STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

January 30, 2018 - 1:16 p.m.  DELIBERATIONS
49 Donovan Street  DAY 1
Concord, New Hampshire  Afternoon Session Only

{Electronically filed with SEC 02-07-18}

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.
(Deliberations)

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

Dir. Craig Wright, Designee  Dept. of Environ. Serv.
Christopher Way, Designee  Dept. of Resources &
Economic Development
William Oldenburg, Designee  Dept. of Transportation
Patricia Weathersby  Public Member
Rachel Dandeneau  Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq., Counsel to the SEC
Iryna Dore, Esq.
(Brennan, Lenehan, Iacopino & Hickey)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

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

EC 2015-06}{DELIBERATIONS-DAY 1 AFTERNOON
SESSION}{01-30-18}
INDEX

CONSTRUCTION (CONT'D):
Presentation by Mr. Oldenburg 4

DISCUSSION 7

LOCAL ROADS:
DISCUSSION 18

CONSTRUCTION MONITORING
DISCUSSION 21

CO-LOCATION OF THE LINE
DISCUSSION 51

TRAFFIC MANAGEMENT PLAN
DISCUSSION 53

UNDERGROUND PORTION
DISCUSSION 104

SURPLUS EXCAVATION
DISCUSSION 112

PREVAILING LAND USE:
Presentation By Ms. Weathersby 130
<table>
<thead>
<tr>
<th>DOCUMENTS REVIEWED OR CITED</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant's Exhibit 1, Appendix 9</td>
<td>9</td>
</tr>
<tr>
<td>Applicant's Brief, Condition 15</td>
<td>20</td>
</tr>
<tr>
<td>Applicant's Brief, Condition 16</td>
<td>27</td>
</tr>
<tr>
<td>Applicant's Brief, Condition 17</td>
<td>27</td>
</tr>
<tr>
<td>Applicant's Brief, Condition 18</td>
<td>28</td>
</tr>
<tr>
<td>Applicant's Exhibit 1, Appendix 10</td>
<td>45</td>
</tr>
<tr>
<td>Counsel for the Public Exhibit 555</td>
<td>78</td>
</tr>
<tr>
<td>Applicant's Brief, Condition 18</td>
<td>88</td>
</tr>
<tr>
<td>Applicant's Brief, Condition 21</td>
<td>107</td>
</tr>
<tr>
<td>Applicant's Brief, Condition 22</td>
<td>107</td>
</tr>
</tbody>
</table>
PROCEEDINGS

(Hearing resumed at 1:16 p.m.)

CHAIRMAN HONIGBERG: Mr. Oldenburg, want to pick up where you left off?

MR. OLDENBURG: Sure. That was a lot of information, I'll admit. So I thought maybe we could go sort of topic by topic as it was presented by the different groups and sort of get impressions on, you know, what we had heard and, you know, what our thoughts are on the actual impacts.

So what I tried to do was, without repeating, sort of highlight some of the issues. And the first part I thought I'd try to do is go back to the rule because I'm going to need some help with some of this. And if you take out everything except for the construction part, the rule says that when determining whether the Project will unduly interfere with the orderly development of the region, the Subcommittee is required to consider the following: The extent which construction of the proposed facility will
affect land use, employment and the economy
of the region. So I think that's what we're
looking for. Some of that I'll need help
with. But we sort of touched on this.

So, the Counsel for the
Public, the outstanding information that they
had listed, and I had sort of gone over -- it
is sort of a chicken and the egg thing. You
have to have the survey, which is
outstanding, to be able to determine where
the line goes. And once you figure that out,
there's going to be some need for the
exception reports. Some have been filed and
approved, some haven't. And then the final
design is done. And there's some other stuff
that needs to go in, like the laydown areas
and review of that, blasting information,
concrete batch plants. But that sort of
makes sense that that information is
outstanding. But I think in the normal
course of a project, some of that information
you don't know until you're ready to build
it. So I'm not sure if -- we know it's going
to go down the road. We know where it's
going to be. And if the Applicant can
address certain issues like traffic, you
know, knowing exactly where that splice vault
is, whether it's there, you know, it's here
or 10 feet in a different location, I'm not
sure if it matters as a point of contention
of approving that portion of the Project.
But I think some of it is, is that going to
unduly affect a business and cause, you know,
an economic impact to someone if that's --
you know, the line disrupts a business for a
month or, you know, something like that.

So, from a plan standpoint,
what they've asked to do is have the DOT
delegate -- or not delegate -- have the DOT
be the approval person of the exception
reports. And those exception reports talked
about -- we saw some of them that said, you
know, you're in the middle of someone's
driveway. That's not a good place to be.
You need to move the splice vault. So, even
though I'm not sure that that would be sort
of a condition I would assume of approval of
final construction plans, is that they limit
impacts to driveways and businesses as much as feasible. Whether we agree with that, I guess that's up to debate whether that's a condition, is that point is added to the DOT responsibility. That is not one of the conditions of approval that the DOT listed, but one of the conditions was approving exception reports. But not impacting driveways and things like that was not part of something that they said was going to be part of the review. So I don't know if that's something we want to -- so I don't know if you want to make a note of that and say that's something worthwhile and do we want someone to check before the final plans are approved.

COMMISSIONER BAILEY: I don't know if you can answer this question because this is sort of an unprecedented project. But usually when there's a project that would be buried in a road, does the builder of the Project generally know that DOT doesn't allow the facilities to be built under the road,
MR. OLDENBURG: I would think if I was a utility and I wanted to be in a state highway, that's the first place I'd look. Because all of them know the Utility Accommodation Manual exists. They all know it. They all review it. They all live by it because that's how all the utilities exist in the road rights-of-way is by that manual.

COMMISSIONER BAILEY: And it's not unusual? I mean, I don't understand why it was such a surprise that it couldn't be built under the road.

CHAIRMAN HONIGBERG: But it wasn't a surprise. Mark Hodgdon wrote a letter to DOT saying it would be horrible --

COMMISSIONER BAILEY: That's right.

CHAIRMAN HONIGBERG: -- if we had to do it on the sides of the road, so please let us go in the middle of the road.

COMMISSIONER BAILEY: Okay.

And then DOT said no.
CHAIRMAN HONIGBERG: Basically you and I shorthanded seven meetings and five letters I think, but yeah.

MS. WEATHERSBY: The Mark Hodgdon letter was early on, right? Don't remember approximately when. But that was not too long after they decided to change the route?

CHAIRMAN HONIGBERG: Yes. I think early in the process they recognized that they wanted to go under the pavement, and they had someone with experience, an attorney, write a letter that said for a bunch of reasons you should let us do this. That was the essence of that exchange I think.

COMMISSIONER BAILEY: Can we pull that up? Anybody know where that is?

CHAIRMAN HONIGBERG: We're going to go off the record for a second.

(Discussion off the record.)

(Committee members review document - Applicant's Exhibit 1, Appendix 9, Bates 12235-12245)
CHAIRMAN HONIGBERG: All right. Mr. Oldenburg, you wanted to say something? 'Cause we weren't ready to get back on the record.

MR. OLDENBURG: Just saying, if I'm reading that correct, that page just talks about their right to be in the roadway. Not under the roadway, but in the roadway. I don't think that helped either.

CHAIRMAN HONIGBERG: Keep going. This is about a eight- or nine-page letter, isn't it? I'm informed this is an 11-page letter.

What page number is this, Dawn?

MS. GAGNON: Five.

CHAIRMAN HONIGBERG: This is five? Go to the next page, please?

(Committee members continue to review document.)

CHAIRMAN HONIGBERG: All right. Mr. Oldenburg.

MR. OLDENBURG: "While the alignments vary slightly due to technical
constraints, the underground sections propose to make extensive use of the previously disturbed areas within the traveled way, ditches and shoulder of the roads." So the traveled way is the paved area. So I guess your question of --

CHAIRMAN HONIGBERG: Well, there's more to this letter --

MR. OLDENBURG: I'm sorry.

CHAIRMAN HONIGBERG: -- because I think Page 8 has relevant information. But I think we should get there.

MR. OLDENBURG: So is that second paragraph down...

(Pause)

So, I guess to answer one of your questions, they know about the Utility Accommodation Manual because they're quoting it. So they knew what it said, and that was their explanation of why they wanted to be where they wanted to be in 2015.

I think if you looked at the design of the original plans that were
submitted, I think one of their issues was that in some cases they're right down the center of the road, and it would have been extremely difficult to maintain a lane of traffic down the center of the road. There wouldn't have been room on either side to maintain travel, so they would have either temporarily widened the road or do something else. So I'm not sure what came first, their realization that they needed to be off the pavement or whether or not they could actually construct it. I'm not sure. But obviously they knew of the UAM existence in this letter.

COMMISSIONER BAILEY: And rather than DOT -- I mean, could DOT have said, well, maybe not down the center of the road, but in the southbound or the northbound travel lane only, not all the way as close to the right-of-way as possible, the right-of-way boundary?

MR. OLDENBURG: Correct. And I think the November, December plans of 2016 showed that. They tried to basically go down
the edge of the road. They were straddling
the edge of the pavement more or less.

COMMISSIONER BAILEY: And DOT
said no to that as well?

MR. OLDENBURG: Correct.

COMMISSIONER BAILEY: Okay.

MR. OLDENBURG: But of the
exception requests that have been approved,
most of them are for going under the pavement
or to avoid drainage structures, probably
bridges or culverts or things like that. But
when they cross from one side of the road to
the other, you know, because they don't stay
on one side of the road, they actually have
to cross because of curves in the road, et
cetera, and basically they're trying to stay
in straight lines. They have to go under the
road, so they need an exception request to go
under the road. And those have been granted
to cross from one side of the road to the
other.

COMMISSIONER BAILEY: But then
there are exception requests put on hold or
something until they determine the boundaries
of the right-of-way?

MR. OLDENBURG: I know there were a number that are listed. And if you looked at the web site --

COMMISSIONER BAILEY: Like 185.

MR. OLDENBURG: And most of them were rescinded.

COMMISSIONER BAILEY: What does that mean?

MR. OLDENBURG: Withdrawn I should say.

COMMISSIONER BAILEY: So the Applicant withdrew them?

MR. OLDENBURG: Withdrawed them until I think they could figure out where the right-of-way was. So it's sort of an iterative process. But I think if we go back to the rules, knowing where the final survey is isn't going to affect -- I mean, just knowing where that line is and having a set line isn't going to affect land use, employment or the economy.

COMMISSIONER BAILEY: What
about private property?

MR. OLDENBURG: Well, yes.

COMMISSIONER BAILEY: Isn't private property part of orderly development, Mr. Iacopino? I mean, where do we consider private impact on private property? I thought that was under Orderly Development. Chris?

MS. WEATHERSBY: Commissioner Bailey?

COMMISSIONER BAILEY: Yes.

MS. WEATHERSBY: I think it depends a little bit if you're talking about interference with private property, like, oh, you need to take down my tree in order to get the line in versus do they need private property to construct -- do they need to acquire private property to put the line in. I mean, there are certain instances where the width of the right-of-way is in dispute. They were three rods instead of four rods by, say, Mr. Ahern's house. So if DOT says you got to be off the road, there may not be enough room; so, therefore, they need to
acquire private property to put the -- to accommodate DOT and the Project. So we don't even know if that's the case, and we don't even know if it is, whether or not those private property rights can be acquired since there's no right of eminent domain. So it just all comes back to that we don't have a survey of the actual width of the right-of-way and where the pavement, the disturbed area of the right-of-way is and so therefore whether the Project can fit.

MR. OLDENBURG: So my take on that is a little different, is that all the right-of-way -- all that survey is going to do is confirm where they can't go. So I don't think, at least my opinion is I don't think they're going to go out there and try to acquire private property if the line is two feet over the road. They're going to actually move the line so they don't go outside private -- go outside the state's right-of-way. So I think they're just using that line to set where they can't go. So they know where the line is. They can't
cross that line because that's private
property. So they need to stay on the inside
of that, and they're going to set their line
according to where the right-of-way is so
they don't cross it. And if they need an
exception request to put it where they want
to put it, they're going to request it. And
I cannot see the DOT saying, no, you need to
go on private property and acquire those
rights. I do not see that happening. They
would grant an exception request to say I
need to avoid this private property.

COMMISSIONER BAILEY: What
about if there's a tree or a stone wall in
the actual right-of-way? Will DOT, do you
think, grant an exception request to avoid
those things?

MR. OLDENBURG: I would assume
they would if there was a historic stone wall
or something, that they wouldn't make the
Applicant go through that wall. Signs and
things like that, I know we saw some exhibits
of signs that were close to the right-of-way,
and I would think those would be situations
where the DOT would have quite a lot of
lenience and wouldn't want the private
property impacted.

COMMISSIONER BAILEY: And
right now we're just talking about state
roads; right?

MR. OLDENBURG: Correct.

COMMISSIONER BAILEY: What
about the local town roads? How is that
different?

MR. OLDENBURG: So that's a
whole other topic. And I think we saw some
exhibits for that. For the local roads, like
in the Clarksville, Stewartstown area -- and
a lot of the aerial crossings, more than 80
of the aerial crossings are over local
roads -- the DOT has no authority to approve
and will claim they do not want the authority
to approve or review any of the work that's
done on local roads. In fact, one of the
things in their last letter was that it may
be actually against state law for them to do
that because the folks that are out there
that are doing this are paid with the state
highway fund, and it says you can only use
state highway funds on state roads. So, for
paying them with state highway funds to work
on a local road may actually be against state
law. So, you know, that's, you know, one of
the claims that they make. So it goes into
not only approving the underground line and
the splice vaults and everything else that's
in the northern section, but it's also the
traffic control and the access permitting on
the local roads for the overhead lines, too.
I mean, there's 80 access points. And I
think we heard City of Concord, the city
engineer, talk about them coming to the city
and getting an access permit to gain access
to the right-of-way. If the DOT doesn't
grant that, and they don't have to go to the
towns, then who grants that? To me, that's
the legal document you have that says I have
a right to access from that road. You know,
it's the permit that says I have the ability
to be there. And as I think the City of
Concord city engineer said, you know, without
that, who's liable if something happens, if
there's, you know...  

So I guess from a local road standpoint, I don't think that DOT wants anything to do with approving the work on the local roads. And one of the conditions -- I mean one of the proposals in the Applicant's 
brief at the very back, if you read the conditions, their proposed conditions did not ask to delegate the responsibility to the DOT. It asked, if I can sort of quote it more accurately under the DOT section...  

It's No. 15. This is what they wrote: "Further Ordered, that with respect to the underground installation and locally maintained roads, a properly qualified consultant selected by and subject to the supervision of the SEC Administrator, and paid for by the Applicant, is authorized to monitor the construction of the Project and locally maintained highways and enforce the relevant requirements of the DOT Utility Accommodation Manual to the Applicant's request to install lines underground in the towns of Stewartstown and Clarksville." I'm
not sure about the aerial crossings.

COMMISSIONER BAILEY: So let's just talk about the details of that. Monitor the construction of the Project. So we hire a consultant that's going to do -- that's going to satisfy this condition. Would the first part of that be to verify that an adequate survey was conducted and then the second part be to make sure the plans are all adequate? I mean --

MR. OLDENBURG: I guess I don't know. I'm under the assumption the DOT is not going to certify or review that the right-of-way plans on the local roads are done correctly.

COMMISSIONER BAILEY: No, no, no. I'm talking about if we went along with this condition, there would be a consultant that would sort of act -- they're proposing that a consultant would sort of act like DOT. And I'm just trying to figure out what DOT would do and whether there's anything that would be missed.

MR. OLDENBURG: I mean, DOT is
checking on the state section. They're checking to make sure the rights-of-way are adequately located and that the plans meet the Utility Accommodation requirements.

COMMISSIONER BAILEY: And where they don't, there's an exception report -- an exception requested?

MR. OLDENBURG: Correct.

MR. WAY: Mr. Oldenburg, the Utility Accommodation Manual, its applicability to local roads as opposed to state roads -- sorry. My mic is having a hard time over here. They would follow the UAM on the local roads?

MR. OLDENBURG: That's a finer detail. I'm not sure --

DIR. WRIGHT: I guess they would follow whatever we told them to follow; right? It would be up to us to come up with what they would have to do.

MR. OLDENBURG: There are state laws that say the utilities have the right to be in road rights-of-way. I don't know the nuances of state versus local and
whether the UAM also covers local road usage.
I know in a lot of cases the local municipal
bodies will say "in accordance with DOT
measures" or whatever. So I'm assuming that
if they had nothing else, they would say,
yes, they need to follow the Utility
Accommodation Manual. But it wasn't written
for local roads, it was written for state
highways. So I'm not really sure of your
answer. That's something I'd have to look
at.

MR. WAY: And the condition
that you mentioned -- do you have the
condition right in front of you?

MR. OLDENBURG: The
Applicant's condition?

MR. WAY: Yes. Could you read
it just one more time?

MR. OLDENBURG: It's No. 15.
"Further Ordered, with respect to the
underground installation in locally
maintained roads, a properly qualified
consultant selected by and subject to the
supervision of the SEC Administrator, and
paid for by the Applicants, is authorized to
monitor the construction of the Project and
locally maintained highways and enforce the
relevant requirements of the DOT Utility
Accommodation Manual to the Applicant's
request to install lines underground in the
towns of Stewartstown and Clarksville."

MR. WAY: All right. So
they're not participating in design and
survey. That seems to suggest they're
monitoring --

MR. OLDENBURG: The
construction.

MR. WAY: Right. They'd
report to the SEC, notably Pam.

Enforcement, their authority
to enforce. Are we giving them the authority
from our body?

MR. OLDENBURG: I would --

MR. WAY: Because enforcement
falls to DOT. That's something we can't
delegate. But because this is a local road,
which is something different, I believe --

MR. OLDENBURG: If all they're
doing is monitoring the construction without
being able to enforce it, I don't know why
you'd hire someone to do that, because all
they're doing is -- you have to have the
authority to enforce the rules, right. So
maybe just monitor maybe isn't the correct
language. "Monitor and approve."

MR. WAY: I think this has
maybe been discussed before. But our ability
to delegate monitoring is one thing. Our
ability to delegate enforcement is a whole
different kettle of fish. But I don't know
if that discussion is changed by the fact
that we're talking about local roads versus
state roads. Can we delegate enforcement
with local roads, or are we bound by the fact
that we can only delegate monitoring?

MS. WEATHERSBY: It doesn't
seem like we're delegating here. They've
asked us to hire a consultant that reports to
the SEC, to Pam --

MR. WAY: Okay.

MS. WEATHERSBY: -- to monitor
the construction. If they find an issue, the
SEC can then enforce the condition.

MR. WAY: So the authority is
from the SEC.

CHAIRMAN HONIGBERG: That's
the option they want to take on the town
roads. You may recall, I think it was
actually Mr. Iacopino asking Mr. Bowes a line
of questions about the options the SEC might
have with respect to the town roads. And
there were maybe five or six options, from
asking DOT to do it, having the SEC do it
itself, having the SEC hire someone to do it,
which is what we're talking about right now.
That's the options. And one of the options
they discussed, which was Mr. Bowes' least
favorite idea, was to ask the towns to do it.
There may have been others. I don't remember
the specific details. But that was the
exchange. And based on that, I'm pretty sure
the Applicant came up with this proposal --
grabbed that suggestion, the one that said
SEC you do it through someone you hire that
we'll pay for.

MR. WAY: So under this
option, DOT is not involved at all; is that correct?

MR. OLDENBURG: Correct.

CHAIRMAN HONIGBERG: Correct.

MS. WEATHERSBY: As I heard what you read for that condition, and I haven't pulled it up, it pertained only to the underground portion in Stewartstown and Clarksville, and there's no condition being proposed for a transmission line going above ground through various municipalities on town or city roads. Actually, does it in Concord? No? The Class VI roads in Pembroke?

CHAIRMAN HONIGBERG: I think it --

(Court Reporter interrupts.)

MS. WEATHERSBY: Right. I think it just crosses those roads rather than parallel.

MR. OLDENBURG: So if I keep going, No. 16, that condition deals with archeological surveys under the local roads in Stewartstown and Clarksville.

No. 17, the underground
installation of the locally maintained roads
in Stewartstown and Clarksville. "A properly
qualified consultant selected by and subject
to the supervision of the SEC Administrator
and paid for by the Applicants is authorized
to review and approve all requests relative
to curb cuts, driveways, detours, et cetera,
involving locally maintained highways in the
towns of Stewartstown and Clarksville" in the
same manner that it reviews and approves
comparable requests for state-maintained
highways.

So I would take that to mean
there goes your enforcement part because that
allows them to review and approve the work
done in those locally maintained roads. I
haven't quite got to the aerial crossings,
but...

So the next one, No. 18, I
won't read the whole thing, but it's
basically the same thing. The SEC
Administrator would... there would be a
consultant properly, "a qualified consultant
selected and paid for by the Applicant is
authorized to review and approve traffic
control measures and a traffic management
plan for the underground installation in the
locally maintained roads in Stewartstown and
Clarksville."

MR. WAY: And that would come
back to us.

MR. OLDENBURG: I'm not sure
how that would work. If there was an issue,
I would think they would deal with it, I
mean, if it was an obvious issue. If it was
a traffic control issue, signs were
inappropriately in place, I would expect that
they would take immediate action to correct
that because that's a life safety issue. But
if it's something that isn't a life safety
issue, if this is, and I've seen this
repeatedly, they're leaving litter on the
ground or something like that, that might
come back to the SEC. But I'm not sure
exactly where the dividing line would be is
what they have the authority to approve
versus come back to us for.

MR. WAY: So, I mean, the
challenge is, in the local roads, the DOT is not involved. There's someone that we hire that addresses the issues and reports back to us, and we do the enforcement. How are we going to be evaluating without going back to DOT if DOT isn't involved? It's almost like we have twoDOTs here. How is that going to work, particularly if we have to make a decision?

MR. OLDENBURG: That's a good question. You know, if they come back with an issue, are we technically qualified? Is Pam technically qualified to answer it? I don't know.

CHAIRMAN HONIGBERG: I think we would go with someone who has experience dealing with DOT requirements. There's probably a raft of former DOT engineers here or from other states, or high-priced consultants who do this stuff. I don't see this as an insurmountable problem.

MR. WAY: I don't think it's insurmountable. But I'm trying to figure out in my own mind the logistics of it,
particularly if we're going to be doing the enforcement. I would think we're going to have or someone is going to have to have an appreciation of what they're going to be able to enforce. Now, getting the right person on that end is going to take care of 90 percent of the issue. But there might be issues where we have to make decisions, and then if we go back to DOT, is DOT going to say, "Hey, not us?"

CHAIRMAN HONIGBERG: Yes, that's exactly what they're going to say because they will have disclaimed responsibility for those roads and say you took responsibility for these roads, you figure it out.

COMMISSIONER BAILEY: I'm not really sure about what decisions you're talking about. So as I understand it, the proposal that the Applicant is making is, for local roads, we hire a substitute DOT that has the authority to make sure that things are done according to plan, that there's a good plan in place and that things are done
according to plan. And if they deviate from
conditions that we establish, then I think
that DOT 2 would come to us and say, just
like the regular DOT would come to us I think
if it happened on a state road, that they
were deviating or failing to meet one of our
conditions. And then DOT would report to the
Committee, and that would be -- we would
decide what the enforcement of -- how to
enforce that condition.

Are you talking about another
decision? Are you talking about the decision
we're trying to make here or --

MR. WAY: Yes. I'm trying to
get a sense, in terms of if we're hiring
someone on local roads and you said make sure
it's occurring in the proper manner, which is
sometimes different to me than monitoring --

COMMISSIONER BAILEY: Yeah.

MR. WAY: -- and they're going
to identify if there's any issues. And
there's a responsibility back to us to maybe
make a decision on enforcement if there is a
problem, and we don't have DOT as an
expertise. I'm trying to think of how our role is going to be ongoing in this process.

COMMISSIONER BAILEY: I don't think our role is going to be ongoing unless there's a significant deviation from what they're expected to do.

MR. OLDENBURG: I would expect that consultant to say there's an issue and this is my recommendation to fix it.

MR. WAY: And we would just say okay.

MR. OLDENBURG: Yes or no.

CHAIRMAN HONIGBERG: Well, we would consider what that person said. Presumably the Applicant, who is in the middle of the construction, would have an opinion as well. And we would have to -- basically, we'd have to adjudicate that at some level.

MR. OLDENBURG: So while that discussion's been going on, I've been trying to look through the conditions. And granted, these are the DOT conditions. I couldn't find anything related to approving the
access, any access permits or anything
dealing with the aerial crossings access to
the right-of-way from the local roads. So
the aerial, the 80 aerial crossings where the
road is going to have to be at least
temporarily closed while they string the
wires across, I don't see where those local
roads -- a statement about who's going to
monitor, review and approve those crossings
and the requirements of any of the traffic
control issues related to those aerial
crossings. So that might be one part that's
missing.

COMMISSIONER BAILEY: Yeah.

And I think the Applicant -- I asked a
question about whether they were asking us to
just approve those crossings. And the
Applicant's response was, yes, that if we
issue the certificate, they would expect us
to be approving the crossings, like DOT would
approve the crossings on state roads. But I
think we need a little bit more work on what
DOT does when they're doing those approvals
to understand what we would be approving.
MR. OLDENBURG: Well, my

vision when we approve something like that is
there's going to be access points off of the
roads. There's going to be erosion and
sediment control issues that are going to
have to be addressed at each crossing to get
their equipment in and out. And then there's
going to be traffic control sign packages
that go with that. And then if they're
stringing the lines aerially across the road,
when that operation happens, I would have to
believe they're going to close the road for,
you know, however long that takes to get the
line across and secure. So there's going to
be a traffic control package that goes with
that. Some of these roads it's going to be
insignificant and some others it may not.
When they cross, you know, some of the Class
VI roads that we heard about, there probably
isn't going to be any issue. But when they
cross Loudon Road in Concord, there's going
to be an issue. Somebody's going to have to
approve that package, that traffic control
package.
DIR. WRIGHT: So you're saying they're going to have to approve everything. It's not just the construction, the UAM. It's the traffic control, it's the signage and everything.

MR. OLDENBURG: I would say yes.

MS. WEATHERSBY: And I would think some of these issues extend beyond the construction time. Even though the Project's complete, if they're using road crossings as part of their access way, which we've seen certain towns want the driveway permits, et cetera, that there's going to be kind of an ongoing municipal issue with the road crossings.

MR. OLDENBURG: You know, just think of the construction to get to the aerial lines. So some of it's going to involve the clearing. So they're going to have tree cutting, so you're going to have logging operations in and out. And then you're going to have access to build the access roads themselves. So you're going to
have, it was explained, bulldozers, going to have trucks laying down gravel. You're going to have the crane pads that have to be built. And all that's material in and out off of a road, and that's going to be -- you know, all that equipment, there's going to have to be someone out on the road making sure that it's safe for them to access the road. You know, the cranes coming in, the pieces, the towers that are -- parts and pieces coming in, all of that comes off a road. So somebody needs to make sure that access is appropriate, safe and secure.

COMMISSIONER BAILEY: And is there also a component of the wear and tear on the road, and does DOT worry about that aspect of it in the state roads?

MR. OLDENBURG: Yes.

COMMISSIONER BAILEY: So that's another thing we'd have to cover with DOT, too.

MR. OLDENBURG: So, usually you have an access pad. So they would put in like bigger stone, something along the edge
of the road, so when trucks come and go they
don't destroy the edges of the road. And it
also helps get like mud and stuff like that
off the tires so they're not tracking dirt
and debris and everything else all over the
road. So that's usually a component that
you'd want to make sure is in place, and that
leads to erosion control measures. And then
signing and flagging, you're going to need
somebody to make sure these vehicles coming
and going have access. So I would -- someone
needs to approve that. And if they're on
non-DOT roads, I'm assuming it's going to be
this consultant that's going to have to
approve all that.

CHAIRMAN HONIGBERG: Is there
a difference where there's not an existing
right-of-way versus where there is an
existing right-of-way today? Because there's
a fair length of this in an existing
right-of-way where there's already a crossing
over these town roads. In those
circumstances, the relevant utility whose
line it is works with the town; right? If
they need to do something across Loudon Road today, they work with the City.

MR. OLDENBURG: Correct.

COMMISSIONER BAILEY: Is Loudon Road not a state road?

MR. OLDENBURG: No, it's a city road. It's in an urban compact, so the city --

COMMISSIONER BAILEY: Oh, so we're talking about Loudon Road, too, not just North Hill Road that DOT's not going to have authority over?

MR. OLDENBURG: Correct.

COMMISSIONER BAILEY: What else are we talking about?

[Laughter]

MR. OLDENBURG: There's 80 other aerial crossings over town roads that the DOT is not going to review.

COMMISSIONER BAILEY: Hmm.

MS. WEATHERSBY: It just seems as though the affected municipalities should somehow be involved. I mean, they need to know that this road, you know, is going to be...
temporarily closed while something goes over, or there's a new driveway, new access road being put in. It's just -- you know, I'm warming up to the idea of requiring driveway permits and whatever other municipal permits are needed on a municipal level if this were not -- if this were any other transmission project.

MR. OLDENBURG: There's something else I think that goes with that is emergency response. If a worker gets hurt, you know, you'd hope that the town knows how to access the right-of-way and have been involved in knowing where to go. I'm assuming that's going to happen, anyway. But if they had to issue a permit how they access the right-of-way, you would think part of that permit would be checking with the emergency response people to know where that access is. But...

Do we want to move on to a different topic?

CHAIRMAN HONIGBERG: I want to say one more thing. But if there's an
existing right-of-way there today, they know
what the access is. The only stretch where
there's a new right-of-way is in the North
Country.

MR. OLDENBURG: True.

CHAIRMAN HONIGBERG: Once you
get past the North Country, it's all existing
right-of-way with existing crossings; is it
not?

COMMISSIONER BAILEY: Well, we
need to look into the record on this. But I
got the impression that they were going to be
building new access roads on the existing
right-of-way. So that was going to require
access points that have been sort of grown
over for years and years to be reopened up.

MR. OLDENBURG: Yes.

CHAIRMAN HONIGBERG: That may
be true. I think there was a series of
questions we had about bell-shaped --

COMMISSIONER BAILEY: Aprons.

CHAIRMAN HONIGBERG: -- aprons

versus the ones that hit just at the
90-degree angle and are the width of the
right-of-way once you get inside. So there may be work that needs to be done on them, but they exist. Those things are in place today. They're not new.

MR. OLDENBURG: I think it's more of an awareness that there's activity going on.

CHAIRMAN HONIGBERG: Yeah, clearly there needs to be awareness of activity that's going on and coordination and information provided. I would -- I don't think that the Applicant expects that if it got a certificate from this body that it would not be informing the local communities of its plans and working with the city engineer or whatever town road agents are relevant to the discussions so that they would do it in a way that would not interfere with what the town needs to do and coordinate with the town. That's never been my understanding of what they intend to do here. They want to be able to work with the towns. The towns are stiff-arming them, which I perfectly understand, so they're not able to
make any kind of agreements right now. But their expectation and hope is if a certificate is granted, then they're going to the towns and saying let's talk about how we're going to get this done because we have a right to do it now. That's how this would work. We can -- if we write that in as a condition of some sort, that would work. But that doesn't deal with the North Country, where there's new rights-of-way and new crossings that are required. And it doesn't fully answer the question about how they're having to reconfigure some of those existing access points, which is an issue for them.

But am I wrong about that?

MR. OLDENBURG: No, I think you're right. I'm assuming a worst-case scenario is where they want to go in and do something and the town said don't talk to me, I don't want anything to do with it. But I would assume that you're right. You know, if they get a certificate to go and do this work, they would be talking to the communities and, you know, making sure
emergency responders and public works
directors and road agents all knew what was
going on so that, you know, none of it was a
surprise and everybody knew what was going
on. So...

COMMISSIONER BAILEY: Does
anybody know where in the record the -- I
know it's in the Application somewhere -- but
where the crossings that we, the Site
Evaluation Committee, are going to -- or have
been asked to approve that aren't under DOT
jurisdiction? Did you say there were 89 --

CHAIRMAN HONIGBERG: Eighty.

MR. OLDENBURG: I can only
tell you that that's what the DOT said in
their letter, that there was 109 -- let's
see. There were 109 aerial roadway
crossings, 29 of which are over state roads
and 80 are over local roads. Now, if I
remember, swinging at the fence here, it's
Appendix 9 is the aerial crossings.

CHAIRMAN HONIGBERG: Well,
there's a flurry of activity going on to our
left over there with Ms. Gagnon and Mr. Getz
trying to figure out the answer to this
question.

MR. OLDENBURG: Which is
several hundreds pages long, with pictures or
a sketch at each crossing.

MR. IACOPINO: It's
Exhibit 9, 679 pages.

CHAIRMAN HONIGBERG: It's
Exhibit 10?

MS. GAGNON: Appendix 10.

CHAIRMAN HONIGBERG: Appendix
10. Sorry.

MR. OLDENBURG: I was close.

(SEC members reviewing document –
Applicant Exhibit 1, Appendix 10.)

COMMISSIONER BAILEY: Okay.

So we're on Exhibit 1, Appendix 10. It
starts out with a list. And the fifth one
down, Mr. Oldenburg, says "State of New
Hampshire, Diamond Pond Road." So the State
of New Hampshire owns Diamond Pond Road, but
that's locally maintained, so that wouldn't
be under DOT?

MR. OLDENBURG: That's a good
question. There are state roads that are locally maintained, but there's a lot of different configurations.

CHAIRMAN HONIGBERG: The title of this appendix is a clue, "Locally Maintained Roads."

MR. OLDENBURG: So I can tell you one thing. The State of New Hampshire -- Christine Lake Road is a state-maintained road. It's a road to public waters. It's their driveway up to the beach. But I don't think it crosses there, does it? Oh, yes, it does. Yes. So I'm not quite sure why that's shown as a local road because that is state-maintained.

CHAIRMAN HONIGBERG: This table looks like every crossing. Every road crossing's here 'cause it's got 3, 93, 132 --

MR. OLDENBURG: Oh, it does.

COMMISSIONER BAILEY: So could we ask somebody to show us where the locally maintained roads are? I agree it looks like this is a larger list.

CHAIRMAN HONIGBERG: We're
going to take a ten-minute break and see if
we can get some clarity here.

(Recess was taken at 2:16 p.m.
and the hearing resumed at 2:28 p.m.)

CHAIRMAN HONIGBERG: Mr.

Iacopino, I understand you have some
information for us?

MR. IACOPINO: Yes. I just
wanted to explain what occurred during the
break. Myself and staff for the Committee
reviewed Appendix 9 and 10 of Exhibit 1.
There's a table at the beginning of each of
those. And although they're titled
differently, "State-Maintained Roads" and
"Locally Maintained Roads," those tables
appeared to be identical to each other and
contained all of the road crossings. The
only way that I can see to delineate them is
by the title column in the spreadsheets in
each exhibit or in each appendix. And then
following each of those tables is a series of
plans, which each plan on the first page has
a number, and you can compare the table to
the plan. So that's what occurred over the
break and that's what I have to report to the Committee. So, Appendix 10 is not just the locally maintained roads.

CHAIRMAN HONIGBERG: Thank you.

COMMISSIONER BAILEY: And just quickly counting, there's more than 20 "State of New Hampshire" indications. How many did the DOT say there were?

MR. OLDENBURG: Twenty-nine.

COMMISSIONER BAILEY: Oh, okay. Let me see. Let me keep going.

MR. OLDENBURG: But I think if you go to the plans after the local roads, you'll see --

COMMISSIONER BAILEY: Yeah, there's more than 29 that say "State of New Hampshire."

MR. OLDENBURG: But if you go to the plans, the first one's crossing over Halls Stream Road, then the second one is over Wiswell Road, third one is Holden Hill Road. So it just shows sort of a roadway alignment and a crossing of each of those
roads. So I'm assuming in that area that's all new right-of-way, so that right-of-way is going to have to be cleared. That right-of-way is going to have to be -- there's towers and access roads that are all going to have to be built, and they're all going to be accessed off of those local roads.

COMMISSIONER BAILEY: And I'm stuck trying to figure out which ones are local and which ones DOT is going to handle. Well, do we need to figure this out right now? We should mark it because we absolutely have to know, if we get to the point where we're going to grant a certificate, where we are granting the crossings and where we expect DOT to be granting the crossings. But maybe we find out -- if we get that far, then we can figure it out then.

MR. OLDENBURG: Okay.

CHAIRMAN HONIGBERG: I'd say consider it marked, but I don't know who's going to do that.

Ms. Monroe and Mr. Iacopino,
can you, between the two of you, keep track
of things we say we need to mark and circle
back to?

MS. MONROE: Yeah.

MR. IACOPINO: We can do

that.

COMMISSIONER BAILEY: Is there

a good way, Mr. Iacopino, for somebody to
tell us which ones are state and which ones
are local?

MR. IACOPINO: I suppose

Iryna and I can go through the list and let
you know what the list says. I don't have
any independent knowledge that anything is a
state road or local road other than what's in
the document itself.

MR. OLDENBURG: And it may be

harder to figure out. Like we mentioned,
Loudon Road is Route 9, which you would think
is a state road, but it's actually an urban
compact, where the town -- it's a state road
where the town has the authority -- or has
the right to maintain it. And there's other
roads out there, too, that may be labeled as
a "State of New Hampshire" roadway, but the state doesn't maintain it, like Christine Road. It's a Class III, a road to public waters. But the state doesn't -- I mean, it's a driveway. So the state doesn't put any money into it, doesn't plow it.

COMMISSIONER BAILEY: Would the state be granting a certificate to cross it?

MR. OLDENBURG: I'm not sure. I'm assuming.

COMMISSIONER BAILEY: Okay.

MR. OLDENBURG: So if we put that sort of in a "parking lot," one of the other issues, and this might be an easier one to tackle maybe, is the co-location of the line with the high-pressure gas line, where they're in the existing corridor. We heard some testimony that that was because of a potential tower collapse that could puncture the line and could lead to all sorts of bad things. Sort of my take on it is that the electrical engineers and everyone else that works for Eversource would know better than
anybody whether or not that was an issue, and
they've testified that it isn't an issue. So
I would -- with no greater guidance than
that, I would say that it probably isn't an
issue.

CHAIRMAN HONIGBERG: Well, I
mean, the co-location exists today. There's
transmission lines in the existing
right-of-way with gas pipelines in the
existing right-of-way. And the National
Electrical Code has very specific
requirements for what is allowed there. I
think they know that. There are, I believe,
portions of that that the PUC had to review
crossings that were part of that stretch.
And the Safety Division of the PUC concluded
that they know how to do this, and one of the
conditions of the approval was that they
follow the electrical code in terms of
setting it up. I don't think that's -- it's
not something that should keep people up at
night.

MR. OLDENBURG: I would agree.
I think the whole issue was that the towers
were getting closer to the line, if that was an issue.

CHAIRMAN HONIGBERG: The electrical code is very strict. It is set up to avoid things blowing up, among other things.

MR. OLDENBURG: One of the other issues that was brought up that hasn't been completed yet was the whole discussion on the topic of the Traffic Management Plan and what goes into that. And we saw some of it. There's a traffic control plan that's developed at each location of the work. We saw examples of what was developed that were presented for the design at the time. Those typically would be developed based upon the final construction plans. There's also sort of an operations plan that's developed which would take into account the multiple locations being open at one time -- so, how are they going to deal with, you know, you have three excavations going on at one time within a mile and a half. How do you deal with the overlap, how do you deal flagging
operations, any signal operations or things like that. Also deal with emergency response. So you have, you know, an ambulance that has to get through or a fire truck that has to get through. How do you ensure there's no traffic backups and that they have a clean, free flow through the construction zone. So those types of things would go into the traffic operations plan. It also deals with all sorts of the requirements, you know, from a standard standpoint.

MR. WAY: Mr. Oldenburg, so the difference between the operation plan and the traffic management plan?

MR. OLDENBURG: Well, one is more of a -- a traffic control plan is more set up as this is where the signs go, this is where the flagger goes, this is where the temporary signal would go. And then the operations plan is more how you would operate it. It could also go into different types of strategies that you might use to lessen traffic impact. An example might be, say in
Plymouth, where the roundabout is closed.
You put a sign on the interstate that says,
you know, construction on 175A in downtown
Plymouth, use Exit 26, go up to the next
exit. So you can also use different measures
that you see that might include, you know,
smart work zones. We see those a lot on I-93
today. It could say, you know, "Construction
Ahead," "Woodstock 5 miles, 5 minutes." Sort
of gives you a heads-up of. You know, when
it says "Woodstock 5 miles, 20 minutes," I
might want to seek an alternate route.

MR. WAY: And that's in the
operations plan?

MR. OLDENBURG: That would be
sort of the strategies in the operations
plan, correct.

The other component of it
deals with a public outreach plan and making
sure -- an example is, recently in Conway,
Route 16 over the Saco River, that bridge was
closed to one way only. So there was a big
detour around it. So we wanted to make sure
people knew how to get to North Conway and
the shopping. So there was a whole public
outreach plan that was developed. We heard
Ed Roberge, the city engineer in Concord,
talk about the public outreach plan they did
for Concord Main Street. So that's part of
your traffic control, your Traffic Management
Plan that would go into it. So --

MR. WAY: So is that all part
of the Traffic Management Plan, or is it --

MR. OLDENBURG: It is.
There's three distinct components of it. One
is the traffic control plans, which are the
actual physical plans themselves; the
operations plan, how are you going to operate
traffic, you know, during the construction;
and then the public outreach component, which
is how do you let people know what's going on
in the construction.

MR. WAY: And the only thing
we have right now is the traffic control
portion? Is that --

MR. OLDENBURG: No, we don't
even have that. We have portions of traffic
control plans from the old design. My
understanding is that they've gone -- we sort of saw the initial documentation that have gone to the DOT Traffic Control Committee. My understanding is that sometime next month they'll have plans much further along dealing with the Traffic Management Plan and things like that. So the original meeting -- and there's the memo on the web site. I think it was presented as testimony. They made initial contact with the Traffic Control Committee. That Committee set out what the requirements are to meet all three of those components and what the Applicant needs to do to develop that Traffic Management Plan. So while we haven't seen it, it's in the works.

COMMISSIONER BAILEY: Is it in the works for the local town roads?

MR. OLDENBURG: No. It was very specific that it's only the state roads that it covers because that's the only review and approval authority that DOT has is over the state roads.

MS. WEATHERSBY: Mr. Oldenburg, does DOT sign off on all three of
those plans, types of plans, or just the
outreach plan for state roads?

MR. OLDENBURG: Yes. So what
would happen is the Traffic Control Committee
met, and it designates how significant the
traffic impact is going to be due to the
Project. So most projects are considered
non-significant, where they're not going to
impact traffic unduly. There's also a Level
2 significance and a Level 1 significance.
So a Level 1-significant project is like
I-93, has a huge impact on traffic. This is
considered, I believe it was a Level 2-
significant project, where all these
components are required. So if it was
non-significant, you wouldn't have to do a
public outreach plan. You wouldn't have to
do an operations plan. You'd just have to
come up with the traffic control plan. But
because it's considered a significant
project, those three components come into
play. So you wouldn't do these components if
it didn't have the traffic impact that it's
going to.
MS. WEATHERSBY: So in this instance, all three of those plans will be required and be approved by DOT.

MR. OLDENBURG: Yeah. So the next stage of this is they come back to the Traffic Control Committee with a Traffic Management Plan, and that gets approved by the DOT.

MS. WEATHERSBY: And in the public outreach portion, are they required generally to talk with the various communities about -- we heard testimony about festivals and fairs and triathlon events. Does that come into play here, or is that separate?

MR. OLDENBURG: No. Absolutely that would come into play. So I would assume, just like any DOT project, there's certain major events that are either statewide or local that would be included. You know, the NASCAR race, the Prouty Bike Race up north, any of those regional or statewide or even local events you would want to mention in the traffic operations plan.
that no work takes place during, you know, this weekend due to this event. You'd always want to have that mentioned. So it will take a review of, you know, all those local events, you know, and making sure they're accounted for.

MS. WEATHERSBY: And is there an opportunity for a community to submit things to the DOT or make comments, you know, oh, you forgot my fiddlers festival or whatever it may be?

MR. OLDENBURG: And that's one of the -- what the DOT would normally do is they have public information meetings, public hearings, go to a select board meeting and talk about a lot of this.

I mean, we heard testimony -- I will get the bridge and the route wrong. But on Route 18, Indian Brook, Sugar Hill, that bridge was closed. Maybe it was Route 116. We heard testimony from the pancake place about it. But one of the other, the nursery or the landscape, one of their issues was when we wanted to close that road was in
their prime time to get plants out to market. And so we actually moved off the construction a month based upon that to accommodate their needs. So that typically happens. And the only way that really happens is with direct conversations with the communities on when these events are.

MR. WAY: So I think I know the answer to this question, but just to maybe summarize. In terms of the local roads, DOT is not going to participate. They're not going to have a Traffic Management Plan review. They're not going -- that doesn't go before the review committee on local roads. So there's nothing to require an outreach plan unless we require it, which we could do. But there's no similar process in local roads that would be in state roads.

MR. OLDENBURG: Correct.

COMMISSIONER BAILEY: Can I ask a follow-up? When we say "local roads" in this part of the conversation, are we also talking about Loudon Road?
MR. WAY: Yes.

MR. OLDENBURG: Yeah.

COMMISSIONER BAILEY: So there's no traffic plan for Loudon Road that DOT is working on.

MR. OLDENBURG: Not that DOT is working on, no. I do not believe so, no.

DIR. WRIGHT: So this must happen all over the state, though. This can't be the first time where you have a mix of state roads and local roads being impacted by the same project, is it?

MR. OLDENBURG: No. I mean --

DIR. WRIGHT: Okay. So DOT just worries about their portion and lets the locals do whatever they do at that level.

MR. OLDENBURG: So almost every DOT project has an intersection with a local road. So local roads are affected to some degree. Sometimes work requires to go up a local road just some distance just to make the match work from a construction standpoint. But state law says, on a DOT project, DOT controls the construction
activities on all roads. So we have a
municipal work zone agreement that the DOT
asks the communities to sign that says during
the work we manage the construction on state
and local roads. So we have an agreement
that the town signs, that DOT signs, that
says during the work on our projects, we have
the authority to manage traffic and
construction on local roads. That's a --
it's a requirement. And that's the only way
that we can actually operate on local roads.
This project doesn't have that, so...

COMMISSIONER BAILEY: And the
difference with this project is that -- well,
let me ask you this: If it were not a DOT
project, but it were a project that DOT were
involved in with respect to the state roads,
then would the towns be taking the lead on
the impact on their roads?

MR. OLDENBURG: Yes.

COMMISSIONER BAILEY: And so
here we've been asked to pre-empt the towns'
authority on this kind of thing as well, I
guess.
MR. OLDENBURG: I guess to some degree, yes. Yeah. So, some of the other things that have been talked about with the Traffic Management Plan, and we can -- was the way the traffic will be managed with one lane of traffic on a lot of the roads, especially in the underground section. So in the underground section -- let me limit that to the Bethlehem to Bridgewater section having one lane of traffic. Ms. Farrington said that the volume of traffic along those sections of road, you know, that wouldn't cause an issue. And I would tend to agree that the traffic volumes that I've seen, the only place I've seen them on the exception request, traffic volumes are on there. Some of the traffic volumes on those roads are very low, easily managed with a flagger and one lane of traffic. You know, you're going to get situations like in downtown Franconia where it's going to be a little bit harder to manage. But the traffic volumes, you are not going to see mile backups. You're not going
to see huge traffic issues if they're managed correctly. And I would believe in Franconia, with a flagger they'll probably operate a little bit better because that's one way through and the other two-way stopped. So with a flagger, it almost operates like a signal, you know; they're going to direct traffic, who goes when. So I think it's easier, in my view. Might be easier to manage with a flagger. That doesn't say during operations when they're not there and the flagger isn't there at night. That's going to be how do you leave that, making sure it's left -- that's where you don't know because you don't have plans. But throughout this section, if this was building 2,000 feet of conduit and one splice vault, this would be a no-brainer. I think the problem is where you get the series -- they have to build this in two years. That's 25 miles in a year. I mean, we did the math. And 100 feet a day, that means they have multiple crews out there operating all at the same time. So they could have in that 52-mile
section a dozen crews. So, going through one
traffic control operation might not be an
issue, two, three. But when you get to 12,
is that -- that's going to have some sort of
impact on the way people get to where they're
going. And how that's managed is going to be
the tough part. And we haven't really heard
how they're going to manage multiple work
zones, you know, multiple HDD drilling
operations. Some of the areas are going to
be easier than others. Some are going to be
more difficult. I think once you get down
into some of the less populated areas of
Route 3 through Campton and Thornton, it
might be a little easier. The road gets a
little wider. You're around the interstate
where there's more options. But when you're
going through Franconia and Easton and Sugar
Hill and downtown Plymouth, how you manage
that traffic is going to be pretty important.

COMMISSIONER BAILEY: Do you
think that there is a way to have it managed
where -- well, let me -- where it wouldn't
affect the orderly development? I know
that's putting you on the spot.

MR. OLDENBURG: That's getting
to the end, isn't it?

COMMISSIONER BAILEY: All
right. Don't answer.

MR. OLDENBURG: I think
there's going to be certain components that
are going to be a little more difficult than
others. But they've addressed some of the
major ones, you know, dealing with traffic in
downtown Plymouth. Have they done it to our
satisfaction? That's the question. Patty,
you had a...

MS. WEATHERSBY: Yeah, I was
going to say, I think during the testimony
you kind of took them through, you know, best
case, you've got this many stops that last
one minute each. You know, if you went
through various scenarios in total, what
would the delays be, that we have sort of
that range of numbers. I think it's just up
to us to decide if everything is working to
the best it can be, it will still delay
people. And, you know, those effects on
travel, tourism, people's jobs, et cetera,
you know, what level does it become too much
for us, whether they get there or not. I
don't know.

MR. OLDENBURG: I mean, the
best case is you get there and there's no
traffic and the flagger lets you right
through. The worst case is they're
off-loading a splice vault and traffic is --
you're stopped there, you know, for five or
ten minutes while they off-load that, because
they're not going to want you anywhere near
that crane swinging that big piece of
concrete next to your car as you drive by.
So I would envision that that's going to
happen. How many of those do you hit along
the way? That's, you know -- how long does
it take you to, you know, get set up in the
morning and get the flagging operations to
sort of coincide, if you will, if they need
to.

MR. WAY: Mr. Oldenburg, let
me put you on the spot.

MR. OLDENBURG: I haven't been
for the last three hours. I feel like I've been through an interview.

MR. WAY: Mr. Oldenburg, let me put you really on the spot. So in your experience, when you look at some of the spots that we've talked about that might be more and more challenging, are there some that do look feasible on paper, but by your experience might be very difficult to implement and you would have more concerns about? Like, for example, I understand what the plan is in Plymouth. I personally can't envision how that is going to happen, knowing Plymouth and knowing the congestion in that area and how traffic flows. I'm going to need some convincing and more clarification on how that happens. But I'm not a DOT person, and so that's what I'm wondering. Do you see similar places like that, the Franconia 18/116 intersection, the Woodstock area? And I think some accommodations have been made there, but...

MR. OLDENBURG: I think you hit the big one is downtown Plymouth and how
that work goes. And I think we heard Mr. Johnson and Mr. Bowes talk about that to some degree is they would have specialty crews in Plymouth. That's their whole job is to get through Plymouth, smaller operations where they might not go as fast, but they're going to take up less room. So you're talking, you know, a backhoe and dump truck and just enough equipment that they're going to use in the day so that they're not taking up 1,000 feet of road, but they're taking up a 100 feet of road. It's still going to require a lane closure and the parking blocked off, but maybe not to the degree where it's the entire downtown. So I think when we talk about Plymouth, we think of this huge -- the entire downtown is going to be closed off. And I don't think, from what I heard, that that's their intention. They're going to fine-tune it and make it a much smaller operation.

Now, on the other hand, I will say that I did hear when the construction panel came back the second time was that
there was a discussion about the Plymouth water and sewer work, and Mr. Johnson said, "Well, we'll probably do our trenching the first year, and then we'll come back and do the water sewer the second year."

MR. WAY: I don't know if that helps.

MR. OLDENBURG: That didn't really help me out too much because, you know, that just extends the construction. But I think their impression was -- or the thought process was they could not do all the work in the time frame when the school was closed. And I think that was one of their key components was to do it in the summer when the college kids aren't around so they can get in and out. That was my impression and memory.

MR. WAY: And that made sense to me, to try to do that work at the same time or at the same time you're doing the other trenching work. But the concern I had was, like you said, then we're extending out the construction period on, I look at it as a
sort of sensitive business ecosystem a bit in
town.

The other thing, too, is we're
also, in that case, going to have to require
a detour on local roads; correct?

MR. OLDENBURG: Correct.

MR. WAY: So that's going to
have to happen. And then we have to -- and I
don't know where this falls in the traffic
control plan that will be put in place. But,
for example, to make downtown Plymouth work,
there has to be the suggestion that parking
will be accommodated. Well, if you go down
to Green Street, I think it's called Green
Street right down below, and I park in that
parking area there, it's not like there's
millions of spaces there. You know, I mean,
how will that work? So that's one where I
have concerns where, you know, I think you're
right. They'll have their specialty crews
and they'll be good, as good as anyone can
be. But it still results in a very congested
area that's going to have an impact
temporarily -- but in some cases could be
long term for some, but a temporary impact on
some of the businesses. And that's an area
of concern for me.

COMMISSIONER BAILEY: Can we
pull up the map that shows the intersection
in Franconia where we actually -- I think it
goes under, is it the Ham Branch River, the
bridge there? The Gale River.

MR. OLDENBURG: Yeah, so it's
the intersection of 18 and 116.

COMMISSIONER BAILEY: 116?
Construction plan I think. Because, Mr.
Oldenburg, I remember when we were there, we
were looking at the size of the pit that
would have to be there. That was 30 feet
wide; right? And the road wasn't that wide.
And they're not going to close the road
until -- I just want to look at the map and
have you explain that to me.

MR. OLDENBURG: Well, I think
there was an issue we heard, because
originally it was going to be a microtunnel.
And I think the last I remember is "we're
working on something else." So I'm not sure
what the "something else" is. But I thought it was HDD drilling from a town parcel or to a town parcel.

DIR. WRIGHT: That's what I recall is they were looking at HDD drilling through that section.

COMMISSIONER BAILEY: But they needed to get access to the town land? Was that it?

DIR. WRIGHT: I think so.

COMMISSIONER BAILEY: And they never followed up with that.

DIR. WRIGHT: We don't know.

COMMISSIONER BAILEY: We don't know. Right now what we have on the record is microtunnel --

MR. OLDENBURG: Microtunnel, correct.

COMMISSIONER BAILEY: -- at that intersection. And is that the thing that requires the 30-foot hole?

MR. OLDENBURG: Yes.

Basically you have a big hole, and in that big hole you drop a machine. It drills
underneath the Gale River, comes up to another pit, and you run your line through it.

COMMISSIONER BAILEY: And if that's the plan, do they have to close the road there?

MR. OLDENBURG: They showed no. No, you didn't, that there was room to run traffic around the pit. And that was one of the traffic control plans that they did have. We looked at that when we were out in the field on a site review. You know, if they can build the pit where they say they're going to build the pit, some of my concern, I guess, would be how do you protect that hole with I'm assuming a jersey barrier and still make it work. So...

COMMISSIONER BAILEY: And they have enough space for the hole and the jersey barrier and one lane of travel. Well, can we pull that --

DIR. WRIGHT: I was going to say, can we pull that map out --

COMMISSIONER BAILEY: Yeah,
that's the construction map that I want --

MS. MONROE: Counsel for the Public, is that your CFP593? And I assume the Applicants have a --

(Discussion off the record.)

MR. WAY: Mr. Oldenburg, so while we're waiting for that, the DOT level of input into a design like that? You know, we're asking questions as to whether it's feasible or not. Does DOT say, No, we've reviewed it, that's feasible?

MR. OLDENBURG: Yes, that would -- Route 18, 116, most of those roads are DOT-maintained roads. So they would review plans, make sure the traffic was, you know, was managed, you know, as safely as possible.

MR. WAY: And they would be able to say one lane closed or not one lane. Or does it pass the "straight-face test"?

MR. OLDENBURG: I thought -- and when the plan comes up, we'll see if my memory is right. I thought they were running two lanes by it because the road was a lot
wider, like on the Gale River portion. So they actually got two lanes by. Very tight, but two lanes. I'm not sure how a truck coming across the bridge would make a right turn and stay in their lane. But they managed to get two lanes through, if I remember right, just because the existing road is that wide right at the intersection.

MR. WAY: But that's just at the intersection. That narrows as you get further towards Easton on 116.

(Discussion off the record.)

MR. OLDENBURG: That actually isn't the plan I was thinking of.

MS. MONROE: Right, that's the simulation, Dewberry.

MR. WAY: You want the trench plan; right?

MR. ASLIN: The exception request for this microtunnel, is that what you're looking for?

MR. OLDENBURG: It could be.

MR. ASLIN: That would have the plans for that section. That's CFP555.
(Pause in proceedings)
(SEC members reviewing document - CFP555.)

MR. OLDENBURG: There's also -- I thought it was part of the traffic control plans that the Applicant had furnished. And I thought it was a Par Electric plan or Louis Berger/Ms. Farrington plan that had been developed. It was on an aerial photo that had the lane markings and where the pit was located. I mean, what this shows is where the pit is, is the circle in the middle of the intersection. What this doesn't show is the lane usage and everything else. But my memory is, you know, to the right of that work zone was enough room to run two lanes of traffic. Like I said, the turning radius, if you were coming across the bridge and wanted to make a right turn into that, a car could make it maybe and stay in their lane, but a truck would take probably the whole road. So that would have to be managed. But I'm not positive of that.

That's what I remember being seen when we
were in the field.

MR. WAY: So when you say a
truck making a right turn, and that would be
18 onto 116, would have a hard time doing
that. How does that get worked out? Detour?

MR. OLDENBURG: Well, that
would be something that -- yeah, the Traffic
Management Plan. Typically a state road,
like you would want to be able to make a -- a
truck make that turn from their lane. So if
they can't do that --

MR. WAY: Or do a detour. But
there's no real detour.

MR. OLDENBURG: Right.

MR. WAY: So you have to make
that work for that --

MR. OLDENBURG: Correct. But
if, you know, during the day you had a
flagger there, that wouldn't be a problem.
If you had -- say you set up temporary
signals. So this was operating at temporary
signals. What you would do is have the stop
bar where traffic stops further back so that
the truck can use the whole road and turn,
and no one would be stopped there because they'd be further back.

MR. WAY: So you think the truck could work with a flagger.

MR. OLDENBURG: Oh, yeah. Actually, a flagger makes it a lot easier because they can stop the whole road and just let the truck turn. But that's something that should -- that has to be worked out with the Traffic Management Plan. That's the whole purpose we have it is for an instance like this. That shouldn't be a free-for-all for the contractor to figure out. Somebody needs to design how that works.

COMMISSIONER BAILEY: Do you think that circle is drawn to scale?

MR. WAY: Which circle?

COMMISSIONER BAILEY: The circle depicting the microtunnel. Is that a 30-foot circle? No, not that one. The one in the road that's in the shading.

MR. OLDENBURG: So, actually, that's -- read the plans. That's the receiving shaft. So it might not have to be
that wide. All the equipment -- the
launching shaft is down near Academy Road.
Right. So that's the work zone you see to
the right.

COMMISSIONER BAILEY: Okay.

So that circle's a little bigger. Is that
30 feet, that circle, drawn to scale,
30 feet? I mean, is there a scale? I don't
see a scale on this map.

MR. IACOPINO: Bottom left.

COMMISSIONER BAILEY: Oh, oh,
I see it. Yeah. Okay.

MR. OLDENBURG: It looks
pretty close.

COMMISSIONER BAILEY: Looks
like in inches, 30 feet. Okay.

MR. OLDENBURG: You know, so
at that location it looks like there's going
to be one lane of traffic on Route 16. And
that's all you're going to get for the whole
construction. And that's weeks at a time.
It's not like they can -- they're going to
fill in the hole at night. So that's going
to be 24/7 for the number of weeks that that
operation exists that that's going to be one
lane. We heard that an operation like that,
my understanding from what Ms. Farrington
said, that there would be a temporary signal
set up, so that the one-way traffic would be
operated with a signal, a situation like
that. She talked about some of the splice
pit locations where they would be -- where
the road would be left with a one-way lane
overnight with a temporary signal. I have to
believe that a situation like that would
almost run that same way because it's going
to be one lane 24/7 for weeks.

MS. WEATHERSBY: And didn't
either you say, or maybe I'm recalling it,
this process takes, like, 14 to 20 weeks?

MR. OLDENBURG: It was a lot
longer than a splice pit, yes. I don't
remember the exact time.

DIR. WRIGHT: Would it say
that earlier in the exception request how
long?

MS. WEATHERSBY: I can
probably find it.
MR. OLDENBURG: It says the estimated traffic control duration of the proposed installation is estimated to be 8 to 12 weeks. The duct bank connections to the microtunnel will take approximately 3 to 4 weeks at each end.

COMMISSIONER BAILEY: And could they -- no, they probably can't reopen the road. So, three to four weeks at each end. Could they do those three to four weeks together at the same time on each end? Don't know.

MR. OLDENBURG: I don't know. I would hope so. It does say that the entry shaft is approximately 25 feet in diameter and the receiving shaft is 20 feet in diameter as part of the exemption request.

(SEC Members continue reviewing document - CFP555.)

MR. OLDENBURG: So, I guess to go back, if I remember Mr. Way's question correctly, is, yes, this is one of the more complicated traffic control configurations or setups that they're going to have to do.
Another one is downtown Plymouth, and we sort of talked about that. And, you know, in the downtown Plymouth area is also the roundabout. Their plan is to close, you know, half of the roundabout, if you will, and make it sort of a right in/right out only at the roundabout and then using local roads up and around. So that's using local roads as a detour from state roads. State DOT, without the town's permission, we wouldn't do that. State traffic stays on state roads. We understand what we affectionately call the "rat hole theory," where the locals know the local roads and they will take the local roads. But we would detour traffic, you know, using other state roads. So we would not have -- the DOT would not have the authority to say it's okay to use Merrill Street and some of the other local roads.

One of the other areas that really wasn't brought up too much was down Plymouth towards Bridgewater, and that's where the road is extremely narrow and
there's like a retaining wall that holds the road off of the railroad. That's sort of like embedded in ledge. So I think there's a multitude of issues that the contractor could run into, none of which I think are show stoppers, but it's just going to be more complicated and a tighter work area and longer if they do run into ledge, which it sort of looks like. It appears to me like there's a concrete road under there, too, that's going to complicate issues. And it's very narrow. So that type of situation is going to be more complicated because of the narrowness of the road in some of the issues they're going to run into constructability-wise.

But, you know, there's certain other areas which will probably be a little bit more -- you know, they might have to delve into a little bit harder from just how do they manage traffic. The intersection of Route 18, how close it is to the interstate ramps up in Bethlehem, you know, when they're working, making sure that they don't impact
ramp traffic and interstate traffic and people know where to go, how to get on the interstate, how to get off the interstate when they're immediately met with a construction zone, that type of thing.

MR. WAY: In your opinion, how this will go in the other areas, the local areas that we had talked about, Bear Rock Road, County Road. A lot of challenges up there. Who reviews those challenges? And I think I know the answer. But there's some, a few significant issues to be dealt with up there, and we don't have the benefit of a DOT. We have you here, and that's great. But how do we navigate those roads?

MR. OLDENBURG: Well, some of those roads are actually DOT roads, some that you might not think -- so, 145 is a DOT road. And there's a portion of Bear Rock Road that's DOT and then it becomes town-maintained. I think it's Bear Rock Road.

So there will be a DOT component in the review. But the ones that
are on local roads, I mean, you know, we sort of talked about that already, and it's in our "parking lot," that's going to be an issue. I mean, we've been on those roads. We've driven up and down those roads. There's not a lot of traffic on those roads. Traffic control really isn't the issue. I think it's more the roads are closed and it's the detour route. It's, you know, making sure Mr. McAllister can get, you know, his farm -- you know, his milk to market and things like that. So how does that affect, you know, the economy of the region, in that you're closing these roads? You know, some of those homes are second homes for people that don't even live in this state. So is that going to be an impact? But there are, you know, other things to think of, emergency response and things like that.

MR. WAY: And I'm kind of thinking of a Mr. McAllister. You know, we have sort of one chance to get it right. Either he can turn his trucks and navigate off the road or he won't be able to. But
we're essentially going to have to take
what's given to us and assume that it's
correct, and then hope that it is correct.

MS. WEATHERSBY: If I could
just point out the Applicant has suggested a
condition that deals with this. It's sort of
a DOT Version 2. It's Condition 18 with
respect to the underground installation and
locally maintained roads in Stewartstown and
Clarksville. "Properly qualified consultant
selected by and subject to the supervision of
the SEC Administrator, paid for by the
Applicants, is authorized to review and
approve traffic control measures and a
traffic management plan for the underground
installation in locally maintained roads in
Stewartstown and Clarksville."

MR. OLDENBURG: So that covers
everything. That covers the detours, the
road closures, the access to public -- or the
residential and business, yeah.

MS. WEATHERSBY: Well, it
certainly is all the traffic control stuff,
but it's not the other two types of plans you
mentioned, really, the operation and the outreach.

MR. OLDENBURG: To be perfectly honest, I don't -- if that was a DOT project, a stand-alone up there, we wouldn't do that. So the example is 145 in Stewartstown. There was a bridge. We actually went around it in our site review. That bridge was closed for six months when it was being rebuilt. So 145 was closed for an extended period of time up there. The bridge had to be replaced. It was a failed bridge. And that's what -- did it impact traffic? Did it impact people? Yeah. They dealt with it. But the idea is that there's -- did it impact the region unduly? I don't know.

So one of the other things, and we sort of touched upon it, was the work in downtown Plymouth and how best to -- you know, has the impact to the parking, the hours of operation and that been addressed? Will that unduly affect, unreasonably affect businesses and community and that? So, you know, I don't know. The amount of work they
have to do, the time it takes, I'd have to believe it's going to have some impact on people visiting downtown Plymouth and going into those businesses. But I also know that the Applicant has stated there's a -- my brain just sort of turned to mush -- loss of business, you know, mitigation efforts that they've done. So if a business can prove they've lost money due to the construction, the Applicant will work with them on that.

MR. WAY: I think also, too, the Applicant said when you look at the region as a whole, that you're not going to get an unreasonable impact. And, you know, that's something we may have to chat about at some point is region versus the sum of its parts. I mean, you can't have a region without the sum of its parts. And so you kind of have to talk about individual communities and impacts. Some communities I don't think will be overly impacted and some will be a little bit more so. When you look at Plymouth, you know, I think the testimony we've had, the letters, the comments from
business owners, this will create an impact. I tend to put a lot of stock in that. I think business owners tend to know their customers. I think business owners tend to know the tolerance of their customers for change. They know how much they'll spend. I think there was one comment early on that, "Well, maybe they could get them to spend more." But businesses figured that out quite a while ago, and if they could, they would.

So, you know, however we navigate through this, I tend to take the word of businesses pretty closely. And so when they say that they may experience an impact, it could be because of past experiences they've had with construction. The pancake kitchen. No, they're not right on the route, but they may very well have experienced the impact that happened with the result of a bridge closure and so they have an idea of what they can expect. And I think there's a lot of measures to mitigate that and there's a lot of outreach that can happen. But, you know, I think in Plymouth,
I think that potential impact, although temporary, is real for them and should be acknowledged. And I think also, too, you know, the impact on business and tourism -- and we're going to get into this later -- it is different than, let's say, you know, 145. That's a different situation, you know, when we're talking about 116 in Franconia and we're talking about Plymouth. It's a little bit more pronounced. Those traffic management plans are even more important in those areas, particularly with events that are occurring. So...

MR. OLDENBURG: And where I need sort of help with that is, yes, downtown Plymouth is not a "region." But when you look at the region, you know, it's somewhere people in Rumney or in Woodstock or in Campton or in Thornton, you know, where do they go shopping? You know, it's -- you know, Bridgewater, you go through Plymouth to get to the grocery stores. And, you know, a lot of those communities up there don't have the services or the businesses, and they go
to a place like Plymouth to get those
services. So I don't know -- yes, it's a
very defined area, downtown Plymouth. But
could the work in downtown Plymouth affect
the region because that's where everybody
goes in the region? So, you know, that's
where I don't know. Rely on your expertise
for that.

MR. WAY: Well, yeah, I don't
know if we want to get into this when we talk
more about tourism, we talk more about
employment. But I guess also, too, when we
talk about downtowns and — downturns in
business, even though we're talking about
temporary — and, you know, in the case of
Plymouth, we're talking about restaurants,
theater, you know, other things, goods and
services, like the hardware store, et

cetera -- they may anticipate that there may
be some short-term employment losses. I
think that's important to consider. I think
that the idea that, as you said, if people
know there's construction in one area,
they're going to try to go somewhere else.
And that certainly could have an impact in
the area. I'm one of those people. If I
know there's construction, I don't have
patience, I'll go somewhere else. You know,
I think maybe -- I don't know if we want to
"parking lot" that for a little while until
we get to tourism and employment. Or we can
start delving into it.

MR. OLDENBURG: Well, if you
want, there's a few more. Let me see if I
can tick through the rest of some of these
points about the construction. I don't know
how many more there are, but...

One of the things that Ms.
Farrington did talk about was the
construction vehicles. She wasn't going to
analyze, you know, traffic impacts, the
impacts to traffic and construction access.
So you have these -- in the overhead
sections, you have the aerial crossings where
all the construction equipment is going to
come and go, or the batch plant or the
cement is going to come and go. And she
didn't think that there was going to be a
traffic impact due to that. And I would tend
to agree. Yes, if you set up a concrete
batch plant and there's a truck in there
coming and going once every, you know, two or
three minutes even, which there won't be,
that's not going to have an impact on traffic
on these roads. I can't believe that. And,
you know, some of the other access is going
to be limited to, you know, the workers show
up at 8:00 in the morning, they go and park
their vehicles, you know, in the
right-of-way. So, you know, how many people?
Even including construction equipment being
brought in every day to deliver equipment or
material, you're in the tens of vehicles, not
in the hundreds of vehicles. So I don't
think that construction access to the
right-of-way or some of these temporary
laydown yards, the marshaling yards and
things like that are going to cause a
problem. I just don't see it.

DIR. WRIGHT: Bill, is that
something DOT doesn't normally look at under
traffic management plans? Or is it a
case-by-case determination?

MR. OLDENBURG: That would be a case-by-case determination. You know, I would think that's on a majority of them. You know, we mentioned Loudon Road up here. I don't know if they plan on accessing the right-of-way through Loudon Road. But that would be an issue. You go down Regional Drive towards 106 where the precast company is, the right-of-way crosses Route 106 through there. So how they access that road and things like that, I can't even -- I don't think that would even cause a problem. You put out a flagger and stop traffic and let the construction vehicles in. I don't think there's going to be a traffic backup or anything else because of, you know, construction vehicle access to the right-of-way.

MS. WEATHERSBY: We also heard testimony about Bear Rock Road and the excavation of the transition station. If I remember right, there was, like, 5,000 truckloads of stuff that was coming
out. And how many trucks that is on that little road, do you have the same opinion there?

MR. OLDENBURG: Yeah, it's probably going to be more trucks than cars on that road when that -- but if you looked at that road, I bet you there's, you know, how many cars a day on that road? Hundred? Two hundred? Three hundred? I can guarantee you there's more than that leaving this driveway tonight. Is that going to be a traffic backup? You know, unless everybody leaves at once, probably not. So the amount of trucks that are going to be leaving, coming and going, I don't know where they're going. I don't know where you're going to take that many cubic yards of rock. But I wouldn't believe that that would have an impact on the traffic on the road. I'm not sure the road is wide enough in some areas. We looked at it, but the thought was that they would -- the Applicant was going to dig up that road and replace that road. So from a construction access standpoint, I can't see
it's going to have a traffic problem.

MR. WAY: And when we talk about that, are we discussing it at, say, for example, peak times of the year? You know, for example, I know I keep coming to 116 because it's sort of a easy discussion. But, you know, 116 during leaf peeping season, during those peaks. And even you brought up the cumulative wait times brought about by multiple closures. You know, that would be more the concern. I know from a tourism perspective, if someone's coming up here, what are they going to be experiencing in terms of delay, and what is their tolerance for that delay? At what point does that delay say, "I won't go here or I'll go there, or I'll go south? And that's hard to do without that Traffic Management Plan. So you keep saying "chicken or the egg." It's hard not to have some of this information so you can make those decisions. Because on that one stretch, you don't know if -- or we don't -- maybe not. I don't know. I don't have a real feeling for how many construction
vehicles there will be, what the wait times will be, how many -- we kind of know how many work zones they'll experience throughout the span. But that's going to impact the tourism experience. And it might be manageable.

MS. WEATHERSBY: Seems like we're lacking some information. I mean, I don't think we have -- at least I'm not recalling good estimates for the amount of construction vehicles or even existing traffic counts, and maybe that's getting too into the weeds, to be able to make these determination of whether --

MR. OLDENBURG: No, you're exactly right. I mean, that's the information you need. You start with the existing traffic counts on the roads and you see what type of impact it is. I mean, I closed it down, but the exception report for downtown Franconia had, like, 3,000 cars a day. That's how many cars are on that road. There's sections of 116 down in Easton and Woodstock that don't even have a thousand cars a day, the last that I saw in the
traffic volume reports. So, you know, that's not a lot of cars. So when you intermingle construction vehicles in that, even if you doubled it, it might not be an issue. When you add leaf peeping and tourism, I think you do get a -- you know, those folks are -- one, should be given through the public outreach some sort of advanced warning that if you go 116, there's construction. And when you get on 116 and you're hitting multiple construction zones, is that going to affect your tourist experience? It could. And if you do the public outreach right and you say there's construction on 116, then what are people doing? They're finding alternate routes and they're not going up Route 116. So then the businesses or whoever that relies on the tourism, you know, they don't get that business. So it's a chicken and the egg thing as you -- not even. It's sort of chasing your tail. If you do the traffic control plan correctly, you minimize the impact to traffic. But in doing that, you may divert people to alternate routes as a
way of minimizing traffic, and that's going
to affect businesses and the economy and
tourism, I would think, because the way
around 116 is the interstate.

MR. WAY: I think part of the
issue, too, is when we had Ms. Farrington up
before us -- and I want to make sure I call
her by her new name. Is it Ms. Frazier?

MS. WEATHERSBY: Frazier.

MR. WAY: All right. Let's
all resolve to call her by her new name.

[Laughter].

MS. WEATHERSBY: I resolve to
call her --

MR. WAY: All right. Let's
take a pledge.

MR. OLDENBURG: I resolve to
call her Ms. Farrington.

MR. WAY: I think one of the
things that was lacking is there really
wasn't a New Hampshire-specific discussion.
I didn't get a lot of sense there was -- we
didn't get into the details of the
communities, and I understand why, or the
impacts. We didn't talk about the bike tours on 116 or some of the other activities that might occur. And so I think, you know, that is a gap of information, that we don't exactly know how this is going to impact some of those activities. And in some cases I think they might not. I'm not always sure. That's a challenge for me.

DIR. WRIGHT: Isn't some of that, though, isn't some of this timing of when they do the construction? I mean, I know digging in the ground, there's only certain windows to do construction in the ground. But I mean I thought at one point the Applicant was pretty clear they were willing to work with local communities to try to work around some of those things. And I'm just not hearing any reflection of that at this point.

MR. WAY: You know, I think you're right. For example, I think with the Tamarack Tennis Club, there was a willingness to work to accommodate their schedules. On the other side, I think some communities have
played a big game of chicken here.

DIR. WRIGHT: Absolutely.

MR. WAY: Even with Plymouth.

You know, I think -- go to the Applicant. I don't think -- that's not their preferred place they wanted to go. So I think that's part of the problem is that there are some that are just holding out on the discussion. And maybe it's working. I don't know. But it is a two-way street. And I do see some accommodations. I think accommodations can be made in a lot of cases. It's just we have to have that body of information to be able to make it.

CHAIRMAN HONIGBERG: We should take a ten-minute break.

(Recess was taken at 3:42 p.m. and the hearing resumed at 4:03 p.m.)

CHAIRMAN HONIGBERG: All right. We're going to resume. Mr. Oldenburg.

MR. OLDENBURG: Just a few more things I think that were questions. Or this is more of a comment.
One of the things that came up, and I view this as a good thing, is that in the underground section -- and it goes to sort of the future land use -- is when the underground trench is in place and whatever fill they use, the fluidized -- or the thermal fluidized backfill, FTB, or whatever is in place all the way up to almost the gravels in the road, it's going to create almost a wall, if you will, all the way down the road. You know, someone that wanted to come in and put, you know, a drainage line or a sewer line or a waterline or something like that, not that there ever would be, or if you wanted to -- I think the example I used was, you know, up at one of the schools, if you had to put in a turn lane or something like that, or had to do drainage work, even though the line is low, the conductors are low in the ground and you could go over them, that potentially could be a problem. And so as the Applicant said as one of the conditions, if there was an economic -- you know, if there was a cost to a community or state
because of the avoidance of the line, that
the Applicant would be willing to pay that
difference. And I think that was a key
component. It goes into, at least at the
DOT, like bridge construction. There's a
number of bridges that they're going under
that are old. Very old. Probably historic
in some cases. If they are ever redone, you
don't know what the foundations are going to
be. So if a design of a bridge or a culvert
or the roadway expansion ever had to be done,
the idea is, the reality is this line isn't
going to move. It's too expensive to move.
To relocate, you know, 2,000 feet of --
assuming you can go splice vault to splice
vault, to me, it's not even -- it's not
economical for someone to say you need to
move. And I think they proved it. They'll
do just about anything to say, No, we're not
going to move. And that is, if it costs the
state or local agency or local community more
money to avoid their line, they're willing to
pay this difference. And I think that's a
key component of the future, because it is, I
mean, 60 miles underground. Eventually, at some point, assuming this thing is in the ground for 50 years or so, somebody is going to come along and say we need to replace this culvert or we need to replace this bridge or we need to widen the road or something. You need to fix this component, and it's going to be affected by the line. So, having that in place is, I think, a key condition, if you will.

MR. WAY: And I have a question on that as well. Was there a time limit on that? I seem to recall that it was, like, two years? Or am I remembering the wrong condition? But was there a time limit on when a community could take advantage of that condition?

MR. OLDENBURG: Not that I remember.

MR. WAY: If we could --

MR. OLDENBURG: And I think this might need a little molding.

MR. WAY: Let's see if there's... let's read it.
(Pause in proceedings)

MS. WEATHERSBY: It's suggested Condition 22 of the Applicants.
"The Applicants agree to assume such additional cost as a municipality may incur due to the maintenance, operation, renewal or extension of the underground installation components of the Project or appurtenances thereto within the locally maintained roads."
So that doesn't cover DOT. Maybe there's another one.

MR. OLDENBURG: There should be.

MS. WEATHERSBY: I'll look for another one. Doesn't cover DOT and it doesn't cover private property owners that might have a waterline or whatever. But perhaps there's another one.

MR. OLDENBURG: I think the two-year one is No. 21, which is if there's any roadway -- if there's any distortion or damage that's caused to the roadway by the trenching. So it says that -- 21 says, "Further Ordered, that any future surface
deterioration within the trench area in
locally maintained roads due to settlement or
other causes attributed to the construction
shall be corrected by Applicants as required
during construction and for a period of two
years following the commencement of
commercial operations of the Project."

MR. WAY: That's what I
recall. So I like the first condition.

The second condition, Mr.
Oldenburg, do you think that two years is an
adequate amount on that one?

MR. OLDENBURG: I don't know.
I would think in a road you would see
deterioration or settlement or something like
that within the first couple of years.

One of the other issues that
was -- that was questioned, I think by Mr.
Thompson and the Stewartstown-Clarksville
Group, was the heat generated by the conduit
in the ground under a dirt road. Is that
going to affect it? And I don't know if we
know the answer to that. But could that take
longer than two years? I'm not sure. To be
fair, though, this isn't a lifetime warranty
I wouldn't imagine either. That's something
we -- so I guess the question is: Is two
years the right answer? I would be fine on
the state road I think with two years. I
don't know about the local road, but...

COMMISSIONER BAILEY: Seems
like the odds are that over a two-year winter
we're going to have -- one of those two would
probably be cold enough to test the concern
that people were worried about, I would
think. I mean, we could put a caveat in
there that, in the event that the two years
following operation are unusually warm or
something like that, somebody could come back
and ask us to extend that for another year or
until, you know, we get a reasonable winter,
get through a typical winter, something like
that.

MS. WEATHERSBY: Seems like
the Applicant's saying it's not going to have
an effect, and they're standing by it. So if
they're going to stand by it, let's do a
longer time window. You know, maybe it's
five years. It's doesn't go on indefinitely. But winters can vary a great deal. And as roads change, especially dirt roads because of traffic, et cetera, I think a longer window would be appropriate.

MR. OLDENBURG: I think one of the other -- I think this goes to saying one of the conditions is to make the MOUs, you know, binding in the condition of approval. So that makes sense.

The other one was Mr. Bowes testified that the Applicant agreed to assist property owners with the maintenance or repair of utilities that were located in proximity to the underground section.

So the thing that struck me was like Mr. Ahern and his waterline that went under the road that no one really knew about until he testified about it. How many of those are there? To me, that's only a logical thing to put in, you know, that if they hit something that's a private utility, that they would repair it and make it whole again.
COMMISSIONER BAILEY: Bill, I have a question about that. Do you think that we should condition it to require them to go under all of those things that are in the road now?

MR. OLDENBURG: Well, that was a DOT condition is that they go underneath basically everything, all municipal infrastructure, all drainage, to be the lowest thing in the road. You know, and I think that's why they're going -- they're doing lot of the HDD drilling under a lot of the larger culverts. It's just more manageable to do that than it is to try to open trench. You know, some of the other conditions, they can't attach the line to, like, a bridge. So that's why they're HDD drilling under all the bridges and everything.

So I would -- I think the condition is that they go under everything. One of their conditions, and I think we talked about it a little bit, was if they can't, and they want to go over something --
oh, that's what it was -- and they were
denied that from the DOT, that they may
actually do an HDD drilling to go under
whatever that is. So that was sort of a
request that they put on it, was that if they
wanted to go over something, that they left
themselves the opportunity to do HDD drilling
if they weren't allowed to go over something.
I can't imagine what it would be. Have to be
pretty deep and pretty big not for them to
want to substitute direct trenching versus
HDD drilling. But that was one of the
conditions they put in. To me it makes sense
that you'd want them to be the lowest thing.
Then they're not impacted if the waterline or
sewer line or drainage line has to be
repaired, which they all need to be repaired
eventually. So that makes sense for them to
be the lowest thing.

One of the other issues, and
we sort of talked about it, was the surplus
excavation locations where -- so we brought
up, you know, taking the ledge off of
Transition Station No. 4. You know, where is
that going? So their idea is they're going
to trench 60 miles, and they're not going to
put the material back in that they took out.
So they're going to have 60 miles worth of
trenched material that they're going to put
somewhere. And where is that? And do we
need a plan? Do we need an explanation of
where they're taking it? Does that site have
to be approved? Typically as a DOT project,
contractors sign off that they've taken it to
a legal disposal area, be done with it. So
that was one of, I think one of the
intervening groups mentioned that there was
no surplus disposal area identified and that
it should be. I've sort of not bought in on
that, but --

MS. DANDENEAU: What

constitutes a "legal disposal area" for the
DOT? A landfill?

MR. OLDENBURG: No. You could
contract with a private property owner that
says I need some fill to level off my lot,
and they can take in truckloads of material.
The downside is, does that property owner
have a legal right to fill in their land? Is it in wetlands? Do they have a wetlands permit? The other side of it is how do you know that the material that is being excavated from the trench isn't contaminated or -- so on both sides you have an issue of where you're putting it. It might not be a good site, and the material that they're receiving might not be great. So...

MR. WAY: I agree with you that when we talked about the 30,000 cubic yards from I think Transition Station No. 4, that's a different situation, provided that you have a traffic management plan for the trucks. So I guess that would be my next question for you is how DOT has handled taking soil from trenches off of the state highway -- off the state road, rather, and what level of proof do we need on our end. It may not be something we have to worry too much about, provided there's some good controls in place?

MR. OLDBURG: Well, the DOT does have issues with certain aspects of
excavation directly adjacent to the road.

It's something that we've been working with DES on. I'm not sure it would apply. It could apply in this situation. Some of the material, you know, the breaking down of asphalt due to plowing or just the normal work gets mixed in with that soil excavation material, and so then you have pulverized asphalt in some of this dirt. And it contains oils and things like that that you wouldn't want put in a playground and you wouldn't eat it. But is it contaminated? Is it -- no. You know, it's nothing that's, you know, high on the list. But it's just out of an over-precaution we don't allow that material to be reused. And that is like the surface layers of humus. We stockpile that and we dispose of that.

MR. WAY: Do we allow that, that particular oil-contaminated soil, possibly oil-contaminated soil, do we allow that as landfill cover?

MR. OLDENBURG: No.

MR. WAY: I think you
mentioned disposal --

MR. OLDENBURG: Absolutely.

That's where we would send it.

MR. WAY: You'd send it as landfill cover --

DIR. WRIGHT: Bill, is this what you're referring to as "mildly contaminated"? Is that the term of art that DES uses?

MR. OLDENBURG: Well, it used to be called "mildly contaminated material," but it contained the word "contaminated," so now we call it "limited reuse soil" because it has limited reuse abilities.

DIR. WRIGHT: Is there any testing that DOT normally requires of that material when it's excavated?

MR. OLDENBURG: Yes. Yes, we do. We test it to determine the limits, how far off it is and everything else. It is nothing that we -- we do it, like I said, internally, in an overabundance of caution. We do not -- we have not, you know, made that a condition of any external project, anybody
but the DOT. And it's something we've been
working out with DES. It hasn't been on DES'
radar as a big issue.

But no, we wouldn't typically
allow that humus portion to be reused. But
I'm not saying these folks couldn't. That's
up to them where you'd put it. It's the
same -- we heard about the ledge, the ledge
that has to be excavated at Transition
Station No. 4. There's chemicals used in
blasting of that ledge. Those chemicals
aren't good. There's a lot of cases down in
the Windham area about the blasting material
contaminating wells and things like that. So
I think as part of that blasting that -- and
I know this is another section of Public
Health and Safety, but we'll talk about that
later on. But do you just want to take that
ledge and put it in somebody's yard? I'm not
sure.

MR. WAY: And since we're on
it and you mentioned it's up to them what
they do with it, are you referring to this
"mildly" or -- well, you called it something
differently. But if DOT isn't telling them
what to do with it, are you saying they can
pretty much do whatever they want with it?
And I would imagine, then, that DES would
have an issue with it at that point, wouldn't
they? I mean, if you're taking soil that may
be contaminated or have something in it
that's mildly contaminated and you're going
to do something with it --

MR. OLDENBURG: I would tell
you that the DOT is the only one that has a
concern about it. We brought it up to DES,
and they haven't been, you know, waging a war
against this stuff. If you polled other
states, half the other states are like,
there's nothing to worry about. That's why I
say it's sort of DOT out of an abundance of
cautions. Once this material leaves the state
road, where it goes, you know, we just want
to make sure that material doesn't go where
it shouldn't.

MR. WAY: So, for example, in
Franconia, I think there was an old gas
station. There was a gas station there --
MR. OLDENBURG: Plymouth. We heard about the plume of --

MR. WAY: Well, the plume.

But I think there was also a gas station in Franconia. And I may be wrong, but I believe there is. I mean, do we have concerns about the soils in that area?

MR. OLDENBURG: So that's different because that is contaminated soil. So that has this whole -- when they get into Plymouth and the roundabout, they're going to have to have, you know, contaminated material mitigation efforts. They're going to have to deal with that. They've been made aware of it through testimony and everything else. But there are certain areas that probably they're going to run into that may not. Franconia.

MR. WAY: And so we know about Plymouth. And you're right. They mentioned how they're going to handle that. But if they're going to be hitting other areas that might have potential -- this is a large, a long route. And are there --
MR. OLDENBURG: I would have to believe, even though I don't know, they would have a standard contingency clause in there that if they hit contaminated material, that they're going to take these precautions. And when you dig it up, you smell it, especially a gas station. It smells like gasoline. The bridge work we talked about earlier in Sugar Hill, there was an old gas station right there. There was contaminated material that was hit there.

MR. WAY: That's what I'm thinking of I think.

MR. OLDENBURG: When that bridge was redone, that delayed work for three or four days. That material was segregated. The workers took special precautions for, you know, personal protection, as well as environmental protection, to make sure that that material was segregated and landfilled. And that's what the Applicant would have to do. And I have to imagine as part of their construction plan those contingencies are in there.
MS. DANDEANEAU: Bill, you mentioned that DOT tests that top layer of potentially contaminated soil. Do you know of any contaminants that have been found? Do you know any of the results of that testing?

MR. OLDENBURG: Yes. It's been -- you know, when we started to do our own testing just on sides of the roads, it varies. That's why there's no real standard. You know, we've tested along, like, Interstate 393 and some secondary roads. It varies. Sometimes there's no trace whatsoever. Sometimes there's elements found, you know, three, four, five feet off the edge of pavement. But it's basically the degradation of asphalt is oil and gasoline products, and that's not good for your health. But they're in such low levels that they're not a concern. They're not considered contaminated. They're well below any of the levels of contaminated material.

MS. DANDEANEAU: But if this material is being transported and deposited or stored in some other place, and there's a
lot of it in one location, should we be worrying about increased concentrations in those locations?

MR. OLDENBURG: You know, I don't even know if you're going to hit it because you're talking it's just the top few inches of soil. And if this is down six or seven feet, it's not going to amount to a significant amount of material, I don't think.

MS. DANDENEAU: Okay.

MR. OLDENBURG: And I can't believe they're going to dispose of all of this material all in one spot either.

MS. WEATHERSBY: Mr. Oldenburg, or perhaps Mr. Wright, do you know if there's a reporting requirement that, if someone, you know, excavates and finds obviously, you know, smell of petroleum, that there's a duty to inform, say, DES?

DIR. WRIGHT: I'm actually trying to do a little surfing right now on that. I assume there are certain requirements under our Waste Management
Division as to what procedures you need to follow if you run across what you believe to be a contaminated site. So I'm assuming -- I'm not an expert in that area. But I'm assuming there are procedures in place to identify it and then identify how you're going to manage that material. But I'm not an expert in that area.

MS. WEATHERSBY: I guess the second question is, given everything we're hearing, it seems as though it may be prudent to require some testing. Do you agree with that; and if so, how -- over what distance? You know, what kind of a requirement would that be that would capture contaminants but not be onerous, overly onerous?

MS. DANDENEAU: I was going to ask what -- I mean, is the sampling protocol pretty simple? Do you know if the analyses of those soil samples are expensive?

MR. OLDENBURG: I would have to find out. I don't think so. But again, I would say that --

MR. WAY: If I could? I seem
to recall, like Mr. Wright said, I mean, it comes off as a solid waste provided certain things are done. So one of the things that I'm wondering is if that's -- if whatever condition there is, you're simply saying comply with the rules, the DES rules for whatever the soils management is going to be. Is that enough? I mean, do we need more than that to simply say comply with the rules that DES has in place?

MR. OLDENBURG: DES does not have any rules because it's not considered contaminated. And so that's why I'm sort of hesitant to answer your question. But you asked the perfect question of, you know, what would we do with that material. And that's what we would do with it. One of the things I will mention is if we can bury it in the existing, under the roadway, that's fine. So if we dig up this material, one of our dispositions is that, you know, for widening the road, we put it underneath the road. And that's fine. So I don't know if there's a way of them reusing this material in the
trench as backfill.

    I will say, again, the DOT is
doing this out of an overabundance of
cautions, and there's no one else in this
state doing this. DES isn't making us do
this. We're actually writing the rules
ourselves on how to deal with this. And the
whole reason we do this is, once material
leaves the state right-of-way, we do not
control what happens with it. So the last
thing we want somebody doing is taking this
humus on the side of the road that could
potentially have some bad stuff in it and
using it in a playground. And that's the
only reason why we're doing it. Would I put
a condition on the Applicant to do that?
It's up to them, you know, where they dispose
of their material. That's their prerogative.

But we're the only -- DOT is the only agency
I know of that is even thinking of this.

    DIR. WRIGHT: And you guys
actually do sampling and testing of the
material?

    MR. OLDENBURG: We did
sampling and testing of certain roadways. We came up with a standard excavation amount and now use that on all our roadways. So we don't specifically sample every roadway. But if we know we're going to have excavation, we will just say we're going to take a foot down, six feet off the edge of pavement, take all the material away. Either bury it under the existing road or we throw it in the landfill. But that's -- I can't say enough that that is us, only us, and it isn't a DES requirement.

DIR. WRIGHT: I was going to say it sounds like it clearly falls outside of what DES currently regulates.

MR. OLDENBURG: It's an unregulated material. Exactly.

I think that's all I have, actually, for the construction portion.

MS. WEATHERSBY: One question about the subject we were just talking about. It seems as though the trench, the materials excavated from the trench are only an issue if DOT has approved the fluidized thermal
backfill that would go in instead of the
spoils being put back in. As I recall, DOT
has approved that; correct?

MR. OLDENBURG: I believe they
did, yes.

MS. WEATHERSBY: Yes, I
thought so, too. So this material does need
to come off the site and not just be
stockpiled for reuse on the Project, but it
all has to go to an alternative location.

MR. OLDENBURG: And it's only
the material that's outside the pavement. So
if they're digging under the road, I'd have
to believe that the pavement itself they take
somewhere different. But if it's under the
road, that material is fine.

MS. DANDENEAU: I'd be curious
to know if they even know where the material
goes, just from a practicality perspective.
Because when I had my driveway redone a
couple years ago, there was a truck of loam
that went to this place and a truck of loam
that went to that place, and that was part of
offsetting the cost of the gravel that they
were bringing in. And I wasn't tracking that. And I'd be curious to know if they've got multiple construction crews and multiple smaller construction companies working for them, if those construction companies are hauling that stuff to different places to help offset the cost overall. I'd be just curious to know.

MR. OLDENBURG: Probably. I mean, an example would be if they rip up pavement, they're probably taking that to a pavement plant and recycling it and putting it back in to make more pavement. The gravel, crushed gravel that they would dig up from under the road probably has some value, and they could probably reuse that as gravel or crushed gravel, some sort of granular material.

DIR. WRIGHT: And probably in most cases you'd want them to do that.

MR. OLDENBURG: Exactly.

DIR. WRIGHT: That's an efficient reuse of the material rather than excavating new materials.
MR. OLDENBURG: Exactly. You know, the humus and the loam that they take out of anywhere would probably be reused for the same purpose.

MS. WEATHERSBY: Seems like this also came up when we were talking about invasive species and all of that, making sure the soils from one area didn't contain seeds and -- so it seems like they're -- I'd have to look back. But there was some testing or they had to be used in the same geographic area. I feel like we had a discussion. I just can't remember --

MR. OLDENBURG: And I think that's one of the plans that Craig talked about that DES would approve. I mean, there's a wash truck -- you know, there's truck wash locations so that they don't spread, you know, invasive species from one spot to the other. They'd locate invasive species and treat them special. I mean, that's typically what they would have to do. You know, you know what it is. The environmental folks know how to deal with it.
But you're right. It's an issue. Every construction project will deal with it, and there should be a plan on how they deal with it.

CHAIRMAN HONIGBERG: I think we've exhausted Mr. Oldenburg now.

MR. WAY: I believe it was going to be Prevailing Land Use.

CHAIRMAN HONIGBERG: Is that you, Ms. Weathersby?

MS. WEATHERSBY: That's me. Want me to start on that?

CHAIRMAN HONIGBERG: Yes, we do --

MS. WEATHERSBY: Okay. So, for Land Use, this requirement comes from RSA 162-H:16 IV (b) which requires the Subcommittee to consider whether the proposed project will unduly interfere with the orderly development of the region, with due consideration given to the views of municipal...
and regional planning commissions, municipal bodies. And then our Administrative Rule 301.15 requires us in making that decision whether there's an undue interference to consider the following: Section (a) of that rule is the extent to which the siting and construction and operation of the proposed facility will affect land use, employment and the economy of the region. So it's the same rule and statute we've been dealing with. So I'm going to talk about the land use issue.

So the Applicant has acknowledged that the construction of this project will cause some temporary adverse effect on land use by causing traffic-related noise, diversions, clearing of vegetation, use of marshalling yards, laydown areas, soil erosions, sedimentation control, et cetera, et cetera. So, basically the construction activities they've acknowledged will cause some temporary adverse effect on land use. But on the whole, the Applicant assert that the current land uses associated with the Project corridor, quote, "will be able to
continue largely uninterrupted during the
operation and maintenance of the Project."

So, in support, they filed the
prefiled testimony and report of Robert
Varney, Normandeau Associates, entitled,
"Review of Land Use and Local, Regional and
State Planning." In that document,
Mr. Varney offers his opinion that the
Project will not have an adverse effect on
local land use. In support, he asserts the
following: His main reason is basically that
160 miles, or 83 percent of the Project, is
located in currently existing rights-of-way
which already contain several distribution or
transmission lines, and the Project will
neither change this use, the use of this
right-of-way, nor affect land uses in the
area because its use as a transmission
corridor is the same.

As to the 32 miles of the new
right-of-way, Pittsburg to Dummer, Mr. Varney
claims that it will be located on sparsely
populated land which is primarily forested
and managed for timber harvesting, recreation
and energy facilities. And this new section will not have an adverse impact on local land use because 32 of the 40 miles are located either underground or within a working forest managed by Wagner Forest Management, also close to Granite Reliable Wind and the Pontook hydroelectric facility. As to the remaining eight miles, he claims it's sparsely populated, mostly forested land that will be leased by Northern Pass Transmission. The underground segments both up north and through the White Mountain National Forest will have no permanent effect on land use as the line is buried, and the roadways and abutting property uses won't change, according to Mr. Varney. Also, he says that the tree clearing and construction within the right-of-way has no effect on the adjacent land uses. So, land uses themselves along the Project corridor do include a variety of types of forestry, agricultural uses, residential, commercial, industrial, transportation, institutional, government, recreation areas, conservation and
historical, and natural features, such as rivers, wetlands, wildlife habitats. And he addresses each of these types and has found no adverse impacts to land use.

As to forestry, Mr. Varney concludes that forestry uses have co-existed within the existing utility corridor for many years, and development of the new right-of-way will not interfere with forestry or timber management activities in the area. Of course, most of the forested areas are in the northern portions of the Project.

There's also a number of agricultural lands. And as for those lands, Mr. Varney claims that approximately 370 acres are characterized for the -- of the Project's right-of-way are characterized for agricultural use, which included pastures, hay fields, orchards, tree farms, livestock pastures, et cetera, including areas up in Lancaster, Ashland, and the flood plain of the Pemi River, Deerfield, Clarksville are the primary ones. Mr. Varney concludes, however, that the Project will not have an
adverse impact on the agricultural uses and will not interfere with the ongoing operations because the majority of the Project will be constructed within existing rights-of-way and the Applicant agrees to continue to coordinate corridor maintenance with the agricultural landowners.

For residential land use, the Applicant asserts there's approximately 10 homes within 500 feet of the overhead right-of-way in the northern segment of the Project, Pittsburg to Dummer, and there's more properties along the existing right-of-way from Dummer to Deerfield. He concludes that the Project will not have an adverse impact on residential land use along the corridor because it's primarily located within or along pre-existing utility and roadway corridors and will not interfere with established development patterns.

As for infrastructure, the Applicant claims or acknowledges that the Project's in close proximity to five airports, will cross numerous roads,
railroads. It's going to follow state and
municipal roads and will include an existing
natural gas transmission line and numerous
municipal utilities. Mr. Varney concludes,
however, that the Project will not have an
adverse effect on current or future
transportation of utility services and
facilities because the Applicant will
continue to coordinate with the towns and
agencies during construction and operation of
the Project.

For recreation, the Applicant
asserts that -- or informs us that the
existing right-of-way is used for hiking,
mountain biking, snowmobiling, ATV riding,
horseback riding, and that the Project
crosses privately-owned, commercial or
private land that's used for recreational
activities. Mr. Varney concludes that the
Project will only have a short-term impact
associated with construction on the currently
existing recreational activities because
several trailheads will need to be closed
during construction, and there will be no
permanent impacts to recreational land uses. For conservation lands, the Applicant acknowledges the Project will cross various private and state-owned conservation lands, but that, again, the Project won't interfere with or have an adverse impact on conservation lands and will not alter the ongoing, long-term management and use for public access to the properties.

In support of some of his conclusions, Mr. Varney also analyzed the impact of existing transmission lines on land use and orderly development in Concord, Bedford and Londonderry, and he concluded that the construction of the current, existing transmission lines in those communities did not impact their growth regarding population, tax base, income level. Didn't impact commercial, multi-family residential development activities. Also didn't impact conservation, recreational or agricultural uses in those communities.

Those positions have been criticized by a number of parties. Counsel
for the Public criticizes Mr. Varney for not
studying the impacts of construction
generally or impacts from traffic data
specifically on the land uses; for not
considering the impacts of laydown areas,
both that -- not considering the impact of
laydown areas, locations that have been
determined and those that have not; for not
studying each of the 31 host towns to
determine if any of them would be adversely
impacted by construction; not reviewing or
considering plans for the location of
underground facilities or construction
activities for any portion of the Project,
such as microtunneling in Franconia or HDD
drilling in Plymouth; for not analyzing any
specific scenic area identified in any town's
master plan to determine if the Project would
adversely affect the scenic resource; also
criticizes him for not considering the impact
from construction or businesses along the
route, particularly in Bethlehem, Franconia,
Woodstock and Plymouth; for not evaluating or
considering the aesthetics impact of the
Project on land uses or environmental impacts of those land uses; and also for not knowing the extent of vegetative clearing along the underground route or considering impact of clearing of properties along the proposed route.

Probably the most vocal opponent concerning land use is the Society for Protection of New Hampshire Forests. They allege a number of things. First, they allege the Applicant hasn't satisfied our administrative rules which requires the Applicant's estimate of the effects. This is Rule 301.09(a)(2). That requires the Applicant's estimate of the effects of the construction and operation of the facility on land use in the region, including the following: A description of prevailing land uses in the affected communities and a description of how the proposed facility is consistent with such land uses, and identification of how the proposed facility is inconsistent with such land uses. No description of inconsistent land use was
provided. Mr. Varney testified that there were no instances when the Project will be inconsistent. But SPNHF also alleges non-compliance with all land uses in all affected communities were not provided. Our rules in Site 102.07 define "affected communities," and that's not only host communities, it's -- I'll read the definition. It's the proposed -- "affected communities" are "the proposed energy facility host communities and unincorporated places, municipalities and unincorporated places abutting the host municipalities and unincorporated places, and other municipalities and unincorporated places that are expected to be affected by the proposed facility, as indicated in studies," et cetera.

Because a non-abutting community cannot be physically affected by the transmission line project, SPNHF alleges that visual impact on those land uses must be taken into account or that rule would be meaningless. And Mr. Varney did not analyze changes to land uses in affected communities.
He just started with the premise that there's no change in use along the corridor. And according to SPNHF, basically he didn't do his job, and he needed to analyze visual effects on land uses, not just physical affects.

SPNHF also asserts that Mr. Varney's strict adherence to his belief that a transmission line in an existing right-of-way cannot be inconsistent with prevailing land uses rules out any possibility of finding interference. He holds fast to that belief, even when we had that discussion concerning intensification of utilities in the corridor. SPNHF believes this is contrary to state law which has found that increased intensity of use is a factor in determining whether the use is a continuing use is or a different use. According to Mr. Varney, no amount of transmission lines or height would unduly interfere with the prevailing land use, so long as the proposed project is in the existing right-of-way. And he pretty much
held fast to that throughout
cross-examination.

SPNHF cites case law where a
great increase in the size or scope of a use
can affect the analysis of whether the use is
still a continuing use.

Just personally, I know from
zoning law that there's a concept of "non-
conforming use" if you're zoned, say,
residential and there's a market in your
neighborhood that doesn't fit the zoning.
And there's a provision in the law that that
use can continue. But at some point if it's
intensified too much, it becomes a different
use. You know, instead of a local corner
store it becomes a Market Basket, you know,
is that a different use. And there's a whole
analysis that goes with that, that SPNHF
would like us to use. In that analysis, you
do look at the extent to which the use in
question reflects the nature and purpose of
the pre-existing non-conforming use.

So in my example, whether the
use as a Market Basket reflects the nature
and purpose of the existing, you know, little store, or in this case, perhaps the small little distribution line, and now you have a big transmission line, that's a factor to consider is the extent to which the use in question reflects the nature and purpose of the pre-existing non-conforming use.

The second factor is whether the use at issue is merely a different manner of using the original non-conforming use or whether it constitutes a use that's different in character, nature and kind.

And also, the third factor is whether the use will have a substantially different effect on the neighborhood.

Back to SPNHF. They also state that we must account for the change in land uses from when a utility line was first installed to the land uses now, which is part, I guess, of what I just talked about -- that is, it's not the use of the corridor, but the changing land uses around it, to see whether the transmission line is consistent with these new uses.
They also criticized

Mr. Varney for not addressing the land uses
of second homes. It was all lumped in
"residential." And second homes are, as we
know, of particular concern and an important
land use, particularly in the north. It also
criticized Mr. Varney for not differentiating
between different recreational land uses,
snowmobiling, fishing, hiking, et cetera, and
whether the Project might affect different
users differently. Didn't account for homes
in forested areas.

Concerning conserved lands,
the Project goes through many conserved
parcels, including those funded with taxpayer
dollars. And Mr. Varney is criticized for
not analyzing effects on those conserved
lands, but rather, just saying that it's not
going to interfere with those because it's
not going to alter the ongoing management,
use or public access to those parcels.
Again, he kind of just looked at the physical
interference and not the actual changes to
the land use caused by visual impacts,
resource degradation and fragmentation.

SPNHF also criticizes Mr. Varney for not analyzing the change in corridor use by replacing an existing line with higher or different poles.

So if you remember, Mr. Varney presented his report, and it contained land use maps. And those maps are criticized. Many don't show uses. Some things don't correlate, don't correspond to what's in his report. Some things are just labeled "unknown land," "vacant land," et cetera, and those maps are criticized.

Other intervenors also have objections. Bethlehem to Plymouth Abutters, they argue that the underground section is located in proximity to a number of private properties and that the Project and associated vegetation clearing will alter the character and the land use of that area.

Concord has a list of issues also. They believe that Northern Pass will interfere with its future economic growth and development, which we heard a lot of about in
testimony, particularly near the Steeplegate Mall/Loudon Road area. They indicate that Northern Pass will be out of character with the existing land uses along the corridor or create adverse scenic impacts.

Pembroke asserts that residential and commercial properties adjacent to the proposed project will be negatively impacted.

Whitefield, too, indicates that it believes the Project will negatively affect development.

Mr. Van Houten testified that the Project will alter the rural residential character of his property and surrounding properties by constructing additional roads, attracting recreational motor vehicles.

Mr. Ahern indicated that it would alter the land use of his property.

The Bilodeaus talked about their home in Deerfield and the expansion, the new, upgraded substation. And that's going to involve some clear-cutting of trees, 30 months of construction, et cetera. And
they were of the opinion that construction of
the transition station will have a negative
effect on their land usage and enjoyment of
their property.

Mr. Thompson was concerned
about the undergrounding of the line
affecting his nearby natural water springs.

The Webster Family Group
indicated that they thought the Project would
have a negative impact on the enjoyment of
their property located along the Pemi River
and would alter the current recreational use
by introducing unappealing, unattractive
towers, in their opinion.

The Foulkas argued that the
Project would alter Deerfield's land use and
character and would make it easier for other
transmission projects to be introduced into
the region.

New Hampton -- I'm going to
leave North [sic] Hampton for a minute.

The Joint Muni Group alleges
the Applicant hasn't provided the SEC with
the required information regarding affected
communities, the same argument we heard before; basically, the Applicant can't on its own decide that it wasn't necessary to provide that information by simply finding there was no effect on abutting land uses, and criticized that they didn't analyze any interference with land use because they didn't talk about the visual impacts of the Project on land uses. The Joint Munis kind of repeat other's arguments, that basically the use of the existing right-of-way for sections of the Project don't automatically mean there will be no interference or other impacts. And if that were the case, an interesting argument, they say there would be no logical need for the SEC to review any new transmission lines with the ones going through an existing corridor -- but rather, here we are.

So we must have a purpose, in that there should be review of all the impacts when a new transmission line is even going through an existing corridor.

Other abutting property
owners, Bethlehem to Plymouth, talk about the use of the corridor for transmission lines is a different use than the use for distribution lines, through lines versus service lines.

Deerfield Abutters believe that Northern Pass is going to undermine their efforts to control land uses and it's not consistent with the rural character.

There's several intervenors from Concord, Whitefield, Deerfield and others who assert that the Project will negatively affect conservation and recreation uses.

So that's kind of the overview. I think it kind of comes down to Mr. Varney's assertion that, because this is an existing utility corridor of some sort or another, whether it be a roadway or distribution line or transmission line, that adding the new line to it does not change the land use of the corridor and therefore not the land uses of the community. And others, of course, disagree with that.

CHAIRMAN HONIGBERG: We could
decide that that's the last thing we're going
to do today and pick up the discussion
tomorrow, which I think is what a lot of
people would like to have happen.

    All right. So that's what
we're going to do. We're going to adjourn
and be back here at 9:00 tomorrow morning.

    Wait, wait, wait.

Commissioner Bailey.

    COMMISSIONER BAILEY: Can I
just ask counsel one question? Is the
discussion about land use a different
discussion than Mr. Varney's testimony about
review of the master plans and zoning
ordinances?

    MR. IACOPINO: I would say no.
I would say that master plans and land use
ordinances are all part of the general
subject of Land Use.

    COMMISSIONER BAILEY: Okay.

    Thanks.

    CHAIRMAN HONIGBERG: Now can
we adjourn?

    COMMISSIONER BAILEY: Yes.
CHAIRMAN HONIGBERG: All right. We'll be back tomorrow at 9:00.

(Whereupon the Day 1 Afternoon Session was adjourned at 5:02 p.m., and the Deliberations will resume on January 31, 2018, commencing at 9:00 a.m.)
CERTIFICATE

I, Susan J. Robidas, a Licensed Shorthand Court Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

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

_________________________
Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)
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January 30, 2018

SEC DOCKET NO. 2015-06 NORTHERN PASS TRANSMISSION, LLC

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BALK (72) 17:7;18:11,18,23; 9:17;12:15;13:3,6; 22:14;5:9,13;24:15;3; 10:11;17:13;18:4;18; 21:2;16;22:5;31;17; 32:19;33:3;34;14; 37:14;19;39;4,9,14; 20:41;10;21;44;6; 45:16;46;20;48;6,11; 16:49;9;50;7;51;7; 12:57;16;21;62;3; 63:13;21;66;21;67;4; 73:4;7;74;7;11;14; 19:75;4;18;24;80;15; 18:81;5;11;15;83;7; 109:7;111;11;150;9; 10,20;24

bank (1) 83:4
bar (1) 79:23
barrier (2) 75:16,20
base (1) 137:18
based (3) 26:19;53:6;16;61:3

Basically (13) 9:1;12;24;13;16; 28:21;33;18;74;23; 118:8;121;15; 113:1;19;32;11; 14:1;3;148;2

Bates (1) 9:24
beach (1) 46:11
Bear (4) 86:8,19,21;96;21

become (1) 68.2
becomes (3) 86:20;142;14,16
Bedford (1) 137:14

beginning (1) 47:12
belief (2) 141:8,13
believes (2) 141:15;146;11

bell-shaped (1) 41:20
below (2) 72:15;121:20
benefit (1) 86:13

Berger/Ms (1) 78:8

best (4) 67:16;23;68;6; 89:19
bet (1) 97:7

Bethlehem (5) 64:10;85;23; 138:22;145;15;149;1

better (2) 51:24;65;4

beyond (1) 36:9
big (9) 55:22;68;13;69;24; 74:23;24;103;1; 112:10;17;3;143;4

bigger (2) 37:24;81;6

Bike (2) 59:21;102;1
biking (1) 36:15

Bill (4) 95:22;111;1;116;6; 121:1

Billodeaus (1) 146;20

binding (1) 110:9

bit (10) 15:13;34;22;64;22; 65:4;7;12;85;19;20; 90:22;92;10;111;23

boards (2) 23:3;131;2

body (3) 24;18;42;13; 103:13
both (3) 114:6;113;11; 138:6

Bottom (1) 81:10

bought (1) 113:15

bound (1) 25:16

boundaries (1) 13:24

boundary (1) 12:21

Bowes (3) 26;7;70;2;110;11

Bowes' (1) 26:15

brain (1) 90:6

Branch (1) 73:7

break (4) 47:1;10;48;1; 103:16

breaking (1) 115:5

bridge (17) 55:21;60;18;20; 73:8;77;4;78;19; 89:7;9;11;12;91;20; 105:5;10;106;5; 111:17;120;8,15

bridges (3) 13:11;105;6; 111:18

Bridgewater (3) 64:10;84;23;92;21

Brief (8) 3:5;6;7,8,11;12;3; 20:7

bringing (1) 128:1

Brook (1) 60:19

brought (7) 53:8;84;22;95;14; 98:8,9;112;22; 118:12

build (5) 5:22;36;23;65;20;
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>droughts (1)</td>
<td>93:13</td>
</tr>
<tr>
<td>downturns (1)</td>
<td>93:13</td>
</tr>
<tr>
<td>dozen (1)</td>
<td>66:1</td>
</tr>
<tr>
<td>drainage (5)</td>
<td>13:10:104:12:18; 111:9:112:16</td>
</tr>
<tr>
<td>drawn (2)</td>
<td>80:16:81:7</td>
</tr>
<tr>
<td>drive (2)</td>
<td>74:24</td>
</tr>
<tr>
<td>driven (1)</td>
<td>87:5</td>
</tr>
<tr>
<td>driveways (3)</td>
<td>7:1:9:28:7</td>
</tr>
<tr>
<td>drop (1)</td>
<td>74:24</td>
</tr>
<tr>
<td>duct (1)</td>
<td>83:4</td>
</tr>
<tr>
<td>Dummer (3)</td>
<td>132:21:135:12:14</td>
</tr>
<tr>
<td>dump (1)</td>
<td>70:8</td>
</tr>
<tr>
<td>duration (1)</td>
<td>83:2</td>
</tr>
<tr>
<td>duty (1)</td>
<td>122:20</td>
</tr>
<tr>
<td>E</td>
<td>66:11:15:80:6; 147:17</td>
</tr>
<tr>
<td>early (2)</td>
<td>82:21:120:9</td>
</tr>
<tr>
<td>easy (3)</td>
<td>9:5:10:9:17</td>
</tr>
<tr>
<td>easier (7)</td>
<td>51:15:65:9:9;</td>
</tr>
<tr>
<td>embedded (1)</td>
<td>6:17:116:20; 119:15:125:4</td>
</tr>
<tr>
<td>emergency (5)</td>
<td>40:11:19:44:1; 54:2:87:18</td>
</tr>
<tr>
<td>eminent (1)</td>
<td>16:6</td>
</tr>
<tr>
<td>end (6)</td>
<td>31:6:67:3:83:6,10; 11:14:19</td>
</tr>
<tr>
<td>energy (2)</td>
<td>133:1:140:10</td>
</tr>
<tr>
<td>engineer (4)</td>
<td>19:14:23:42:16; 56:3</td>
</tr>
<tr>
<td>engineers (2)</td>
<td>30:18:5:23</td>
</tr>
<tr>
<td>enjoyment (2)</td>
<td>47:3:10</td>
</tr>
<tr>
<td>ensure (1)</td>
<td>54:6</td>
</tr>
<tr>
<td>entire (2)</td>
<td>70:1:15</td>
</tr>
<tr>
<td>entitled (1)</td>
<td>132:5</td>
</tr>
<tr>
<td>energy (1)</td>
<td>83:14</td>
</tr>
<tr>
<td>environmental (3)</td>
<td>120:19:129:24; 39:1</td>
</tr>
<tr>
<td>envision (2)</td>
<td>68:15:69:13</td>
</tr>
<tr>
<td>erosion (2)</td>
<td>35:4:38:8</td>
</tr>
<tr>
<td>erosion (2)</td>
<td>35:4:38:8</td>
</tr>
<tr>
<td>erosion (1)</td>
<td>131:18</td>
</tr>
<tr>
<td>essentially (3)</td>
<td>64:7:110:3:120:7</td>
</tr>
<tr>
<td>essence (1)</td>
<td>9:15</td>
</tr>
<tr>
<td>excavates (1)</td>
<td>122:18</td>
</tr>
<tr>
<td>excavating (1)</td>
<td>128:24</td>
</tr>
<tr>
<td>expected (1)</td>
<td>4:18</td>
</tr>
<tr>
<td>exchange (2)</td>
<td>9:15:26:19</td>
</tr>
<tr>
<td>exemption (1)</td>
<td>83:17</td>
</tr>
<tr>
<td>exhausted (1)</td>
<td>130:6</td>
</tr>
<tr>
<td>exhibits (2)</td>
<td>17:22:18:13</td>
</tr>
<tr>
<td>exist (2)</td>
<td>8:9:42:3</td>
</tr>
<tr>
<td>existence (1)</td>
<td>12:13</td>
</tr>
<tr>
<td>exists (3)</td>
<td>8:7:52:7:82:1</td>
</tr>
<tr>
<td>Exit (2)</td>
<td>55:4:5</td>
</tr>
<tr>
<td>expansion (2)</td>
<td>105:1:146:21</td>
</tr>
<tr>
<td>expectation (1)</td>
<td>43:2</td>
</tr>
<tr>
<td>expected (2)</td>
<td>33:6:140:15</td>
</tr>
<tr>
<td>expects (1)</td>
<td>42:12</td>
</tr>
<tr>
<td>expensive (2)</td>
<td>105:13:123:20</td>
</tr>
<tr>
<td>experienced (1)</td>
<td>91:19</td>
</tr>
<tr>
<td>experiences (1)</td>
<td>91:16</td>
</tr>
<tr>
<td>experiencing (1)</td>
<td>98:13</td>
</tr>
</tbody>
</table>
94:15;101:6,18
fast (3)
70:6;141:13;142:1
favorite (1)
26:16
feasible (4)
7:2;69:8;76:10,11
features (1)
134:1
feel (2)
69:1;129:12
feeling (1)
98:24
feet (17)
fence (1)
44:20
festival (1)
60:10
festivals (1)
59:13
few (4)
86:12;94:10;103:22;122:6
fiddlers (1)
60:10
field (2)
75:12;79:1
fields (1)
134:19
fifth (1)
45:18
figure (11)
figured (1)
91:9
filed (2)
5:13;132:3
fill (4)
81:23;104:6;113:22;114:1
final (5)
5:14;6:24;7:15;14:19;53:17
find (5)
25:24;33:24;49:18;82:24;123:22
finding (3)
100:15;141:12;148:4
finds (1)
122:18
fine (4)
109:4;124:19;23;127:16
finer (1)
22:15
fine-tune (1)
70:20
fire (1)
54:4
first (12)
4:15;8:5;12:9;21:7;47:22;48:20;62:10;71:4;104:9;16;139:10;143:18
fish (1)
25:12
fishing (1)
144:9
fit (2)
16:11;142:11
five (8)
9:2;10:16;18;26:10;68:10;110:1;121:14;135:23
flagger (11)
54:19;64;19:65:3;6,10:12;68:7;79:19;80:4;96:14
flagging (3)
38:9;53:24;68:19
flood (1)
134:21
flow (1)
54:7
flows (1)
69:15
fluidized (3)
104:6,7;126:24
flurry (1)
44:23
folks (4)
18:23;100:6;117:12;129:24
flourish (1)
144:15
funds (2)
144:15
funded (1)
19:1
fund (1)
43:12
fund (1)
145:1
furnished (1)
19:2,3
funds (2)
144:15
funded (1)
19:2,3
furnished (1)
78:7
Further (7)
20:13;23:20;57:5;71:17;97:23;80:2;107:24
future (5)
G
Gagnon (3)
10:16;44:24;45:10
gain (1)
19:15
Gale (3)
73:8;75:1;77:1
game (1)
103:1
gap (1)
102:4
gas (8)
51:17;52:9;118:23;24;119;4:120:7:9;136:3
gasoline (2)
120:8;121:16
general (1)
150:18
generally (3)
7:22;59:11;138:3
generated (1)
108:20
graphic (1)
129:11
gives (4)
Getz (1)
44:24
given (4)
88:2;100:7;123:10;130:24
giving (1)
24:17
go (19)
good (13)
goods (1)
93:17
government (1)
133:23
grabbed (1)
26:21
Grain (1)
133:6
grant (4)
17:11;16:19:17;49:15
granted (3)
granting (3)
49:16;17:51:8
grants (1)
19:18
granular (1)
128:17
gravel (6)
37:2;127:24;128:14;14;16
gravel (1)
104:9
name (2) 101:8,11
narrow (2) 84:24,85:12
narrowness (1) 85:14
narrors (1) 77:10
NASCAR (1) 59:21
National (2) 52:10,133:13
natural (3) 134:1,136:3,147:7
nature (4) 142:21,24,143:6,12
navigate (3) 86:15,87:23,91:12
near (3) 68:12,81:2,146:1
nearby (1) 147:7
necessary (1) 148:3
need (4) 41:11,49:12,50:2;
21:10;69:16,92:15;
99:16,105:17;106:4;
5,6,7,22;112:17;
113:7,22,114:19;
123:1,124:8,127:7;
136:23;148:16
needed (4) 12:10,40:6,74:8;
141:4
needs (9) 5:16,37:11,38:12;
42:2,9,19,57:13;
61:4,80:14
negative (2) 147:2,10
negatively (3) 146:9,11,149:12
neighborhood (2) 142:11,143:15
neither (1) 132:16
new (28) 40:2,2,41:3,13;
42:4,43:10,10,45:19;
21:26,48:8,18;7;
49:2,5,1;101:8,11;
21:128,13,23:20;
133:1,134:8,139:9;
143:24,16:22;
147:20,148:16,22;
149:20
next (8) 10:18,28,19:55:4;
57:4,59:6,58:14;
141:15,130:7
night (3) 52:22,65:12,81:23
nine-page (1) 10:11
no-brainer (1) 65:18
noise (1) 131:16
non- (2) 140:3,142:8
non-abutting (1) 140:18
non-conforming (3) 142:22,143:7,10
non-DOT (1) 38:13
none (2) 44:3,85:5
non-significant (2) 58:8,16
nor (1) 132:17
normal (2) 5:20,15:6
normally (3) 60:13,95:23;
116:16
Normandeau (1) 132:5
Northern (9) 39:11,41:3,7,43:9;
55:24,59:22,133:12;
144:6,147:21
northbound (1) 12:18
northern (7) 19:9,133:10;
134:12,135:11;
145:22,146:3,149:6
notably (1) 24:15
note (1) 7:13
November (1) 12:23
nuances (1) 22:24
number (9) 10:14,14:3,47:23;
81:24,105:6,134:13;
137:24,139:10;
145:17
numbers (1) 67:21
numerous (2) 135:24,136:3
nursery (1) 60:23

O

objections (1) 145:15
obvious (1) 29:11
obviously (2) 12:13,122:19
occur (1) 102:3
occurred (2) 47:9,24
occuring (2) 32:17,92:13
odds (1) 109:8
off (29) 4:5,9,20,21:12:10;
15:23,35:2,37:11,4;
38:4,49:7,57:24;
61:2,70,14,18,76:5;
77:12,85,2,86:3;
87:24,112:23;
113:10,22,114:17,18;
116:20,121:14;
124:2,126:7,127:8
offers (1) 132:8
off-load (1) 68:11
off-loading (1)
supervision (4)
   20:17;23:24;28:4;
   88:11
support (3)
   132:3,10;137:10
suppose (1)
   50:11
Sure (42)
   4:6;5:23;6:6,22;
   12:9,12:19,22:2;
   16:23:9,26:19;29:8;
   20:31,18:22;32:16;
   37:7,12:38:7,10;
   43:24;46:13:51:10;
   55:20,23:60:5,65:14;
   73:24,76:15,77:3;
   85:24:87:9,97:19;
   115:3,117:20;
   118:20,120:20;129:7
surface (2)
   107:24;115:17
surfing (1)
   122:22
surplus (2)
   112:21;113:14
surprise (3)
   8:13,16:44:4
surrounding (1)
   146:15
survey (6)
   5:9,14:19;16:8,14;
   21:8,24:10
surveys (1)
   27:22
swinging (2)
   44:20;68:13

T

table (3)
   46:17;47:12,23
tables (2)
   47:15,21
tackle (1)
   51:16
tail (1)
   100:21
talk (21)
   19:14,21:3,43:4;
   19:56;4:59;11:60:16;
   70:2,16:90:19,93:10;
   11:13,94:15;98:2;
   102:1,117:17,130:8;
   131:11,148:8,149:1
talked (14)
   6:17,64:4,69:6;
   82:7,84:2,86:8,87:2;
   111:23,112:21;
   114:11:120:8;
   129:15,143:20;
   146:20
talking (20)
   15:13;18:5,21:17;
   25:14;26:13,13:19;
   32:11,12:39:10,15;
   43:23,61:24,70:7;
   92:8,99:14,16;
   122:6,126:21;129:6
talks (1)
   10:7
Tamarack (1)
   102:22
tax (1)
   137:18
taxpayer (1)
   144:15
tear (1)
   37:15
technical (1)
   10:24
technical (2)
   30:12,13
telling (1)
   118:1
temporarily (4)
   12:8,34:6,40:1;
   72:24
temporary (11)
   54:20;73:1,79:20;
   21:82;4:10,92:2;
   93:15;95:18;131:14,
   21
ten (1)
   68:11
tend (6)
   64:14,91:2,3,4,12;
   95:1
ten-minute (2)
   47:1;103:16
Tennis (1)
   102:22
tens (1)
   95:15
term (2)
   73:1,116:8
terms (4)
   32:15,52:19;61:10;
   98:14
test (3)
   76:20;109:10;
   116:19
tested (1)
   121:10
testified (5)
   52:2,110:12,19;
   140:1,146:13
testimony (12)
   51:19,57:9,59:12;
   60:17,21:67:15;
   90:23,96:21;19:15;
   132:4,146:1,150:13
testing (7)
   116:16,121:5,8;
   123:12,125:22;
   126:1,129:10
tests (1)
   121:2
Thanks (1)
   150:21
theater (1)
   93:17
theory (1)
   84:14
therefore (3)
   15:24;16:11;
   149:21
thereto (1)
   107:9
thermal (2)
   104:7;126:24
thinking (4)
   77:14,87:21;
   120:13;125:20
third (2)
   48:22;143:13
Thompson (2)
   108:19;147:5
Thornton (2)
   66:14;92:22
thought (11)
   6:22;36:10,39:22;
   62:9,93:14;102:10;
   104:18;109:1;120:2;
   123:11;126:22
thought (13)
   4:8,15;15:7,71:12;
   74:1,76:21,23;78:5;
   79:77,102:14;
   127:7;147:9
thoughts (1)
   4:12
thousand (1)
   99:23
three (15)
   15:21;53:22;56:11;
   57:12;45:8,51:9,22;
   66:3,69:1,83:9,10;
   95:5;97:9,120:16;
   121:14
throughout (3)
   65:15,99:3;142:1
throw (1)
   126:9
tick (1)
   94:11
tight (1)
   77:2
tighter (1)
   85:7
timber (2)
   132:24,134:10
times (3)
   98:4,99:1
 timing (1)
   102:10
tires (1)
   38:4
title (2)
   46:4;47:19

Min-U-Script®

SUSAN J. ROBIDAS, N.H. LCR
(603) 540-2083   shortptr@comcast.net

January 30, 2018

(17) straight - town's
trace (1) 121:12
track (1) 50:1
tracking (2) 38:4;128:1
traffic-related (1) 131:15
trailheads (1) 136:23
transition (5) 96:22;112:24; 114:12;117:9;147:2
transmission (19) 27:10;40:7;52:8; 132:15;18;133:10; 136:3;137:12;16; 140:20;141:9;21; 143:4;23;147:18; 148:17,22;149:2,19
transportation (2) 133:23;136:7
transported (1) 121:23
travel (4) 12:7;19;68:1;75:20
treaveled (2) 11:3,5
treat (1) 129:21
tree (5) 15:15;17:14;36:21; 133:17;134:19
trees (1) 146:23
trench (9) 77:17;104:5;108:1; 111:15;113:2;114:5; 125;1:126:22;23
trenched (1) 50:1

---

trace (1) 113:5
trenches (1) 114:17
trenching (4) 71:3;22;107:23; 112:11
triathlon (1) 59:13
tried (2) 4:13;12:24
tuck (14) 54:5;70:8;77:3; 78:21;79:3,10,24; 80;4;85:3;127:21; 22:129:17,18
truckloads (2) 96:24;113:23
trucks (7) 37:2;38:1;87:23; 97:1;5;13;114:15
True (2) 41:5,19
try (6) 4:16;16;17;71:20; 93:24;102:16;111:14
trying (10) 13;16;21;23:30;23; 32;13,14;33:1,21; 45:1;49:10;122:22
turn (8) 77;5;78;19;79:3; 10,24;80:8;87:23; 104:17
turned (1) 90:6
turning (1) 78:18
Twenty-nine (1) 48:10
two (21) 16;19;30:7;50:1; 65:20;66:3;76:24; 77;2,6;78:17; 88;24;95:4;97:8; 106;14;105;8;11; 109;3,5,9,13
two-way (2) 65:5;103:10
two-year (2) 107:20;109:8
type (3) 85:12;86:5;99:18
types (6) 54:8;22;58:1; 88:24;133:21;134:3
typical (1) 109:18
typically (6) 53:16;61:4;79:8; 113;9;117;4;129:22

---

UAM (4) 12:13;22:14;23:1; 36:3
unappealing (1) 147:13
unattractive (1) 147:13
underground (23) 11:1;19:7;20:14; 23,23:21;24:6;7;8; 24;29:3;64:8;9;8;88; 15:104:3,5;106:1; 107:7;110:15;133:4; 11;138:13;139:4; 145:16
undergrounding (1) 147:6
undermine (1) 149:6
underneath (3) 75:1;111:7;124:22
undue (1) 131:4
unduly (7) 4:20,6:9;5:8,9; 89;16,22;130:22; 141:21
unincorporated (4) 140:11,12,13,14
uninterrupted (1) 132:1
unknown (1) 145:12
unless (3) 33:4;61:16;97:12
unprecedented (1) 7:19
unreasonable (1) 90:14
unreasonably (1) 89:22
unregulated (1) 126:17
unusual (1) 8:12
unusually (1) 109:14
up (65) 4:4;7;3;9:18;22,19; 26;20;27;7:40;4; 41;16;46:11;52:20; 21;53:4,5;85:18;
utilities (5) 8:9;22:22;110:14; 134:6;141:15

---

V

vacant (1) 145:12
value (1) 128:15
Van (1) 146:13
varies (2) 129:9,12
variety (1) 133:21
various (4) 27:11;59;11:67;19; 137:4
Varney (19) 132:5,8;21;133:16; 134:5,15;23;136:4; 135:9;137:11;18; 140:1,23;141:20; 144:2,7,16;145:2,6
Varney’s (3) 141:8;149:16; 150:13
vary (2) 10:24;110:2
vav (6) 6:3;21;65:17;68:9; 105:16
vauls (1) 19:8
vegetation (2) 131:16;145:19
vegetative (1) 139:3
vehicle (1) 96:18
vehicles (10) 38:10;94:16;95:11; 15,16;96:15;99:1,10; 100:3;146:17
verify (1) 21:7
Version (1) 88:7
versus (9) 15:16;22;24:25:14; 29:23,38;8:14;23; 90:16;112:11;149:4
VI (2) 27:13;35:19
view (2) 65:9;104:2
<table>
<thead>
<tr>
<th>Time</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>46:18</td>
<td>14 (1)</td>
<td>29 (2)</td>
<td>40 (1)</td>
<td>45 (1)</td>
<td>28 (1)</td>
</tr>
<tr>
<td>82:16</td>
<td>145 (4)</td>
<td>44:18;48:17</td>
<td>103:18</td>
<td>3:9</td>
<td></td>
</tr>
<tr>
<td>86:18;89:6,10;92:6</td>
<td>3:8</td>
<td>3 (3)</td>
<td>46:18;66:14;83:5</td>
<td>3:3</td>
<td></td>
</tr>
<tr>
<td>3:5;20:12;23:19</td>
<td>20 (5)</td>
<td>3,000 (1)</td>
<td>114:11</td>
<td>134:16</td>
<td></td>
</tr>
<tr>
<td>3:6;27:21;55:21;81:19</td>
<td>30 (5)</td>
<td>301.09a2 (1)</td>
<td>139:14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>132:12</td>
<td>162-H16 (1)</td>
<td>301.15 (1)</td>
<td>131:3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>130:20</td>
<td>17 (2)</td>
<td>30-foot (2)</td>
<td>74:21;80:20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3:7;27:24</td>
<td>17SA (1)</td>
<td>31 (2)</td>
<td>138:9;151:6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>55:3</td>
<td>18 (9)</td>
<td>32 (2)</td>
<td>132:20;133:3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3:8;11:28:19;60:19;73:10;76:13;79:4;85:22;88:7</td>
<td>370 (1)</td>
<td>393 (1)</td>
<td>134:16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18/116 (1)</td>
<td>18 (9)</td>
<td>393 (1)</td>
<td>121:11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>69:20</td>
<td>185 (1)</td>
<td>4 (4)</td>
<td>83:5;112:24;114:12;117:10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14:6</td>
<td>1-significant (1)</td>
<td>4:03 (1)</td>
<td>103:18</td>
<td></td>
<td></td>
</tr>
<tr>
<td>58:11</td>
<td>2 (3)</td>
<td>40 (1)</td>
<td>103:18</td>
<td></td>
<td></td>
</tr>
<tr>
<td>58:13</td>
<td>2- (1)</td>
<td>45 (1)</td>
<td>133:3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2,000 (2)</td>
<td>2:16 (1)</td>
<td>28 (1)</td>
<td>3:9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>47:3</td>
<td>2:28 (1)</td>
<td>21 (3)</td>
<td>5,000 (1)</td>
<td>96:24</td>
<td></td>
</tr>
<tr>
<td>47:4</td>
<td>20 (5)</td>
<td>5:02 (1)</td>
<td>151:4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3:5;48:7;55:11;82:16;83:16</td>
<td>20 (5)</td>
<td>50 (1)</td>
<td>106:3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11:22</td>
<td>2015 (1)</td>
<td>500 (1)</td>
<td>135:10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12:23</td>
<td>2016 (1)</td>
<td>52-mile (1)</td>
<td>65:24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>151:6</td>
<td>2018 (1)</td>
<td>555 (1)</td>
<td>3:10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3:12;107:20,23</td>
<td>21 (3)</td>
<td>6 (3)</td>
<td>106:1;113:2,4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3:13;107:3</td>
<td>22 (2)</td>
<td>679 (1)</td>
<td>45:7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>81:24;82:13</td>
<td>24/7 (2)</td>
<td>78 (1)</td>
<td>3:10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>65:20;83:15</td>
<td>25 (2)</td>
<td>8 (2)</td>
<td>11:11;83:3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>55:4</td>
<td>26 (1)</td>
<td>8:00 (1)</td>
<td>95:10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3:6,7</td>
<td>27 (2)</td>
<td>80 (5)</td>
<td>18:15;19:12;34:4;39:17;44:19</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30 (5)</td>
<td>28 (1)</td>
<td>83 (1)</td>
<td>132:12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30,000 (1)</td>
<td>132:20;133:3</td>
<td>88 (1)</td>
<td>3:11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>130:20</td>
<td>131:6</td>
<td>89 (1)</td>
<td>44:12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>74:21;80:20</td>
<td>370 (1)</td>
<td>9:00 (3)</td>
<td>150:7;151:2,7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>134:16</td>
<td>393 (1)</td>
<td>90 (1)</td>
<td>31:6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>121:11</td>
<td>4 (4)</td>
<td>90-degree (1)</td>
<td>41:24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>83:5;112:24;114:12;117:10</td>
<td>4:03 (1)</td>
<td>93 (1)</td>
<td>46:18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>