

1 **STATE OF NEW HAMPSHIRE**

2 **SITE EVALUATION COMMITTEE**

3 **February 26, 2019** - 9:02 a.m.
4 Public Utilities Commission
5 21 South Fruit Street Suite 10
6 Concord, New Hampshire

7
8 **IN RE: SEC DOCKET NO. 2019-01**
9 **ANTRIM WIND ENERGY, LLC:**
10 **Motion to Modify Certificate**
11 **of Site and Facility.**
12 **[Hearing on the merits]**

13 **PRESENT:**

13 **SITE EVALUATION COMMITTEE:**

14
15 Cmsr. Michael Giaimo Public Utilities Commission
16 *(Presiding as Presiding Officer)*

17 John Duclos, Designee Department of Environmental
18 Services

19 Thomas Eaton Public Member

20 *Also Present for the SEC:*

21 Michael J. Iacopino, Esq., Counsel for the SEC

22 Pamela G. Monroe, SEC Administrator

23 COURT REPORTER: *Steven E. Patnaude, LCR No. 52*

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APPEARANCES: Reptg. Antrim Wind Energy, LLC:
Barry Needleman, Esq. (McLane...)
Adam Dumville, Esq. (McLane...)
Jack Kenworthy
Dana Valleau

Reptg. the Town of Antrim:
John Robertson, Selectman

Reptg. Counsel for the Public:
K. Allen Brooks, Esq.
Senior Asst. Attorney General
N.H. Attorney General's Office

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EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
1	Motion to Modify Certificate of Site and Facility	<i>premarked</i>
2	Prefiled Direct Testimony of Dana Valleau (01-10-19)	<i>premarked</i>
3	N.H. Wetlands Permit Application for the Antrim Wind Park Project in Antrim, N.H., January 2019 (01-04-19)	<i>premarked</i>
4	Letter from N.H. Department of Environmental Services, Wetlands Bureau, including the February 8, 2019 Final Decision (02-08-19)	<i>premarked</i>

P R O C E E D I N G

1
2 PRESIDING OFCR. GIAIMO: Good
3 morning. My name is Michael Giaimo. I'm a
4 Commissioner at the Public Utilities
5 Commission, and I have been appointed as the
6 Presiding Officer in this proceeding. We are
7 here in Docket Number 2019-01, Antrim Wind
8 Energy, LLC, Motion to Modify the Certificate
9 of Site and Facility.

10 At this point, I ask the Subcommittee
11 members to identify themselves. Then, I'll
12 provide some procedural history. We will then
13 move to take appearances and hear from Antrim
14 and others.

15 MR. DUCLOS: My name is John Duclos.
16 I'm representing the Commissioner of the
17 Department of Environmental Services, Robert
18 Scott.

19 MR. EATON: Tom Eaton, from Keene,
20 public member.

21 PRESIDING OFCR. GIAIMO: Thank you.
22 On March 17th, 2017, the Site Evaluation
23 Subcommittee approved the Application filed by
24 Antrim Wind Energy and issued an order and

1 Certificate of Site and Facility to construct
2 and operate nine wind turbines, with a
3 cumulative nameplate generating capacity of
4 almost 29 megawatts.

5 The order approved the issuance of
6 all of the permits and/or certificates
7 recommended by the New Hampshire Department of
8 Environmental Services, including a Wetland
9 Permit that authorized the dredge and fill of
10 9,121 square feet of wetlands, the dredge and
11 fill of 156 square feet in an intermittent
12 stream; the temporary impact of 60 square feet
13 within a perennial stream. The permitted
14 impacts include 708 square feet of permanent
15 wetlands impacts associated with the
16 construction of the new PSNH substation and
17 installation of a transmission tap line between
18 the new substation and the existing
19 transmission line. Condition 3 of the Wetland
20 Permit provides that: "Any further alteration
21 of area on this property that are within the
22 jurisdiction of the DES Wetlands Bureau will
23 require a new application and further
24 permitting by the Bureau."

1 Earlier this year, on January 10th,
2 Antrim Wind filed a Motion to Modify the
3 Certificate and also filed an Application with
4 DES for an additional 10,000 square feet of
5 temporary wetland impacts that are necessary in
6 order to install timber mats and allow
7 equipment access to construct the
8 interconnection line from a new PSNH substation
9 to the existing transmission line.

10 Antrim requested the appointment of s
11 three-member subcommittee and expedited review
12 of the Motion to avoid any delay in
13 construction due to commence approximately a
14 month from now, on or about March 25th.

15 On January 17th, the Site Evaluation
16 Committee Administrator sent a letter to the
17 Towns of Antrim; Bennington; Deering; Hancock;
18 Hillsborough; Nelson; Stoddard; and Windsor,
19 notifying the Towns that the Motion had been
20 received. The letter also noted that
21 representatives of the Towns have an
22 opportunity to participate in this proceeding.

23 On January 24th, an order was issued
24 appointing this Subcommittee. Allen Brooks is

1 Counsel for the Public in this matter. A day
2 later, on March [January?] 25th, an Order and
3 Notice of Prehearing Conference and Petitions
4 to Intervene was issued and posted on the Site
5 Evaluation Committee's website. The deadline
6 for filing a Petition to Intervene was February
7 5th, and we did not receive any such petitions.

8 On January 29th, the Order and Notice
9 was published in the Union Leader and the
10 Monadnock Ledger-Transcript. On January 30th,
11 Antrim Wind filed an affidavit with the
12 Administrator documenting the publication.

13 On February 8th, the Department of
14 Environmental Services submitted a letter to
15 the Administrator stating that the department
16 recommended approval of the Wetlands
17 Application with the conditions that were
18 enclosed with the letter.

19 We are here today for an adjudicative
20 hearing, a hearing on the merits of the pending
21 motion. The issue to be considered is whether
22 the Subcommittee should grant the motion to
23 modify and allow 10,000 square feet of
24 additional temporary wetland impacts that

1 Antrim claims is necessary to install timber
2 mats and allow equipment access to construct
3 the interconnection line from PSNH's substation
4 to the existing 115 kV transmission line.

5 The authority for this hearing is set
6 forth at RSA 162-H:4, II; RSA 162-H:5, I; and
7 RSA 162-H:8-a, II(d)(5).

8 With that as a procedural history as
9 a backdrop, let's turn to taking appearances.

10 MR. NEEDLEMAN: Good morning. Barry
11 Needleman, from McLane Middleton, representing
12 Antrim Wind. To my right is Jack Kenworthy of
13 Antrim Wind; behind me is Adam Dumville, also
14 of McLane Middleton; and next to Adam is our
15 witness, Dana Valleau.

16 PRESIDING OFCR. GIAIMO: Thank you.

17 MR. ROBERTSON: John Robertson,
18 representing the Town of Antrim.

19 PRESIDING OFCR. GIAIMO: Thank you,
20 Mr. Robertson.

21 MR. BROOKS: Allen Brooks, Counsel
22 for the Public.

23 PRESIDING OFCR. GIAIMO: Mr. Brooks,
24 thank you.

[WITNESS: Valleau]

1 So, Mr. Needleman, how shall we
2 proceed?

3 MR. NEEDLEMAN: We're ready to
4 present our witness, Mr. Chair.

5 PRESIDING OFCR. GIAIMO: Okay. Let's
6 take a moment to get the witness into the box.

7 (Whereupon **Dana Valleau** was duly
8 sworn by the Court Reporter.)

9 **DANA VALLEAU, SWORN**

10 **DIRECT EXAMINATION**

11 BY MR. NEEDLEMAN:

12 Q Mr. Valleau, could you state your full name for
13 the record and where you work?

14 A Yes. My name is Dana Valleau. And I work for
15 TRC Environmental Corporation.

16 Q And I've given you a copy of Applicant's
17 Exhibit Number 2, which is your direct prefiled
18 testimony in this case, is that right?

19 A Correct.

20 Q And do you have any changes or corrections to
21 that testimony?

22 A No, I don't.

23 Q Do you swear to and adopt that testimony as
24 your testimony here today?

{SEC 2019-01} {02-26-19}

[WITNESS: Valteau]

1 A I do.

2 MR. NEEDLEMAN: Thank you. Witness
3 is available for questioning.

4 PRESIDING OFCR. GIAIMO: Okay. Mr.
5 Brooks?

6 MR. BROOKS: I have no questions.

7 PRESIDING OFCR. GIAIMO: No
8 questions. You guys ready?

9 MR. DUCLOS: Yes.

10 PRESIDING OFCR. GIAIMO: Who wants to
11 start? You all set? So, this is the time that
12 we ask questions.

13 MR. DUCLOS: Uh-huh.

14 PRESIDING OFCR. GIAIMO: Okay.

15 *[Short pause.]*

16 PRESIDING OFCR. GIAIMO: Okay, I've
17 got a couple.

18 BY PRESIDING OFCR. GIAIMO:

19 Q I guess my first question is, how did this
20 happen? How did we get an oversight of almost
21 10,000 square feet of impact?

22 A Yes. So, initially, the plan was to install
23 three poles for this interconnection structure,
24 which were smaller and direct bury, which is

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[WITNESS: Valteau]

1 another method for installing poles. And the
2 method would have been working from the upland
3 and also from the permanent fill that is part
4 of the previously permitted impact in that
5 wetland. And so, in this case, it's a
6 different method to install the pole, and also
7 a different structure. So, it's going to be a
8 single structure, it's a larger structure. And
9 the method that it's being installed is not
10 direct embed. They actually remove some
11 material and put in a can, and put in some
12 engineered backfill, which increases the
13 stability of the foundation for the pole, and
14 also the longevity of the structure's life.

15 So, it's a different method. And the
16 reason there's 10,000 square feet of mats is to
17 provide the workspace for the -- that's level
18 and stable, and also provide workspace that's
19 level.

20 Q So, would you characterize it as an oversight
21 or a change to enhance the project?

22 A I think it's a change.

23 Q Okay. Would you say -- would you consider it
24 a -- you know, on its face, it sounds like

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[WITNESS: Valteau]

1 wanting 167 times more -- 167 times more of an
2 impact sounds significant. Is it significant
3 or is it a minimal impact?

4 A It's a minimal impact due to the method. So,
5 installing mats will enable, actually,
6 potentially less impact to the wetland. We're
7 not asking for less on the permanent side. But
8 the installation of mats will enable the
9 contractor to avoid any potential rutting or
10 impacts to the soils of the wetland, and also
11 will avoid any destruction of the vegetation
12 there that's existing. So, the mats are laid
13 on over top of the soils.

14 Q And how long does it take to fully restore?
15 You lay them down, does it crush the ground
16 underneath? When you remove the mats, how long
17 does it take to restore it to its initial
18 state?

19 A So, quite typically, with this type of wetland,
20 so it's an open scrub shrub wetland. It's
21 shallow. And most people would look at it
22 during the summer and not even realize it's a
23 wetland. It's not a saturated, open water type
24 of wetland. And usually, it's pretty

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[WITNESS: Valleau]

1 immediate, you know, as soon as the mats come
2 off. The idea with the mats is it spreads out
3 the weight pressure that's put on to the soils.
4 And so, there's generally not a lot of
5 compaction.

6 And again, the idea is that the vegetation
7 is maintained, the existing vegetation and the
8 root structure. So, it's -- quite often
9 there's very little that needs to be done,
10 other than removing the mats.

11 Q Will there be, I thought I saw somewhere in
12 documentation, reseeded? Would reseeded
13 happen?

14 A I think, in the extreme case, if there was more
15 soil disturbance than anticipated, that's
16 possible. But the general plan with using mats
17 is to not reseed, unless there's more
18 disturbance to the soil.

19 Q And if there were those sort of disturbances,
20 would you go back to DES?

21 A Well, so, the temporary impact should be
22 covered by permitting, and part of the
23 permitting is providing restoration, if
24 necessary.

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[WITNESS: Valleau]

1 Q Okay. In your testimony, you know that DES
2 considers the amount to be temporary -- the
3 amount of temporary impact to be minor. In
4 your experience, what would elevate this to be
5 a major impact?

6 A Well, you know, according to the rules, it's
7 well below the threshold. So, a temporary
8 impact would be, in general, is not considered
9 a major impact. I don't know the rules off the
10 top of my head for what a temporary area is
11 considered a major impact.

12 But, you know, again, it's temporary. So,
13 it's not going to alter the hydrology, the
14 soils or the vegetation there. And it will go
15 back to being the wetland as it is now.

16 PRESIDING OFCR. GIAIMO: Okay.

17 BY MR. EATON:

18 Q How long do you expect the mats to be down?

19 A I think the -- so, the work schedule would
20 be -- I'm not really sure what the longevity of
21 the schedule is. But, if they set the mats,
22 and they can install the tap structure
23 fairly -- fairly quickly, you know, a month,
24 maybe, at the most. But I'm -- you know,

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[WITNESS: Valteau]

1 that's -- I'm kind of speaking out of turn
2 here. I'm not intimately familiar with the
3 schedule for installing the pole. But it's the
4 type of thing where you can install the mats
5 and do the work right away.

6 BY PRESIDING OFCR. GIAIMO:

7 Q What's prompting the schedule, the aggressive
8 schedule of commencing in March? I'm guessing
9 there's a desire to get it done in the spring,
10 when the ground thaws. But maybe you can say,
11 to the extent you know, --

12 A Well, in March, the ground is still frozen.
13 So, it would be good to do the work before the
14 ground thaws significantly.

15 Q Okay. So, there's -- so, all right. Then,
16 that's actually helpful. They're going to
17 commence -- commence construction at the end of
18 March. So, it starts in April. To my mind's
19 eye, that's obviously spring, that's probably
20 the wet season, when the snow melts and you get
21 the most amount of rain probably. The mats are
22 obviously needed for that purpose as well, for
23 that purpose?

24 A Yes, absolutely. Yes. That helps you stay out

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[WITNESS: Valleau]

1 of soft soils, too. So, if they're installed
2 in March, then you can work on those into the
3 wet season without creating additional rutting
4 impacts to the uplands or the wetlands.

5 Q Okay. Now, if this got pushed to the summer,
6 let's say, do you know if you would need the
7 mats? Would the mats still be needed?

8 A Yes. I would --

9 Q Okay.

10 A I would still think that they would want to use
11 the mats.

12 MR. DUCLOS: Good morning, Dana. I'm
13 John Duclos. I've just got a couple questions
14 for you.

15 BY MR. DUCLOS:

16 Q What is the design of the mats that you're
17 planning, because one wetland has, you know, a
18 very large temporary disturbed area?

19 A Yes. And so, that's the workspace. And so,
20 the mats individually are typically 4 feet by
21 20 feet. They do vary.

22 Q Yes.

23 A But, you know, they're timbers that are 10 or
24 12 by 12, you know, timbers that are sandwiched

[WITNESS: Valleau]

1 together.

2 Q And you mentioned that you were going to put in
3 three poles?

4 A That was the original design, and this is going
5 to be a one-structure tap. So, it's a
6 different type of structure, and it's got a
7 different installation.

8 Q And that requires the change from direct bury
9 to the method of removing material and
10 providing backfill?

11 A Yes.

12 Q Okay. Was that new installation explained in
13 the Wetlands Permit Application?

14 A I'm not sure how we explained it. I'll have to
15 refresh my memory on that.

16 *[Short pause.]*

17 **BY THE WITNESS:**

18 A Yes. I don't see that that was explained. Let
19 me see.

20 What I do know is, you know, that -- so
21 that wasn't explained. But we did assess
22 whether the permanent impacts would be any
23 different to the wetland, to see if we needed
24 to permit additional permanent impact. And it

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[WITNESS: Valleau]

1 was pretty much a wash between the two
2 different types of structures. But I don't see
3 that, a change in the structure explained.

4 BY MR. DUCLOS:

5 Q Your testimony said you're going to remove
6 material and provide backfill, right?

7 A Yes.

8 Q Where is the backfill coming from?

9 A So, that's something that's engineered
10 backfill, it's crushed rock.

11 Q And in your -- in your opinion then, would that
12 provide a permanent impact to the wetland by
13 bringing in this --

14 A Yes, it would. But, see, we had permitted a
15 permanent impact, which included the three-pole
16 structure. And with this one-pole structure,
17 the impact is going to be the same. But it's a
18 different type of foundation. The direct bury
19 is -- the impact is the footprint of the pole
20 itself. The direct bury is generally done in a
21 wetland with an auger, which is roughly the
22 size of a pole. With the single pole, it's,
23 again, just one pole, but the total impact is
24 roughly the same as three poles.

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[WITNESS: Valteau]

1 Q The three-pole direct bury, you auger, you
2 place the pole in existing soil, correct?

3 A Correct.

4 Q So, you don't import any engineered fill --

5 A Correct.

6 Q -- with a direct bury?

7 A Correct.

8 Q And in this particular one, you're expecting to
9 bring in engineered fill?

10 A Right. Correct.

11 Q It wasn't explained in the Wetlands Permit
12 Application. So, they don't really know how
13 you're going to install this new design,
14 correct?

15 A Correct.

16 MR. DUCLOS: Okay. Thank you.

17 MR. EATON: I'm all set.

18 BY PRESIDING OFCR. GIAIMO:

19 Q So, looking at the permit and the conditions
20 set, in your experience, are these conditions
21 consist with, you know, standard language and
22 standard conditions you've seen in similar
23 wetlands applications?

24 A In the existing permit?

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[WITNESS: Valleau]

1 Q Yes.

2 A Yes.

3 Q That would be in the one that was -- there's a
4 letter from DES, which is labeled "Exhibit 4",
5 which has an introductory letter attached to it
6 from February 8th, 2019, and then it explains
7 the conditions that are included in the permit.
8 And I'm asking you if these are standard
9 conditions, conditions that you've seen in
10 similar wetlands? Is there anything unique
11 about this?

12 A Is this something I don't have in front of me?
13 February -- I don't think I --

14 PRESIDING OFCR. GIAIMO: Exhibit 4.
15 Attorney Needleman, can you --

16 MR. NEEDLEMAN: Yes.

17 *(Atty. Needleman handing*
18 *document to the witness.)*

19 WITNESS VALLEAU: Which one is this?

20 PRESIDING OFCR. GIAIMO: I'm sorry.
21 It's the letter from DES, based on the
22 Application that you submitted on behalf of
23 Antrim.

24 WITNESS VALLEAU: Yes. Okay. Yes.

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[WITNESS: Valleau]

1 I'm not familiar with it.

2 BY PRESIDING OFCR. GIAIMO:

3 Q Okay. We can take a moment and you can look at
4 it. And then you can tell us your opinion on
5 the conditions, if they're standard conditions?

6 *[Short pause.]*

7 **BY THE WITNESS:**

8 A Yes. This looks pretty typical to me.

9 PRESIDING OFCR. GIAIMO: Okay.

10 Thanks.

11 WITNESS VALLEAU: Thank you.

12 PRESIDING OFCR. GIAIMO: All right.

13 You guys all set?

14 MR. EATON: All set.

15 PRESIDING OFCR. GIAIMO: Okay.

16 Attorney Needleman, do you have any redirect?

17 MR. NEEDLEMAN: No. Thank you.

18 PRESIDING OFCR. GIAIMO: Okay. So,
19 where I think we're going to go next is I'd
20 like to get -- I'm sorry, Mr. Brooks, did you
21 have something to say?

22 MR. BROOKS: Well, at some point, I'd
23 just like to make just a brief statement.

24 PRESIDING OFCR. GIAIMO: Sure.

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1 MR. BROOKS: I don't know what time
2 is good.

3 PRESIDING OFCR. GIAIMO: A brief
4 statement, like a closing statement?

5 MR. BROOKS: No. It's a statement
6 essentially -- there's really no contested
7 facts. So, I don't have a witness and don't
8 have testimony. But we do -- I just want to
9 let the Subcommittee know what I did to
10 evaluate the project, and to actually answer
11 some of the questions that you just had
12 regarding temporary minimum impacts and
13 seeding.

14 So, whenever that's convenient.

15 PRESIDING OFCR. GIAIMO: I think
16 there's no better time than now. So, --

17 MR. BROOKS: Okay. All right. And
18 first, let me apologize. I came with a lot of
19 layers on today, none of them turned out to be
20 my suit jacket. That's not out of disrespect
21 to the Committee. It's a "that time of year"
22 thing.

23 So, one of your questions, I believe,
24 is the same question that most people would

1 ask, which is that they were more than two
2 orders of magnitude off on the amount of
3 temporary impact they asked for, 60 to 10,000.
4 At first, that might raise eyebrows, and I want
5 to make sure I put it in perspective, you asked
6 if it was minimum or not. Generally, under
7 Wetlands rules, a minor temporary impact is
8 less than 20,000. So, had they come in fresh
9 and asked for it the first time, I don't think
10 there would have been that much review.

11 There's also a specific provision for
12 utility notifications for doing this type of
13 work. That is Env-Wt 303.04 (af). And what
14 that says is, essentially, utilities can do
15 this type of work provided their total
16 jurisdictional impact doesn't exceed one acre.
17 And one acre is closer to about 43,000 square
18 feet than 10,000 square feet.

19 Part of the standard conditions for
20 doing that utility work is that they must use
21 temporary swamp mats to reduce rutting, and
22 essentially that's what they have come in
23 asking to do. So, that complies with both the
24 magnitude of the rule and what the rule

1 requires.

2 There was a question regarding the
3 seeding. So, I think you can take notice of
4 the fact that on that same letter, February 8th
5 letter from DES, Project Specific Condition
6 Number 8 talks about that there will be seeding
7 and mulching during the growing season, and
8 also during the non-growing season, if
9 necessary. Doesn't say "if necessary", but the
10 practice is, if you put your mat down, and you
11 take your mat up, if none of the vegetation is
12 harmed, you don't seed over the vegetation
13 that's still growing.

14 And then, just in terms of generally
15 to make sure we get the numbers correct and we
16 understand them, the Motion -- the original
17 Motion I think did a good job setting forth the
18 numbers. They are 9,121 square feet of
19 permanent palustrine wetland impacts, 156
20 square feet stream impact. That totals 9,277
21 permanent, and there's 60 temporary. So, if
22 you add that up, the original total impact was
23 9,337.

24 Now, the prefiled testimony did

1 contain a statement that said "Total wetland
2 impacts as originally permitted totaled 9,277",
3 but that leaves out the 60 temporary. So, it's
4 not really incorrect. I think it will be more
5 correct to state "Total wetland impacts
6 originally were 9,337".

7 I did check, if you notice the permit
8 amendment approval from DES says that they had
9 approval for 10,000 square feet of temporary
10 impact, in total, they need approval for 10,060
11 to get where they want to go. So, I made sure
12 to talk to DES, and I went through this
13 step-by-step. And in fact, their
14 interpretation is that they have the 10,000
15 from the amendment, plus the 60 from the
16 original approval. And so, they do have the
17 10,060 square feet. I just wanted to make
18 sure, if the public looks at this record, they
19 understand that they do have approval, if you
20 go forward, to have the full 10,060 square
21 feet.

22 And just from my own perspective, I
23 will say that I spent a lot of years doing
24 enforcement in wetlands, I've probably done

1 over 100 enforcement cases, wetland enforcement
2 cases specifically. And there's really nothing
3 about this impact that makes me find it unusual
4 or outside of the bounds of what's often
5 permitted.

6 PRESIDING OFCR. GIAIMO: Attorney
7 Brooks, thank you for the clarifications and
8 bringing that to light. And thank you.

9 So, I think we'll next turn to -- I
10 want to just give Mr. Robertson an opportunity,
11 do you have anything to say?

12 *(Mr. Robertson indicating in the*
13 *negative.)*

14 PRESIDING OFCR. GIAIMO: And that
15 seems not to be the case. So, thank you.

16 I don't know if you need a closing,
17 Mr. Brooks, or --

18 MR. BROOKS: I don't.

19 PRESIDING OFCR. GIAIMO: That was
20 your closing?

21 MR. BROOKS: Yes.

22 PRESIDING OFCR. GIAIMO: Okay. Thank
23 you.

24 Attorney Needleman as well, we'll

1 turn to you for your closing. And then, we'll
2 probably take a couple minute break and come
3 back and deliberate.

4 MR. NEEDLEMAN: I would just say we
5 appreciate the Committee getting together on a
6 short notice to consider this. And I think
7 we've essentially covered everything of
8 substance that we need to cover. So, I won't
9 add more. Thank you.

10 PRESIDING OFCR. GIAIMO: Okay.
11 Thanks.

12 So, without objection, I'm going to
13 strike the Exhibits 1 to 4?

14 *[No verbal response.]*

15 PRESIDING OFCR. GIAIMO: Everyone's
16 okay with that.

17 So, Exhibit 1 is the Motion to Modify
18 the Certificate; Exhibit 2 is the prefiled
19 testimony; Exhibit 3 is the Application; and
20 Exhibit 4 is the DES letter.

21 MR. BROOKS: You're striking the ID?

22 PRESIDING OFCR. GIAIMO: Striking the
23 ID.

24 MR. BROOKS: Okay.

[WITNESS: Valleau]

1 PRESIDING OFCR. GIAIMO: So, with
2 that, then we're going to give the stenographer
3 a couple minutes of rest, and come back in a
4 few. Okay. Let's shoot for 9:45. Thank you.

5 *(Recess taken at 9:30 a.m.*
6 *and the hearing resumed at*
7 *9:54 a.m.)*

8 PRESIDING OFCR. GIAIMO: Okay. We're
9 back and we're back on the record.

10 MR. DUCLOS: Mr. Chair, I'd like to
11 reopen the record and ask a few more questions
12 of the witness right now.

13 PRESIDING OFCR. GIAIMO: Mr. Valleau,
14 would you mind coming back and taking the
15 stand?

16 WITNESS VALLEAU: Sure.

17 PRESIDING OFCR. GIAIMO: Thank you.

18 MR. DUCLOS: Mr. Valleau, I'm John
19 Duclos. I have a few more questions on the
20 installation and the installation changes.

21 WITNESS VALLEAU: Sure.

22 (Whereupon **Dana Valleau** was
23 recalled to the stand having
24 been previously sworn.)

[WITNESS: Valleau]

DANA VALLEAU, Previously Sworn (resumed)

BY MR. DUCLOS:

Q The original Application allowed for 708 square feet of wetlands permanent impact in Wetland AN-31.

A Yes.

Q And what were those permanent impacts?

A So, there's some permanent impact from the substation, which is directly adjacent, and some from the three-pole structure that is the tap. I can't give you the breakdown between the two off the top of my head.

Reviewing the Application, there's a table of wetland impacts that just gives the total, which includes, you know, the structure from the tap and the substation.

Q Right. I recall that the substation had to bring in some fill, --

A Yes.

Q -- you know, for the foundation. What was the permanent impacts of the three-pole structure that was originally proposed?

A I'm not sure I have that calculation handy. I could -- let's see. I have the Wetland Report

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[WITNESS: Valleau]

1 in front of me, which might have that detail.

2 Yes. I'm looking at the Application, and
3 it just has a grand total for that Wetland
4 AN-31.

5 MR. NEEDLEMAN: Mr. Chair? If it
6 would be helpful, Mr. Kenworthy might be able
7 to add something to this, but he's not a
8 witness.

9 PRESIDING OFCR. GIAIMO: Would you
10 like to have him sworn in and add to it, add to
11 the witness's --

12 MR. NEEDLEMAN: It's up to you
13 whether he's sworn or he just provides an
14 explanation. Can consider it a statement, if
15 you wanted?

16 PRESIDING OFCR. GIAIMO: Sure. If
17 that's -- that's fine by me. Is that fine by
18 others?

19 MR. DUCLOS: Yes.

20 MR. KENWORTHY: Thank you, Mr. Chair.

21 So, I think, as Dana was indicating,
22 the original Wetlands Permit Application had a
23 total of 708 square feet of permanent impacts
24 that were comprised of two different sorts of

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[WITNESS: Valleau]

1 impact. One was the actual cut that needed to
2 occur for the construction of the substation,
3 and also the three poles that were previously
4 going to be installed for this line tap. And
5 the Wetlands Permit, the application table that
6 was permitted before, kind of delineates them
7 as such. There's -- it describes the tap
8 structure and the dredge and fill that needs to
9 occur as being inclusive of that 708 square
10 feet.

11 So, our SEC Permit Application also
12 indicates that the final design and
13 construction of this interconnection substation
14 is going to be done by Eversource. And so,
15 these changes were really precipitated by
16 Eversource's design, which our original
17 Application anticipated. And that's what's led
18 to the different type of structure that Mr.
19 Valleau described earlier.

20 And now, with that new pole
21 structure, the single pole, with the
22 foundation, the 708 square feet of wetlands --
23 permanent wetlands impacts in Wetlands AN-31
24 remain unchanged. So, there's the same 708

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[WITNESS: Valteau]

1 square feet of permanent wetland impacts
2 between the structure and the dredge and fill.

3 PRESIDING OFCR. GIAIMO: Thank you
4 for that clarification.

5 MR. KENWORTHY: You're welcome.

6 MR. DUCLOS: Mr. Kenworthy, I've got
7 a couple questions for you then. I understand
8 the cut for the substation, and that's pretty
9 clear. What was the three-pole design? How
10 were they installed or what was the plan to
11 install them? Was there any dredge and fill?
12 Were there any wetlands impact?

13 MR. KENWORTHY: Yes. There would be
14 the impact of the footprint of the poles. So,
15 there would be an auger, and then there would
16 be a pole set directly in that auger hole.

17 Again, I think our Application, for
18 the 2015 SEC Wetlands Permit -- the SEC
19 Application and the accompanying Wetlands
20 Application, we didn't have the detailed means
21 and methods established, because we're not the
22 contractor, right? So, we are permitting this
23 stuff for Eversource subject to their final
24 design, that has obviously led to these changes

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[WITNESS: Valleau]

1 and our coming back to the Committee and to DES
2 for additional permitting work.

3 MR. DUCLOS: So, when you auger and
4 you put in the three-pole structure, we're not
5 importing any fill, using any concrete to set
6 the pole or anything, it's just put in natural
7 wetlands material, correct?

8 MR. KENWORTHY: That's right.

9 MR. DUCLOS: Okay. When did the, I
10 guess, the new design take place, whether it
11 was you or Eversource that decided to go from
12 the three-pole structure to the one-pole
13 structure?

14 MR. KENWORTHY: I believe Eversource
15 issued their IFC plans in late 2018.

16 MR. DUCLOS: And at that time, did
17 they -- well, let me ask this question. What's
18 the plan to install the one-pole structure?
19 Mr. Valleau testified that that was not brought
20 to the attention of the Wetlands Bureau, it was
21 bringing in engineered fill. So, how is that
22 pole installed?

23 MR. KENWORTHY: Well, again, I think
24 our view, and we've obviously consulted with

[WITNESS: Valleau]

1 DES on this as well, is that we have the
2 ability to permanently impact 708 square feet
3 in that wetland. And so, those permanent
4 impacts aren't changing. Whether there's fill
5 or it's a straight dredge, it's the same 708
6 square feet that we're going to be impacting.
7 And so, it didn't necessitate a detailed
8 construction means and methods discussion with
9 DES at this time. Obviously, they're going to
10 get a copy, like the Committee will, of all of
11 our as-builts that are going to show exactly
12 where everything is and determine that it's
13 kind of filing in compliance with those permit
14 conditions.

15 MR. DUCLOS: Okay. Back to the
16 questions.

17 BY MR. DUCLOS:

18 Q How is the pole going to be installed? What's
19 the plan, the design to install the pole?

20 MR. KENWORTHY: Well, I'm not an
21 expert in it. But I can give you what I
22 understand the design is. So, there's going to
23 be mats that will be placed in the wetland.
24 And there will be an excavation where a can is

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[WITNESS: Valleau]

1 going to be placed in the wetland. And there
2 will be essentially kind of a caisson-type
3 foundation that's poured in that can to support
4 a single monopole steel tower. And there may
5 be some crushed rock backfill that's used to
6 kind of come up against the excavation around
7 that can.

8 And again, all of that impact will be
9 not greater than the 708 square feet of impact
10 that we have permitted in Wetland AN-31.

11 MR. DUCLOS: So, the pole impact of
12 the three poles is previously permitted. The
13 can that you're going to install, that would be
14 like a -- the same general size as the three
15 poles that would be put in the original design?

16 MR. KENWORTHY: I mean, I suppose
17 perhaps there's a rough equivalency. I can't
18 say for certain. I think, again, to our
19 knowledge and our belief, the Wetlands Permit
20 does not explicitly distinguish between where
21 the 708 square feet of impact are to that
22 Wetland AN31.

23 MR. DUCLOS: Uh-huh.

24 MR. KENWORTHY: And so, what our plan

[WITNESS: Valteau]

1 is is to ensure that we don't exceed that 708
2 square feet, as between the impact associated
3 with this structure, and what's already been
4 completed and surveyed.

5 So, we, prior to doing this work, we
6 had our contractor survey, essentially, the
7 as-built for the substation excavation, to
8 ensure that, together with this new
9 construction method, those two combined sets of
10 impacts to that wetland would not exceed 708
11 square feet. That will be demonstrated on the
12 as-built that gets ultimately submitted to DES.
13 And as far as our view is, no further
14 permitting is required for permanent impacts in
15 AN31.

16 MR. DUCLOS: And the can that you put
17 down is just some type of steel or a steel --

18 MR. KENWORTHY: It's a corrugated
19 metal pipe.

20 MR. DUCLOS: Okay. And then that
21 takes your single monopole steel, and then you
22 concrete within that area?

23 MR. KENWORTHY: That's right.

24 MR. DUCLOS: Okay. All right. I

[DELIBERATIONS]

1 have no further questions.

2 MR. EATON: No further questions.

3 PRESIDING OFCR. GIAIMO: All right.

4 I guess I feel comfortable moving into
5 deliberations, if my colleagues feel the same.
6 Are you ready?

7 MR. DUCLOS: Yes.

8 *(Mr. Eaton indicating in the*
9 *affirmative.)*

10 PRESIDING OFCR. GIAIMO: All right.

11 So, Mr. Valleau, you can feel free to go back
12 to your seat, if you want.

13 WITNESS VALLEAU: Thank you.

14 PRESIDING OFCR. GIAIMO: So, as we're
15 ready to move into deliberations, we will close
16 the record and move into a discussion.

17 **D E L I B E R A T I O N S**

18 PRESIDING OFCR. GIAIMO: So, to issue
19 a certificate, the Committee has to find four
20 things pursuant to RSA 162-H:16, IV. The
21 Applicant has to have adequate financial,
22 technical, and managerial capability to assure
23 construction and operation of the facility in
24 continuing compliance with the terms and

[DELIBERATIONS]

1 conditions of the certificate; the site and
2 facility will not -- we need to determine that
3 the site and facility will not unduly interfere
4 with the orderly development of the region,
5 with due consideration having been given to the
6 views of municipal and regional planning
7 commissions and municipal governing bodies; the
8 site and facility will -- need to determine
9 that it will not have an unreasonable adverse
10 effect on aesthetics, historic sites, air and
11 water quality, the natural environment, and
12 public health and safety; and the issuance of a
13 certificate will serve the public interest.

14 So, in order we'll discuss those.

15 We'll start with (a): "The applicant has
16 adequate financial, technical, and managerial
17 capability to assure construction and operation
18 of the facility in continuing compliance with
19 the terms and conditions of the certificate."

20 Let's have a discussion on that.

21 MR. EATON: I think that we're fine,
22 having read the previous information.

23 PRESIDING OFCR. GIAIMO: Mr. Duclos,
24 you okay?

[DELIBERATIONS]

1 MR. DUCLOS: Yes. I don't see that
2 there's -- the expense of this project is going
3 to make any large difference from the original
4 Application and Certificate that was issued.

5 PRESIDING OFCR. GIAIMO: I agree.
6 Nothing in the Motion changes the Company's
7 ability to finance and to ensure construction
8 and operation.

9 So, we'll move to (b): "The site and
10 facility will not unduly interfere with the
11 orderly development of the region with due
12 consideration having been given to the views of
13 municipal and regional planning commissions and
14 municipal governing bodies."

15 Discussion.

16 MR. EATON: Having not had any
17 dissention from any of those groups here today,
18 I think that we can approve that.

19 MR. DUCLOS: I would agree. I don't
20 think the temporary impacts, the changes here,
21 is going to make any difference to the orderly
22 development of the region.

23 PRESIDING OFCR. GIAIMO: I agree.

24 (c): "The site and facility will not

[DELIBERATIONS]

1 have an unreasonable adverse effect on the
2 aesthetics, historic sites, air and water
3 quality, the natural environment, and public
4 health and safety."

5 Any discussion?

6 MR. DUCLOS: My only issue with that
7 one, obviously, is if the construction details
8 were known prior to the submission of the
9 Wetlands Application or before the Wetlands
10 Application was issued, then I think the
11 Wetlands Bureau should have known about those
12 changes and had the opportunity to review them
13 in the permit to determine whether any other
14 permit conditions would be necessary.

15 Having read both Wetlands Permits,
16 the original one and the one issued February
17 8th as part of this Application, the Wetlands
18 Bureau, in my opinion, provides specific
19 conditions and allows for changes in
20 construction details or sequences for review
21 and approval before implementing construction.

22 I think you have an opportunity to do
23 that under your existing permit. From the
24 explanation of Mr. Kenworthy, it appears that

[DELIBERATIONS]

1 there's not going to be any additional
2 permanent wetland disturbances beyond the
3 originally permitted number of 708 square feet.
4 And I'll take that as a -- as an approved
5 disturbance in the original permit.

6 However, that your construction
7 details are now known, I would expect that
8 those would be provided to the Wetlands Bureau
9 prior to construction for any considerations
10 they might have.

11 PRESIDING OFCR. GIAIMO: Okay.

12 MR. EATON: Yes. I have not seen any
13 building change -- building designs or
14 anything, but I would think that,
15 aesthetically, it would look better with one
16 pole than three. And it's within that 708
17 square feet.

18 PRESIDING OFCR. GIAIMO: I certainly
19 agree with that. And I think the -- I don't
20 think any of the changes create an unreasonably
21 adverse effect -- an unreasonable adverse
22 effect on the aesthetics, historic sites, air
23 or water quality, the environment, or public
24 health and safety.

[DELIBERATIONS]

1 So, moving to the last criteria:

2 "The issuance of the certificate will serve the
3 public interest."

4 MR. DUCLOS: I believe issuing the
5 certificate would serve the public interest in
6 this matter, yes.

7 MR. EATON: I also agree.

8 PRESIDING OFCR. GIAIMO: And as do I.
9 With that, we will --

10 MR. IACOPINO: You might want to take
11 a vote on whether to grant the Motion for
12 Modification.

13 PRESIDING OFCR. GIAIMO: Okay.

14 MR. IACOPINO: Somebody should move
15 to either grant or deny the Motion.

16 MR. EATON: Mr. Chairman, I move that
17 we grant the change in the permitting -- not
18 the "permitting", but grant, that we move the
19 Motion.

20 PRESIDING OFCR. GIAIMO: Do I hear a
21 second?

22 MR. DUCLOS: I would amend that
23 motion to add additional condition in our
24 Certificate of Site and Facility, to require

[DELIBERATIONS]

1 Antrim Wind to provide notice to the Wetlands
2 Bureau prior to construction of the
3 construction details that are known to them
4 prior to putting them in, and determining --
5 or, let the Wetlands Bureau determine whether
6 that would require any additional wetlands
7 permitting or not.

8 PRESIDING OFCR. GIAIMO: So, I'm
9 going to take it that this is our -- having a
10 little bit of discussion. You feel that
11 nothing in the existing permit provided that
12 requirement or are you just reiterating what's
13 in the permit, the permit condition, Condition
14 3, I think, on the exhibit?

15 MR. DUCLOS: There is a condition in
16 there, and I expect that that's going to be
17 implemented. And I believe the Certificate of
18 Site and Facility can add a condition onto our
19 permit that would require them to check that,
20 you know, prior to construction, these changes
21 that are known to them, and ensure that it
22 meets, in the Wetlands Bureau opinion, the
23 issued permit, or whether additional permitting
24 is going to be necessary.

[DELIBERATIONS]

1 PRESIDING OFCR. GIAIMO: Okay. I'm
2 going to look to counsel to make sure that this
3 is something which we are comfortable with.

4 MR. IACOPINO: Mr. Chairman, you have
5 a motion from Mr. Eaton that has not been
6 seconded.

7 PRESIDING OFCR. GIAIMO: Okay.

8 MR. IACOPINO: So, and Mr. Duclos has
9 spoken to that motion indicating that he would
10 seek an additional condition. So, it's up to
11 the Committee, if you don't have a second for
12 Mr. Eaton's motion, to seek a different motion.

13 PRESIDING OFCR. GIAIMO: Okay. I
14 guess I will look to Mr. Eaton and say, in
15 light of Mr. Duclos's discussion and comments,
16 are you comfortable adding Mr. Duclos's
17 amendment to your initial motion?

18 MR. EATON: I think it was pretty
19 much covered, but I will add that if it makes
20 him more comfortable.

21 PRESIDING OFCR. GIAIMO: Okay. So,
22 the motion now, the condition -- we would seek
23 to add the condition that Mr. Duclos added to
24 Mr. Eaton's motion to approve.

[DELIBERATIONS]

1 MR. EATON: Yes.

2 MR. IACOPINO: And just so I'm clear
3 for when your order gets written, it is my
4 understanding, Mr. Duclos, that you wish the
5 condition to read along these lines: "That the
6 Applicant shall provide notice to the Wetlands
7 Bureau of the Department of Environmental
8 Services, prior to undertaking construction, of
9 the construction means and methods to be used
10 in the installation of the tap pole, and to --
11 so that the Wetlands Bureau can ensure it
12 complies with their conditions."

13 MR. DUCLOS: That sounds pretty good,
14 Mike.

15 MR. IACOPINO: Thank you.

16 PRESIDING OFCR. GIAIMO: Okay.

17 MR. IACOPINO: So, I have it
18 correctly though, because I do want --

19 MR. DUCLOS: Yes.

20 MR. IACOPINO: Okay.

21 MR. DUCLOS: Maybe we can write it up
22 and look at it, if preferred.

23 MR. IACOPINO: Mr. Patnaude has just
24 done that for me.

[DELIBERATIONS]

1 MR. DUCLOS: Sounds good.

2 MR. IACOPINO: And I will probably
3 ask him to print out that page for me.

4 MR. DUCLOS: Okay.

5 MR. IACOPINO: And you still need a
6 second for the motion.

7 PRESIDING OFCR. GIAIMO: I need a
8 second for the motion. And I can second the
9 motion, correct?

10 MR. IACOPINO: You can. But
11 Mr. Duclos has added to it, so he may want to.

12 PRESIDING OFCR. GIAIMO: Would you
13 like to?

14 MR. DUCLOS: You want to repeat the
15 motion.

16 MR. EATON: Second it as amended.

17 MR. DUCLOS: I second that as
18 amended.

19 PRESIDING OFCR. GIAIMO: All right.
20 All in favor say "aye"?

21 *[Multiple Subcommittee members*
22 *indicating "aye".]*

23 PRESIDING OFCR. GIAIMO: Opposed?

24 *[No indication given.]*

[DELIBERATIONS]

1 PRESIDING OFCR. GIAIMO: Hearing
2 nothing. Okay. So, we will close
3 deliberations. And we will order -- we will
4 issue an order as soon as possible. So, thank
5 you everyone for your time.

6 MR. NEEDLEMAN: Thank you.

7 MR. KENWORTHY: Thank you very much.

8 ***(Whereupon the hearing was***
9 ***adjourned at 10:15 a.m.)***

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C E R T I F I C A T E

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

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

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