance. Is it your testimony that a
11 special exception would not be granted by the
12 Town if the Town had the authority to decide
13 this issue?

14 A. (Verdile) Those opinions are always up to the
15 zoning board of adjustment. But my opinion
16 would be special exceptions by nature are
17 uses that require additional review. It's
18 checks and balances between just allowing
19 something outright or sending them directly
20 to the planning board. So, special
21 exceptions can be denied because there are
22 criteria within the state law and with our
23 local zoning ordinance that says whether or
24 not the Applicant can meet these impacts.

1 So, based on the special exception criteria
2 and based on the scope and size of the
3 Project, in my professional opinion, they
4 would not be able to meet some of the special
5 exception criteria. And you have to meet all
6 of the criteria of a special exception in
7 order for it to be granted.

8 Q. Okay. And in your experience as the town
9 planner, I assume you've seen a number of
10 projects come in for special exceptions
11 before the zoning board?

12 A. (Verdile) Yes. I don't clerk for the zoning
13 board of adjustment. But yes, I am aware of
14 applications that have to go before the
15 zoning board for special exceptions.

16 Q. Okay. And you reference that there are a
17 number of requirements that the Project would
18 need to meet to be granted a special
19 exception. And are those requirements listed
20 here in Section 113?

21 A. (Verdile) Yes.

22 Q. And they go on to the next page. Looks likes
23 there's A through I.

24 A. (Verdile) Correct.

1 Q. Okay. So if this project were under the
2 jurisdiction of the Town, these are the
3 requirements that the Project would have to
4 meet in order to be approved in the R3 zone.

5 A. (Verdile) That is correct.

6 Q. And your testimony is you expect it would be
7 difficult for the Project to meet those
8 requirements.

9 A. (Verdile) That is correct.

10 Q. Okay. You have also expressed an opinion
11 that you disagree with Mr. Varney's findings
12 with regard to the consistency of the Project
13 with local zoning regulations and the master
14 plan. In coming to that opinion, did you
15 consider the fact that the Project has been
16 co-located within an existing transmission
17 corridor in the town?

18 A. (Verdile) Yes.

19 Q. And why doesn't that -- why does the
20 co-location of the Project in an existing
21 corridor not make it consistent with the
22 town's master plan and zoning ordinance?

23 A. (Verdile) Because of the size and the scope
24 of the Project with these towers being

1 considerably larger, taking up considerably
2 more space in the existing corridor. That
3 doesn't meet with the aesthetic values that
4 the town has put forth as important to them,
5 nor the public safety and general welfare
6 that the Town of Pembroke has placed on
7 aesthetic values.

8 Q. Okay. Thank you. I think my last question
9 is to Mr. Jodoin.

10 You testified earlier to Mr. Whitley
11 that the Town would be willing to continue
12 talking with the Applicant about a potential
13 MOU to address some of the specific issues of
14 road maintenance, et cetera. Does the
15 Town -- or has the board of selectmen at this
16 point come to an opinion about a preferred
17 route or design for the Project different
18 from what they have here?

19 MR. NEEDLEMAN: Objection.
20 Relevance.

21 MR. ASLIN: I'm trying to
22 understand where the Town is in terms of the
23 Project as a whole.

24 CHAIRMAN HONIGBERG: Overruled.

1 MR. ASLIN: Thank you.

2 A. (Jodoin) There hasn't been great discussion
3 on it, no. Like town meetings stated their
4 preferences that the lines be buried, and
5 that's pretty much where they stand at this
6 point in time.

7 MR. ASLIN: Okay. Thank you. I
8 have no further questions.

9 CHAIRMAN HONIGBERG: All right.
10 Before we decide what to do next, let's go off
11 the record for a minute.

12 (Discussion off the record)

13 CHAIRMAN HONIGBERG: So we'll
14 adjourn and resume at 9:00 tomorrow. 5:08 p.m.

15 (Whereupon the Day 58 Afternoon
16 Session was adjourned at 5:08
17 p.m., with the Day 59 hearing to resume
18 on November 9, 2017 commencing at
19 9:00 a.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
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