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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

September 18, 2020 - 9:00 a.m. DAY 2

(Electronically
filed on 10-02-20)

[Remote Hearing conducted via Webex]

IN RE: SEC DOCKET NO. 2019-02
SITE EVALUATION COMMITTEE:
Application of Chinook Solar,
LLC, for a Certificate of
Site and Facility.
(Hearing on the Merits)PRESENT: SITE EVALUATION COMMITTEE:
Chairwoman Dianne Martin Public Utilities Commission
(Presiding as Presiding Officer)
Wildolfo Arvelo, Dir. Div. of Econ. Dev./Dept. of
Business & Economic Affairs
Rene Pelletier Water Div./Dept. of
Environmental Services
Benjamin Wilson, Dir. Div. of Historical
Resources/Dept. of Natural
& Cultural Resources
William Oldenburg Dept. of Transportation
Susan Duprey Public Member

Also Present for the SEC:

Michael J. Iacopino, SEC Counsel
(Brennan Lenehan Iacopino & Hickey)
J.D. Lavallee, Esq., SEC Counsel
(N.H. Attorney General's Office)

Corrine Lemay, SEC Remote Hearing Host

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

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APPEARANCES: Reptg. Chinook Solar, LLC:
Douglas L. Patch, Esq. (Orr & Reno)
Susan S. Geiger, Esq. (Orr & Reno)

Reptg. Counsel for the Public:
Heather D. Neville, Esq.
Assistant Attorney General
N.H. Department of Justice

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RECORD REQUESTS:

APP Ex. 92 DES correspondence confirming they
are satisfied with revised plans and
information

APP Ex. 95 Project Phasing Plans - Whether they
are in the record

APP Ex. 96 Project Plans - Whether App. Ex. 82
replaces Appendix 8A to Application

APP Ex. 97 Decommissioning bond backup information

P R O C E E D I N G

1
2 CHAIRWOMAN MARTIN: We're here this
3 morning in Docket 2019-02, which is the
4 Chinook Solar, LLC Application for a
5 Certificate of Site and Facility. And we're
6 here today to continue the hearing on the
7 Application. I want to remind everyone that
8 I made the findings required for this hearing
9 to be held remotely during the last session,
10 and also that if there is a problem during
11 the hearing, you should call (603) 271-2431.
12 And in the event the public is unable to
13 access the hearing, the hearing will be
14 adjourned and rescheduled.

15 Okay. Let's start by taking roll
16 call attendance of the Committee. When each
17 Committee member identifies him or herself,
18 please also state if anyone else is in the
19 room with you, and if so, please identify
20 them. My name is Dianne Martin. I'm the
21 Chairwoman of the Site Evaluation Committee,
22 and I am alone.

23 Mr. Arvelo.

24 DIR. ARVELO: My name is Will

1 Arvelo, and I am home alone.

2 CHAIRWOMAN MARTIN: Okay. Mr.
3 Pelletier.

4 MR. PELLETIER: My name is Rene
5 Pelletier, and I'm alone in my office in
6 Concord.

7 CHAIRWOMAN MARTIN: Okay. Thank
8 you.

9 Ms. Duprey.

10 MS. DUPREY: I'm Susan Duprey,
11 public member, and I'm in my home. At the
12 moment I'm alone, but my son and
13 daughter-in-law are in the house.

14 CHAIRWOMAN MARTIN: Okay. Thank
15 you.

16 Mr. Oldenburg.

17 MR. OLDENBURG: Bill Oldenburg, DOT
18 representative, and I am alone in my office
19 in Concord.

20 CHAIRWOMAN MARTIN: All right.
21 Thank you.

22 And Mr. Wilson.

23 DIR. WILSON: Ben Wilson, Division
24 of Historical Resources, state historic

1 preservation officer, and I'm in my office
2 alone.

3 CHAIRWOMAN MARTIN: Great. Thank
4 you.

5 Now let's take appearances,
6 starting with Attorney Patch.

7 MR. PATCH: Good morning. Doug
8 Patch, with the law firm of Orr & Reno on
9 behalf of Chinook Solar, LLC.

10 CHAIRWOMAN MARTIN: Okay. Attorney
11 Geiger.

12 MS. GEIGER: Good morning. Susan
13 Geiger, with the law firm of Orr & Reno,
14 representing Chinook Solar, LLC.

15 CHAIRWOMAN MARTIN: Good morning.
16 Attorney Neville.

17 MS. NEVILLE: Good morning.
18 Heather Neville, Assistant Attorney General,
19 here as Counsel for the Public.

20 CHAIRWOMAN MARTIN: All right.
21 Attorney Iacopino.

22 MR. IACOPINO: Good morning. Mike
23 Iacopino, counsel to the Committee. I am in
24 my home in Weare. My wife may roam through

1 the room at some point or another.

2 CHAIRWOMAN MARTIN: All right.

3 Thank you.

4 And last time I overlooked Attorney
5 Lavallee. Would you like to introduce
6 yourself?

7 MR. LAVALLEE: Good morning. J.D.
8 Lavallee, Assistant Attorney General, and
9 also counsel to the Committee. And I'm in my
10 office alone.

11 CHAIRWOMAN MARTIN: All right. So
12 we were in the middle of the Applicant's case
13 when we recessed for the day. Is there
14 anything we need to cover before we proceed?
15 Attorney Patch?

16 MR. PATCH: I don't know of
17 anything. We did submit yesterday the letter
18 with regard to the subdivision and proposed
19 language for the order. And it has not yet
20 been marked as an exhibit, but it was
21 submitted I believe to the Chair. And we'll
22 make sure that it gets sent around as an
23 exhibit this morning.

24 CHAIRWOMAN MARTIN: Okay.

1 Excellent. And we did receive that. It was
2 forwarded to the Subcommittee. So thank you
3 for that.

4 MR. PATCH: And maybe the only
5 other thing to mention quickly, it was taken
6 as a record request, but we may be able to
7 cover it in testimony today, basically the
8 question about whether decommissioning
9 assumed the waiver had been granted. And the
10 panel of Mr. Persechino and Mr. Delallo can
11 address that. But if the Committee still
12 wishes for us to provide a record request --
13 a response on that, then we'd be happy to do
14 that.

15 CHAIRWOMAN MARTIN: Okay. Then why
16 don't we see where we are after the testimony
17 and how Mr. Oldenburg feels about the request
18 at that time.

19 MR. PATCH: Thank you.

20 CHAIRWOMAN MARTIN: Okay.

21 MR. IACOPINO: Also, Madam Chair, I
22 believe there's a change in our schedule
23 today from the schedule that was published on
24 the web site. I believe we're going to start

1 with the Applicant's historical resources
2 panel. At least that was my understanding at
3 the end of the day yesterday. And if that's
4 still the case, I assume we'll then go back
5 into the regular order.

6 CHAIRWOMAN MARTIN: Attorney Patch.

7 MR. PATCH: Yes, that's correct.
8 We exchanged e-mails with Mr. Iacopino and
9 Counsel for the Public, and that's fine with
10 us. And we're planning to go ahead with the
11 historical resources panel.

12 CHAIRWOMAN MARTIN: Okay. Then why
13 don't we proceed with that.

14 Ms. Robidas, could you swear in the
15 witnesses.

16 And Corrine, you'll need to bring
17 those witnesses up. It's Ms. Mack and Mr.
18 Olausen -- am I saying that right?

19 MR. PATCH: Yes.

20 CHAIRWOMAN MARTIN: Okay.

21 MR. PATCH: And Ms. Geiger is going
22 to do the direct examination.

23 CHAIRWOMAN MARTIN: Mr. Olausen,
24 can you turn on your video, please? Can you

1 hear us? You're also on mute. You may need
2 to unmute.

3 Attorney Geiger, do you have a way
4 to communicate with your witness to find out
5 what's going on with him?

6 MS. GEIGER: Sure.

7 CHAIRWOMAN MARTIN: We'll go off
8 the record for a minute until we can
9 straighten it out.

10 (Discussion off the record.)

11 CHAIRWOMAN MARTIN: Let's go back
12 on the record. We can proceed. We just need
13 to swear in the witnesses.

14 MR. OLAUSEN: I apologize. I
15 cannot hear anyone.

16 CHAIRWOMAN MARTIN: He may need to
17 turn his volume up, Attorney Geiger, on his
18 device.

19 Let's go off the record again.

20 (Discussion off the record)

21 (WHEREUPON, KAREN MACK AND STEPHEN
22 OLAUSEN were duly sworn and cautioned
23 by the Court Reporter.)

24 KAREN MACK, SWORN

1 STEPHEN OLAUSEN, SWORN

2 CHAIRWOMAN MARTIN: Okay. Attorney
3 Geiger.

4 MS. GEIGER: Thank you.

5 DIRECT EXAMINATION

6 BY MS. GEIGER:

7 Q. Ms. Mack, we'll begin with you this morning.
8 Please state your name, spell your last name,
9 and provide your address.

10 A. (Mack) My name is Karen Mack. Last name is
11 M-A-C-K. And my address is 1356 Washington
12 Street, Bath, Maine, 04530.

13 Q. By whom are you employed, and in what
14 capacity are you employed?

15 A. (Mack) I'm employed by TRC as their principal
16 archeologist and office manager for our Bath
17 office.

18 Q. Could you please provide the Committee with a
19 brief summary of your qualifications.

20 A. (Mack) Sure. I finished my undergraduate
21 degree in anthropology at the University of
22 New Hampshire, and I did my master's degree
23 at the University of Maine in archeology, at
24 the Institute for Quaternary Studies, now the

1 Climate Change Institute. I meet the
2 qualifications under 36 CRF 61, the Secretary
3 of Interior's Professional Qualification
4 Standard for Archeology, and I also meet the
5 New Hampshire Division of Historical
6 Resources additional qualifications for
7 conducting archeology in the state of New
8 Hampshire. I've been directing cultural
9 resource management work in New Hampshire and
10 New England and New York since 1995.

11 Q. Thank you. Are you the same witness who
12 submitted prefiled testimony in this docket
13 dated October 14, 2019, filed on October 18th
14 of that same year --

15 A. (Mack) Yes.

16 Q. -- along with one attachment that's been
17 marked as Applicant's Exhibit 9?

18 A. (Mack) Yes.

19 Q. Are you the same witness who submitted
20 prefiled supplemental testimony in this
21 docket dated August 31st, 2020, which has
22 been marked as Applicant's Exhibit 74?

23 A. (Mack) Yes.

24 Q. Do you have any corrections or updates to

1 either your prefiled testimony or your
2 supplemental prefiled testimony?

3 A. (Mack) Yes. I would like to update my
4 written testimony to add that Counsel for the
5 Public -- (connectivity issue)

6 (Court Reporter interrupts.)

7 A. Yeah, I want to update my written testimony
8 to add that the Counsel for the Public has
9 agreed in a stipulation, marked as
10 Applicant's Exhibit 81, that the Applicant
11 has provided information sufficient to
12 support a finding that the site and facility
13 will not have an unreasonable adverse effect
14 on historic sites.

15 Q. Ms. Mack, with the update you just described,
16 if you were asked the same questions
17 contained in your prefiled testimony and your
18 prefiled supplemental testimony today under
19 oath, would your answers be the same?

20 A. (Mack) Yes.

21 Q. Could you please provide the Subcommittee
22 with a brief summary of your testimony.

23 A. (Mack) Yes. My testimony describes the Phase
24 1A Archeological Assessment of the Project

1 which was conducted in accordance with the
2 guidelines established by NHDHR. The results
3 of the Phase 1 assessment were accepted by
4 NHDHR, which then requested the preparation
5 of a Phase 1B Archeological Study. My
6 testimony describes how that Phase 1B study
7 was conducted and states that the conclusions
8 based on that study were that there are no
9 sensitive areas, or no areas that are
10 sensitive for cultural resources within the
11 Project area. In a letter marked as
12 Applicant's Exhibit 32, NHDHR noted that the
13 Phase 1B studies were complete, and they
14 determined that no additional archeological
15 studies were required.

16 As my prefiled direct testimony
17 indicates, based on our archeological
18 studies, as well as consultation with NHDHR,
19 it is my opinion that the Project will not
20 have an unreasonable adverse effect on
21 archeological resources.

22 My supplemental prefiled testimony
23 discusses communications with the NHDHR that
24 occurred after my prefiled direct testimony

1 was submitted, and these communications are
2 related to an additional survey that was
3 conducted for potential laydown areas and an
4 associated access road. So our survey of
5 these additional areas didn't identify any
6 culturally sensitive locations within that
7 additional Project area, and NHDHR concurred
8 with that finding.

9 We also provided additional information
10 about a 19th Century schoolhouse that was
11 identified as an area of concern by the Town
12 of Fitzwilliam's archeological consultant.
13 And upon further investigations, it was
14 determined that the schoolhouse location
15 actually fell outside of the Project
16 boundaries, and NHDHR agreed with that
17 finding. NHDHR's progress reports submitted
18 to the Committee on April 17th, 2020,
19 indicates that NHDHR's findings of no
20 historic properties affected still stands.

21 In addition, NHDHR has recommended three
22 conditions to the Committee if a certificate
23 is granted for the Project, all of which
24 Chinook agrees to. These conditions are:

1 One, if a change in plans for the Project
2 leads to newly discovered effects on historic
3 properties, that the Applicant must consult
4 with NHDHR to resolve any adverse affect to
5 such properties; second, if any unanticipated
6 archeological resources, historic properties,
7 or other cultural resources are discovered as
8 a result of the Project planning or
9 construction, Applicant must consult with
10 NHDHR to determine the need for appropriate
11 evaluative studies, National Register
12 eligibility, and/or mitigation to resolve an
13 adverse effect if needed. And then finally,
14 NHDHR is authorized to specify the use of any
15 appropriate technique, methodology, practice
16 or procedure associated with archeological,
17 historical or cultural resources affected by
18 the Project; however, any enforcement action
19 must be brought before the Committee. And
20 that concludes my summary.

21 Q. Thank you, Ms. Mack. We'll turn now to Mr.
22 Olausen.

23 Mr. Olausen, are you unmuted? Could you
24 please state your name, spell your last name,

1 and provide your address.

2 A. (Olausen) Stephen, with a P-H, Olausen,
3 O-L-A-U-S-E-N. 20 Queensfort Way, North
4 Kingstown, Rhode Island, 02852.

5 WEB MODERATOR LEMAY: Mr. Olausen,
6 can you shut your speakers off on your
7 computer since you're using the phone?

8 CHAIRWOMAN MARTIN: Now you're on
9 mute. You need to be unmuted to be heard.

10 Corrine, you may need to be more
11 clear about what you want him to turn off.

12 WEB MODERATOR LEMAY: Sir, are you
13 still calling in through the phone? Unmute
14 your computer, please.

15 CHAIRWOMAN MARTIN: Let's go off
16 the record.

17 (Discussion off the record.)

18 CHAIRWOMAN MARTIN: Okay. Then why
19 don't we go on the record, and we'll take the
20 questions from the Committee related to the
21 letter that was filed.

22 Which Committee members had
23 questions? If you could put your hand up, I
24 will recognize you. I don't see anybody.

1 Do you know who, Attorney Iacopino,
2 had the questions? You're on mute.

3 MR. IACOPINO: I understand that
4 Ms. Duprey had some questions about the
5 letter.

6 CHAIRWOMAN MARTIN: Ms. Duprey, do
7 you have questions?

8 MS. DUPREY: You know, I read the
9 letter a couple of days ago, but let me try
10 to remember what I was thinking, and Attorney
11 Patch can respond to it.

12 My recollection of the letter,
13 which I read briefly, was that because the
14 planning board was willing to sign the plan,
15 that that was a sufficient -- that was
16 sufficient for subdivision approval to be
17 granted. Am I correct about that, Attorney
18 Patch?

19 Madam Chair, do you want to -- I
20 guess I should direct my question to you.
21 I'm not sure who I'm supposed to direct it
22 to.

23 CHAIRWOMAN MARTIN: No, that's
24 fine. You can go ahead.

1 MR. PATCH: I think what we were
2 saying in the letter, which actually just got
3 sent around as an exhibit this morning, just
4 within the last few minutes, but the actual
5 letter from the planning board was an exhibit
6 that was submitted I think earlier this
7 week -- anyway, what we were saying was that,
8 in order to register the deeds that will
9 result from the subdivision, the Register of
10 Cheshire County Registry of Deeds told us she
11 needed to have a signature from the planning
12 board.

13 MS. DUPREY: Okay.

14 MR. PATCH: So we believe, now that
15 we have language in the MOU, as well as the
16 letter from the planning board, that we
17 should be all set with that issue --

18 MS. DUPREY: So here's my concern:
19 My concern is that, in order for a planning
20 board to grant subdivision approval, they
21 have to hold a public hearing. So I don't
22 see how the Town can just waive all those
23 procedures and agree to sign a plan. I don't
24 see that as a procedurally correct method.

1 MR. PATCH: I understand your
2 point. I think from our perspective we were
3 hoping to avoid having the Committee have to
4 rule that it has preemptive authority over
5 the planning board. I mean, I happen to
6 think that's pretty clear under RSA 162-H,
7 you know, because it's been understood for
8 years that the Site Evaluation Committee
9 essentially preempts the need for any local
10 approvals. But, of course, you know, the
11 Register looks at it as, you know, this is
12 kind of a ministerial function on their part,
13 and the only way they can do it is to
14 essentially get a signature from the planning
15 board. And so --

16 MS. DUPREY: Okay. I think I need
17 to go back and look at the statute again then
18 because I didn't know that it referred to any
19 local approvals. I thought it was more of a
20 zoning approval. But I'll go back and look
21 at the statute again.

22 MR. PATCH: Okay. The statute that
23 we cite in the letter I think is the one that
24 creates the -- here I guess I'll call it the

1 register -- because it makes it a misdemeanor
2 if she were to register without the signature
3 of the planning board --

4 MS. DUPREY: I'm not concerned
5 about the signature piece. I'm concerned
6 about whether we're circumventing the Town's
7 processes. And I think I was looking at it
8 from the point of view of things like DES and
9 those sorts of things, where they go through
10 their process, and then we agree or we don't
11 agree. And that hasn't happened here, and
12 that's what was concerning me. But maybe
13 town approvals are different than state
14 approvals, and I'll go look at that.

15 Has the Committee in the past ever,
16 in effect, granted subdivision approval?

17 MR. IACOPINO: No, they have not.
18 This became an issue in the original Antrim
19 Wind docket. Ultimately that certificate was
20 denied for other reasons. And when they came
21 back in Antrim Wind II, subdivision approval
22 had already been granted by the town prior to
23 their Application, so it was not an issue in
24 the Application that was ultimately granted

1 with respect to Antrim Wind. I do have --
2 and I can get it over to you, Ms. Duprey -- I
3 do have what was filed by the parties in that
4 docket. I believe there was some written
5 filings addressing the issue.

6 MS. DUPREY: Let me speak to zoning
7 for a minute.

8 If the Project was being placed in
9 an area where a variance was required in
10 order for the zoning, is it counsel's
11 position that this board has the authority to
12 grant a variance?

13 MR. IACOPINO: There would be no
14 need to grant a variance, per se.

15 MS. DUPREY: I'm actually not
16 asking you. I'm sorry, Attorney Iacopino.
17 I'm asking Attorney Patch. I apologize. I
18 realize it's not necessary here. I'm just
19 asking the question.

20 If the Project needed a variance to
21 be located in a certain area, is it your
22 position that this body could grant that
23 variance?

24 MR. PATCH: I believe you could if

1 you were asked that question squarely. I
2 don't think we're asking it in this case.
3 But I think --

4 MS. DUPREY: No, no. I recognize
5 that. I'm just trying to understand what
6 your interpretation of the statute is.

7 MR. PATCH: Well, I think the
8 statute 162-H makes it very clear that it's
9 basically a state decision that is made. And
10 so if you were to allow a municipality, a
11 zoning board or a planning board, whoever, to
12 be able to, in effect, stand in the way of a
13 certificate that was approved by the
14 Committee, then I believe that would be
15 inappropriate because I think it would defeat
16 the purpose of 162-H.

17 MS. DUPREY: Okay. So you're
18 reading of 162-H is that one of these types
19 of facilities could go anywhere in a town and
20 that it's the State's job to determine
21 whether that's an appropriate site or not.

22 MR. PATCH: I believe that's the
23 case. But obviously there is the provision
24 in 162-H that requires that you take into

1 account the views of local planning --

2 MS. DUPREY: Right.

3 MR. PATCH: -- and municipal
4 governing bodies and so forth.

5 MS. DUPREY: Okay. I'll go back
6 and look at the statute.

7 MR. PATCH: Okay. Thank you.

8 MS. DUPREY: I take it that the
9 Committee has never directly ruled in the
10 place of either a zoning board or a planning
11 board, to anyone's knowledge so far.

12 MR. IACOPINO: As far as I can
13 remember, the zoning -- the Site Evaluation
14 Committee has never specifically ruled on
15 that, Ms. Duprey. However, I believe that
16 there has been various determinations made in
17 other cases and has been expressed in other
18 orders that the Site Evaluation Committee
19 process preempts any zoning ordinance that a
20 town may have, and therefore a variance or
21 conditional use or whatever is not necessary
22 from the town in those circumstances.

23 MS. DUPREY: Okay. So you're
24 distinguishing -- Counsel Iacopino, you're

1 distinguishing between subdivision and
2 zoning, I take it, or planning board and
3 zoning board.

4 MR. IACOPINO: What I'm
5 differentiating is the fact that the local
6 ordinances are preempted. The difficulty
7 with the subdivision becomes, in my opinion,
8 that you're creating a new property that has
9 effect on title. And I do not believe that
10 the Site Evaluation Committee has the
11 authority to do anything that affects the
12 title of a property.

13 MR. PATCH: I think Ms. Geiger has
14 something to say. I don't know if she could
15 be recognized.

16 CHAIRWOMAN MARTIN: Attorney
17 Geiger.

18 MS. GEIGER: Yes. And I apologize
19 for interrupting, but I just wanted to, in
20 the hopes that it might be of assistance on
21 the preemption issue, just provide a cite to
22 a New Hampshire Supreme Court case. That
23 would be Public Service Company of New
24 Hampshire versus Town of Hampton. And the

1 cite is 120 NH 68. It's a 1980 case, but
2 that's sort of the landmark, seminal case
3 that establishes that the New Hampshire Site
4 Evaluation Committee's authority preempts,
5 you know, local zoning and planning
6 functions.

7 MS. DUPREY: Okay. Could you get
8 us a copy of that case?

9 MS. GEIGER: Sure. Be happy to.

10 MS. DUPREY: Thank you.

11 CHAIRWOMAN MARTIN: And I had
12 similar concerns, just to follow up, so I'll
13 read the case. I was not so concerned about
14 the signatures for that so much as what the
15 duties of the Committee were related to its
16 authority in place of the planning board. So
17 I'll read the case, and if there are
18 additional questions from the Committee, we
19 may actually need -- (connectivity issue)

20 (Court Reporter interrupts.)

21 CHAIRWOMAN MARTIN: We may need
22 oral argument or briefing on the issue.

23 Ms. Duprey.

24 MS. DUPREY: My question flew out

1 of my head. Oh, I guess -- yes. I actually
2 had two questions. One is if we're
3 supplanting the process of the town, or
4 preempting it, as you say, do we need to
5 follow the process of the town? And
6 secondly, are the two lots, or however many
7 lots that are being created here, do they
8 conform to the town's regulations? Are they
9 lawful lots under the town's ordinances?

10 MR. PATCH: Well, I'll answer the
11 first question. It seems to me that the
12 procedures you have to follow are dictated by
13 the statute that governs what you can and
14 can't do. So I think it's 162-H and the
15 rules you've adopted under that. And so
16 those procedures I think are somewhat
17 different than what the local procedures
18 would be. But I don't think you have to go
19 back and follow procedures that may be in
20 statutes that relate to the planning board or
21 zoning board. So that's the first part.

22 And then the second question I
23 believe was along the lines of whether or not
24 these particular pieces of property, sort of

1 post-subdivision, would meet local
2 requirements. I'm not sure, to be perfectly
3 honest with you, that they would a hundred
4 percent. But clearly the planning board, and
5 the zoning board perhaps, would have the
6 authority to be able to waive some of those
7 requirements is my understanding. And so
8 they have, in effect, done that, I believe,
9 by signing the MOU and by sending the letter
10 indicating the position that they're taking
11 on this.

12 MS. DUPREY: The Town has, in my
13 view, no authority to create legal lots
14 without some process. So the fact that
15 they're willing to sign something really
16 doesn't mean anything to me, particularly.

17 And in addition to that, I'm
18 troubled by the fact that it's your position
19 that we don't have to follow any of the
20 regulations of the town to create these lots.
21 Because normally in a town you would apprise
22 the abutters, and they would be able to come
23 in and say what they liked or didn't like,
24 and here we don't have any of that

1 notification process. And that, just as a
2 land-use lawyer, bothers me.

3 MR. PATCH: Well, I guess the one
4 thing that I would say about that is that
5 abutters have been notified about this
6 Project. Obviously, there's a lot of detail
7 associated with the Project. But all of the
8 information about the Project has been made
9 available through the web site, at least, to
10 the abutters.

11 MS. DUPREY: And how were the
12 abutters notified? I'm sorry. I just want
13 to remind myself of that.

14 MR. PATCH: I mean, I'd have to go
15 back and look at the notifications. But I
16 believe the notifications were provided as
17 part of the original Application.

18 MS. DUPREY: Is it a mail-in to
19 them?

20 MR. PATCH: Yes.

21 MS. DUPREY: And does it tell them
22 that there's going to be a subdivision?

23 MR. PATCH: I don't believe it
24 specifies that. But, again, I have to go

1 back and double-check that to be sure. I can
2 make sure we file that or note where it is in
3 the record for the Committee.

4 MS. DUPREY: Okay. Well, I think I
5 would agree with the Chairwoman, that I just
6 think we're going to need some briefing on
7 this. Thank you.

8 CHAIRWOMAN MARTIN: Okay. Did any
9 other Committee members have questions
10 related to that?

11 [No verbal response]

12 CHAIRWOMAN MARTIN: I don't see
13 anybody.

14 Attorney Neville, did you have
15 anything you wanted to add to that?

16 MS. NEVILLE: No. I just wanted to
17 clarify with Attorney Patch.

18 Is the Applicant seeking
19 subdivision approval from this Committee?

20 MR. PATCH: We're not because we're
21 taking the position that we have sufficient
22 approval from the Town, essentially, and that
23 it would satisfy the requirements for the
24 Register. And I would urge you to look at

1 the letter that we just submitted which
2 spells that out in more detail.

3 MS. NEVILLE: Thank you.

4 MS. DUPREY: Madam Chair, could I
5 just make a comment related to that?

6 CHAIRWOMAN MARTIN: Yes.

7 MS. DUPREY: So I'm clearly
8 confused. I thought we were just having a
9 whole discussion about how this body had the
10 authority to grant subdivision approval, and
11 now I believe I've just heard Attorney Patch
12 say we're not asking you for subdivision
13 approval because the town's agreed to sign
14 this plan. The town has no authority to just
15 sign a plan without going through its
16 processes. So, to me, it's got to be one or
17 the other; either the town has to go through
18 this or we have to go through this. The town
19 can't just say -- it's like hide the beans
20 sort of -- we'll sign because you're asking
21 us to, SEC. And SEC is saying we don't have
22 to make a subdivision approval because the
23 town's saying they're going to sign. That
24 just doesn't seem right to me.

1 MR. PATCH: Yeah, I'm not sure what
2 more I can say other than what I've said and
3 we've said in the letter. Obviously, if the
4 Committee would --

5 MS. DUPREY: I'll --

6 (Court Reporter interrupts.)

7 MR. PATCH: What I said is I don't
8 know that there's anything more I can say
9 other than what I said in response to your
10 questions and what we put in the letter.
11 But, you know, obviously if it's the
12 Committee's desire, you know, for us to brief
13 this further, we'd be happy to do that. I
14 think our letter spells out in detail what
15 our position is. And so --

16 MS. DUPREY: I'll look at it again.

17 MR. PATCH: -- whether or not the
18 Committee agrees with that or not, obviously
19 that's up to you folks. But we'll be happy
20 to brief anything else that you'd like to.

21 CHAIRWOMAN MARTIN: Attorney
22 Iacopino.

23 MR. IACOPINO: Just for the benefit
24 of the rest of the Committee, the letter was

1 sent out to you yesterday. It was received,
2 and I tried to e-mail it to everybody
3 yesterday afternoon. I'm hoping you all
4 received it.

5 The letter, in the last paragraph,
6 does quote the language that the Applicant
7 asks for us to actually use in our decision
8 and certificate. So, just
9 informational-wise. And of course, I'm happy
10 to discuss this with the Committee at an
11 appropriate time in a non-meeting at the
12 Chair's call.

13 CHAIRWOMAN MARTIN: My suggestion I
14 think at this point is, given that we've just
15 gotten the letter, some folks may not have
16 gotten to read it, and we have some case law
17 to look at, that we all do that and then come
18 prepared to the next session to determine
19 whether or not we would like to request
20 briefing or argument on that, and also have a
21 non-meeting with our counsel as well.

22 Okay. Attorney Geiger, what's the
23 status of the witness?

24 MS. GEIGER: Thank you. I did

1 receive a phone call from Mr. Olausen a few
2 minutes ago. He indicated that he was able
3 to enter the Webex meeting. So I would
4 ask -- I don't see him, but I would ask
5 whether others can and whether others can
6 hear him.

7 CHAIRWOMAN MARTIN: I cannot. But
8 Ms. Lemay, can you bring him up?

9 WEB MODERATOR LEMAY: Yeah, he's in
10 as an attendee. One moment. Mr. Olausen,
11 are you there?

12 [No verbal response]

13 CHAIRWOMAN MARTIN: Let's go off
14 the record for a minute while we check to get
15 video and audio.

16 (Discussion off the record)

17 CHAIRWOMAN MARTIN: Back on the
18 record.

19 MS. GEIGER: Thank you.

20 BY MS. GEIGER:

21 Q. Mr. Olausen, could you please state your
22 name, spell your last name, and provide your
23 address.

24 A. (Olausen) Stephen, with a P-H, Olausen,

1 O-L-A-U-S-E-N. 20 Queenfort Way, North
2 Kingstown, Rhode Island, 02852.

3 Q. By whom are you employed, and in what
4 capacity are you employed?

5 A. (Olausen) I am the executive director and
6 senior architectural historian with the
7 Public Archeology Laboratory in Pawtucket,
8 Rhode Island.

9 Q. Could you please give the Committee a brief
10 summary of your qualifications.

11 A. (Olausen) I hold a master's degree in applied
12 history from the University of South Carolina
13 and have been working in the field of
14 cultural resource management for more than 30
15 years. My particular expertise is the
16 identification and evaluation of historic or
17 above-ground historic properties. And I
18 fully meet the Secretary of Interior
19 Professional Qualifications Standards for
20 history and architectural history at 36 CFR
21 Part 61. I have completed hundreds of
22 projects in New England, including many in
23 New Hampshire, that have required compliance
24 with state and federal historic preservation

1 laws.

2 Q. And are you the same witness who submitted
3 prefiled direct testimony in this docket
4 dated October 14, 2019, but filed on
5 October 18, 2019, along with an attachment
6 which has been marked as Applicant's
7 Exhibit 10?

8 A. (Olausen) Yes.

9 Q. Did you submit any prefiled supplemental
10 testimony in this docket?

11 A. (Olausen) No.

12 Q. Do you have any corrections or updates to
13 your prefiled testimony?

14 A. (Olausen) As Ms. Mack did, I would like to
15 update my written testimony to add that
16 Counsel for the Public has agreed in a
17 stipulation, marked as Applicant's
18 Exhibit 81, that the Applicant has provided
19 information sufficient to support a finding
20 that the site and facility will not have an
21 unreasonable adverse effect on historic
22 sites.

23 Q. And with that update, if you were asked the
24 same questions contained in your prefiled

1 testimony today under oath, would your
2 answers be the same?

3 A. (Olausen) Yes.

4 Q. Could you please provide a brief summary of
5 your testimony.

6 A. (Olausen) My prefiled testimony describes and
7 presents the results of the investigations to
8 identify historic architectural properties.
9 My testimony also discusses the steps taken
10 to assess whether the Project would adversely
11 affect the Fitzwilliam Common Historic
12 District, which was the only historic
13 property identified during my study as having
14 a potential to be affected by the Project.
15 The effects assessment found that the
16 district is more than one mile from the
17 Project and will not have any views of the
18 new facilities that will alter any of the
19 characteristics that make the district
20 historically significant. Because the
21 Project has no potential to cause direct or
22 indirect effects on the district, I
23 recommended a finding for the Project of no
24 historic properties affected. NHDHR

1 concurred with that finding in a letter
2 marked as Applicant's Exhibit 37. This
3 finding establishes that the Project has no
4 potential to cause any unreasonable adverse
5 effects on historic sites.

6 Q. Thank you.

7 MS. GEIGER: Both Ms. Mack and Mr.
8 Olausen are available for cross-examination.

9 CHAIRWOMAN MARTIN: All right.
10 Thank you.

11 Attorney Neville.

12 MS. NEVILLE: I do not have any
13 questions for these two witnesses.

14 CHAIRWOMAN MARTIN: Okay. Let's
15 see if the Committee has questions.

16 Mr. Wilson.

17 DIR. WILSON: I do not have any
18 questions for these two witnesses.

19 CHAIRWOMAN MARTIN: Okay.

20 Mr. Oldenburg.

21 MR. OLDENBURG: I have no questions
22 for the two witnesses.

23 CHAIRWOMAN MARTIN: Okay. Mr.
24 Pelletier.

1 MR. PELLETIER: I have no questions
2 for the two witnesses.

3 CHAIRWOMAN MARTIN: All right. Ms.
4 Duprey.

5 MS. DUPREY: No questions.

6 CHAIRWOMAN MARTIN: And Mr. Arvelo.

7 DIR. ARVELO: No questions.

8 CHAIRWOMAN MARTIN: I also have no
9 questions. So witnesses are excused. Oh,
10 Attorney Iacopino, I apologize.

11 MR. IACOPINO: I'm sorry. I have
12 two questions for Ms. Mack and one question
13 for Mr. Olausen.

14 QUESTIONS BY SEC MEMBERS AND COUNSEL:

15 BY MR. IACOPINO:

16 Q. Ms. Mack, in the second condition that the
17 NHDR wants requires notification if anything
18 is found on site of an archeological nature.
19 Are you aware of what training plans there
20 are for the onsite personnel with respect to
21 determining if there's any archeological
22 artifacts or other materials found during
23 construction? Ms. Mack, we can't hear you.

24 A. (Mack) Can you hear me?

1 CHAIRWOMAN MARTIN: Yes.

2 THE WITNESS: Okay. Thank you.

3 A. (Mack) I am not aware of training that's in
4 place for people working on site.

5 Q. Second question I had for you is, in the
6 process that you employed in consultation
7 with the New Hampshire -- NHDR, is that the
8 same process that would be employed on any
9 type of project, whether it's an energy
10 project or other large construction project?

11 A. (Mack) Yes.

12 Q. And Mr. Olausen, I have the same question for
13 you with respect to the architectural
14 aspects. The process that you went through
15 with the New Hampshire Division of Historic
16 Resources, is that the same process that any
17 developer would go through with a large
18 construction project?

19 A. (Olausen) Yes.

20 MR. IACOPINO: All right. I don't
21 have any further questions, Madam Chair.

22 CHAIRWOMAN MARTIN: Okay. Thank
23 you. And the witnesses are now excused.

24 Attorney Patch and Attorney Geiger,

1 are we moving on to Mr. Persechino at this
2 point?

3 MS. GEIGER: I believe so.

4 MR. PATCH: Yes, Mr. Persechino and
5 Mr. Delallo are as a panel. So I think if
6 they can be given access, they can -- we can
7 start with them.

8 WEB MODERATOR LEMAY: What were the
9 names again?

10 MR. PATCH: Joseph Persechino and
11 Keith Delallo.

12 WEB MODERATOR LEMAY: Thank you.

13 CHAIRWOMAN MARTIN: Mr. Delallo,
14 can you turn on your video? There you go.
15 And can you unmute yourself so we can make
16 sure we hear you?

17 WITNESS DELALLO: Can you hear me?

18 CHAIRWOMAN MARTIN: We can.

19 And when Mr. Persechino reappears,
20 we will swear in the witnesses.

21 (WHEREUPON, JOSEPH PERSECHINO AND KEITH
22 DELALLO were duly sworn and cautioned
23 by the Court Reporter.)

24 JOSEPH PERSECHINO, SWORN

1 KEITH DELALLO, SWORN

2 CHAIRWOMAN MARTIN: Attorney Patch.

3 DIRECT EXAMINATION

4 BY MR. PATCH:

5 Q. Okay. Good morning, Mr. Persechino and Mr.
6 Delallo. I'm going to start with you, Mr.
7 Persechino. Could you please state your name
8 and address.

9 A. (Persechino) Sure. My name is Joseph
10 Persechino, and my business address is Tighe
11 & Bond, 177 Corporate Drive, Portsmouth, New
12 Hampshire, 03801.

13 Q. And Mr. Delallo, could you state your name
14 and address.

15 A. (Delallo) Yeah. My name is Keith Delallo,
16 spelled D-E-L-A-L-L-O. And my business
17 address is 700 Universe Boulevard, Juno
18 Beach, Florida, 33408.

19 Q. And Mr. Persechino, by whom are you employed
20 and in what capacity?

21 A. (Persechino) I'm a senior -- sorry. I'm a
22 senior project manager at Tighe & Bond.
23 Tighe & Bond is a company that specializes in
24 engineering and environmental services,

1 including renewable energy, site/civil
2 design, permitting and planning, geotechnical
3 and structural, electrical --

4 (Court Reporter interrupts.)

5 A. (Persechino) So we provide permitting and
6 planning, site assessment, health and safety,
7 regulatory compliance, wetland and ecological
8 services, transportation engineering --
9 traffic, roadway -- and wastewater and
10 stormwater engineering.

11 Q. And Mr. Delallo, by whom are you employed and
12 in what capacity?

13 A. (Delallo) I am employed by NextEra Energy
14 Resources, Inc. as a project engineer.

15 Q. And Mr. Persechino, could you give the
16 Committee a brief summary of your
17 qualifications.

18 A. (Persechino) Sure. I have over 17 years of
19 experience in civil design, including solar
20 array design and permitting and stormwater
21 design. I'm a professional engineer licensed
22 in New Hampshire, Massachusetts and Maine.
23 And I am a New Hampshire -- a licensed
24 designer of --

1 (Court Reporter interrupts.)

2 A. (Persechino) -- subsurface disposal systems,
3 as well as a LEED-accredited professional.
4 And I have a bachelor's degree in science
5 from the University of New Hampshire.

6 Q. And Mr. Delallo could you give the Committee
7 a brief summary of your qualifications.

8 A. (Delallo) Yes. I have a bachelor of science
9 degree in mechanical engineering and a
10 bachelor of business administration in
11 marketing sales from the University of Toledo
12 in Ohio. I joined NextEra Energy in March of
13 2020 and have had this position within
14 NextEra Energy since.

15 Within NextEra I am currently the
16 project manager of approximately
17 130 megawatts of AC in development throughout
18 the central and Northeast region, which
19 includes this Project. I have over eight
20 years of commercial and residential
21 experience throughout the country. Overall,
22 I have extensive experience in designing,
23 engineering and construction of over
24 12 megawatts of AC residential solar Projects

1 within 19 states and 5 megawatts AC of
2 commercial solar projects in two states, and
3 current with 130 megawatts of AC development
4 now.

5 Q. Mr. Persechino, were you the same witness who
6 submitted prefiled testimony in this docket
7 dated October 14th of 2019, filed on the
8 18th, which has been marked as Applicant's
9 Exhibit 6?

10 A. (Persechino) Yes.

11 Q. And are you the witness who submitted
12 prefiled supplemental testimony dated
13 August 31 of 2020, which has been marked as
14 Applicant's Exhibit 71?

15 A. (Persechino) Yes.

16 Q. Do you have any corrections to either of
17 those prefiled testimonies?

18 A. (Persechino) My original testimony describes
19 an overview of the design of the Project,
20 including the civil design and Alteration of
21 Terrain Permit, the stormwater design and the
22 decommissioning plan.

23 In my supplemental testimony I covered
24 generally the design changes as a result of

1 further discussions with DES, Counsel for the
2 Public, and the Town of Fitzwilliam. These
3 changes include eliminating one internal road
4 to reduce wetland buffer impacts, slight
5 movement of the substation to avoid another
6 wetland buffer. Since the original testimony
7 was submitted, we have had extensive
8 discussions with the Alteration of Terrain
9 Bureau at DES.

10 As a result of those discussions, DES
11 submitted its final recommendation to the SEC
12 on August 31st, 2020. Those recommendations
13 require that we resubmit revised plans by
14 September 4th, 2020. We submitted those
15 plans, which included modifications to the
16 hydraulic -- hydrologic analysis and
17 stormwater design, a waiver of the channel
18 protection volume requirements based on our
19 commitment to use stormwater Best Management
20 Practices, and the incorporation of the
21 recommendations by Fish & Game Department
22 into the revised plans. The wetlands
23 delineation plans included the seal of a
24 certificated wetlands scientist.

1 Since then, we had a request related
2 from the NHDES for an updated cover sheet for
3 the site plans. This was provided on
4 September 16th, 2020, via e-mail on the same
5 day as the request.

6 Q. And have you received any feedback from DES
7 as to whether what you filed on September 4th
8 and the subsequent filing you just described
9 is sufficient?

10 A. (Persechino) Yes. After we provided the
11 updated cover sheet of the site plans, we
12 then received an email response from Bethann
13 McCarthy, from the NHDES Alteration of
14 Terrain Bureau, on September 16th, 2020,
15 saying that they are all set with respect to
16 the hydrology and design, and that they're
17 only waiting on concurrence by New Hampshire
18 Fish & Game. It is our understanding that
19 Melissa Dombrowski from the New Hampshire
20 Fish & Game provided an e-mail to Bethann
21 McCarthy on September 15th, 2020, stating
22 that the New Hampshire Fish & Game had
23 received the most recent wildlife habitat
24 assessment by September 15th, 2020, and it

1 caused no further comments.

2 Q. Mr. Persechino, on the first day of these
3 hearings, a member of the Committee asked
4 whether the decommissioning amount of
5 \$900,432 was prepared assuming that the
6 decommissioning waivers which were requested
7 by Chinook were granted. Can you answer that
8 question?

9 A. (Persechino) Sure. The decommissioning plan,
10 which has been marked as Exhibit 48, assumed
11 the waivers would be granted. If the
12 Committee does not grant the waivers, the
13 amount required could increase depending on
14 if bedrock and/or large boulders are
15 encountered during construction, which would
16 prevent the burial of the electric conduit to
17 a depth greater than 48 inches, and/or
18 require the piles to be pre-drilled into the
19 rock below. Therefore, if shallow rock is
20 encountered, this could increase the cost of
21 decommissioning. However, the intent of the
22 waiver is to reduce the amount of disturbance
23 required during the decommissioning process.

24 Q. Now, with the updates that you have just

1 described, Mr. Persechino, if you were asked
2 the same questions contained in your prefiled
3 testimony and supplemental testimony today
4 under oath, would your answers be the same?

5 A. (Persechino) Yes.

6 Q. Okay. Mr. Delallo, are you the same witness
7 who submitted supplemental prefiled testimony
8 in this docket dated August 31st of 2020,
9 which has been marked as Applicant's
10 Exhibit 76?

11 A. (Delallo) Yes.

12 Q. And in that supplemental testimony, did you
13 adopt the prefiled testimony of Paul
14 Callahan, which was submitted in October of
15 2019, which has been marked as Applicant's
16 Exhibit 4?

17 A. (Delallo) Yes.

18 Q. And do you have any corrections to either Mr.
19 Callahan's prefiled testimony or your
20 prefiled supplemental testimony?

21 A. (Delallo) No.

22 Q. Now, do you have anything that you wish to
23 add with regard to decommissioning?

24 A. (Delallo) Yeah. I would like to note that we

1 now have benefit of the additional
2 geotechnical engineering report, which was
3 attached to my supplemental testimony,
4 Exhibit 76. Based on this report and the
5 original geotechnical investigation reports
6 submitted as Appendix 9A to the Application,
7 Exhibit 22, we think it's quite unlikely that
8 the piles for the solar panels will be driven
9 into bedrock. But it could be possible. In
10 the event that the pile experiences a rock or
11 hits bedrock and cannot meet the depth
12 required by the racking manufacturer, these
13 will need to be pre-drilled and inserted into
14 the rock. Based on the geotechnical reports
15 submitted as Appendix 9A, these rocks are too
16 large to install the racking piles and are
17 approximately about four feet underground.
18 This means that when the pilings are removed
19 during the decommissioning process, there
20 will be a significant amount of disturbance
21 to remove them at depths of four feet. This
22 is why we have requested a waiver that would
23 allow us to cut the pilings off at the point
24 at which they were installed in the rock. We

1 believe it may be necessary to blast the
2 rocks to remove the pilings based on our
3 current understanding of the solar and
4 bedrock at this site.

5 If the Committee denies the waiver, we
6 believe that there are several ways to remove
7 the piling. One will be the actual removal
8 of the rock, which would range between 1-1/2
9 feet to 4 feet in size, into which they are
10 then inserted; or two, by removing them with
11 hammers; and in case that they're in the
12 bedrock, blast them out, which would cause
13 significant disturbance.

14 Q. And could you provide a brief summary, then,
15 of your testimony.

16 A. (Delallo) Mr. Callahan's testimony, which I
17 have adopted, describes the experience that
18 NextEra has in developing renewable energy
19 projects. It also discussed the process of
20 hiring and monitoring and engineering and
21 procurement of a construction contractor who
22 will be responsible for managing the
23 construction of the Project. The testimony
24 described a number of details about the

1 construction process.

2 My supplemental testimony describes the
3 possibility of a change in the solar panels
4 to a bifacial module, which is indicated on
5 Page 22 of the original Application, that the
6 specific panel and supplier of the module
7 will be finalized closer to the construction
8 of the solar panels as we identified in the
9 Application.

10 Finally, I mentioned that the provisions
11 in the MOU, Memorandum of Understanding, with
12 the town related to construction.

13 Q. And with the updates you just described, Mr.
14 Delallo, if you were asked the same questions
15 contained in Mr. Callahan's prefiled
16 testimony and in your supplemental testimony
17 today under oath, would your answers be the
18 same?

19 A. (Delallo) Yes.

20 MR. PATCH: The witnesses are
21 available for cross-examination. Thank you.

22 CHAIRWOMAN MARTIN: Attorney
23 Neville.

24 MS. NEVILLE: Thank you.

1 (Court Reporter interrupts.)

2 MS. NEVILLE: With the testimony
3 that has come in today with the updates, and
4 information that we have, I do not have
5 questions for these witnesses.

6 CHAIRWOMAN MARTIN: All right.
7 Then we will go to the Committee and see if
8 there are questions.

9 Mr. Wilson.

10 DIR. WILSON: I have no questions
11 for the two witnesses.

12 CHAIRWOMAN MARTIN: Mr. Oldenburg.

13 MR. OLDENBURG: I do.

14 QUESTIONS BY SEC MEMBERS AND COUNSEL:

15 BY MR. OLDENBURG:

16 Q. Good morning, gentlemen. Just so you know,
17 my name's Bill Oldenburg. I work at the
18 Department of Transportation. I'm an
19 engineer. So when you stick a schedule and
20 plans in front of me, I feel obliged to look
21 at them. So I have some questions.

22 In looking at the schedule, could
23 someone explain to me the term "total float"
24 that's shown in the Project schedule, how

1 it's used and why?

2 A. (Persechino) Keith, did you want to start
3 with the answer on that one?

4 A. (Delallo) Yes, I guess I can.

5 I'm not quite sure what you mean by the
6 "float" of the Project, but I can speak about
7 the scheduling of this particular project.

8 Q. So each milestone or each item in the
9 schedule has a start date and a finish date,
10 and then the next column is "Total Float,"
11 and it's a number of days. My interpretation
12 is it's sort of the number of days of
13 "slush." So if it's not on the critical
14 path, you would -- your start to finish is 21
15 days. But with the float of 7 days, you
16 could actually go another 7 days without it
17 becoming critical.

18 A. (Delallo) Yeah, I believe that's the way the
19 schedule is written.

20 Q. Okay.

21 A. (Delallo) We do have kind of a critical path
22 aspect of the schedule. So one thing needs
23 to be completed before the other.

24 Q. Okay. So I'll just assume that my

1 understanding of "total float" is correct,
2 that there's some sort of additional days
3 that are built into the schedule to make it
4 work.

5 So the next point. In the plans and in
6 DES's final approval letter, which was
7 Applicant's Exhibit 86, the fourth bullet
8 talks about the Project is to be phased as
9 shown on the approved plans, and the area of
10 disturbance within each phase shall be
11 stabilized before disturbance of subsequent
12 phases in each area. And then it goes on in
13 Applicant's Exhibit 82, which is the DES
14 plans that were supplied, on the plan set, on
15 Page C.101 and C.501, there's notes. One is
16 a demolition note that says, "Erosion control
17 measures shall be installed prior to the
18 start of any clearing and demolition. Refer
19 to the detailed Project phasing plans
20 prepared by Tighe & Bond for additional
21 details." And then on Page C.501, the
22 construction sequence, it has the same exact
23 note. And I could not for the life of me
24 find any plan that was labeled "Detailed

1 Project Phasing Plan." Is that just the
2 construction plans?

3 A. (Persechino) Keith, I think I can help answer
4 this one.

5 So there were plans -- there are plans
6 that were prepared that are a detailed
7 phasing plan as part of the Application to
8 the DES. So those plans show different areas
9 throughout the site that break out each
10 individual phase to a maximum area of 10
11 acres. And then the adjacent phase is also
12 10 acres. There are five separate areas. So
13 in theory, the contractor can be working on
14 five different 10-acre areas at the same
15 time, just spread out through the site so
16 they are not connected. The idea is that
17 they don't want to have any area that is
18 unstable greater than 10 acres at one time.

19 So the process would be that they would
20 go in and install erosion control measures,
21 disturb the 10 acres, re-stabilize it before
22 moving on to the adjacent 10-acre phase, if
23 that makes sense.

24 Q. No, that makes perfect sense. I just

1 couldn't -- I don't think, not that I could
2 find, we were supplied with that. But that
3 makes sense. So I understand that.

4 So part of that, and you mentioned it,
5 is prior to tree clearing, erosion control
6 measures are needed to be in place. And that
7 includes the installation of silt fence
8 around the perimeter of each area. So on the
9 schedule it shows starting the clear -- the
10 tree clearing in January, you have to -- and
11 with the bat issue and some of the other
12 issues, you know, you've been basically
13 restricted to doing the tree clearing in the
14 winter.

15 How do you install the silt fence, which
16 needs to be embedded 6 inches in the ground,
17 in the middle of winter around a 10-acre
18 site?

19 A. (Persechino) Carefully. It's going to -- you
20 know, it will be a process that we'll have to
21 use probably smaller equipment to get in
22 there and do that. And there may need to be
23 limited tree clearing to allow the machines
24 to get in there to help install the silt

1 fence.

2 Q. But if you got a certificate in November,
3 would you envision being able to go in
4 before, you know, the middle of winter when
5 there's snow on the ground and everything
6 else to try to install the silt fence --

7 A. (Persechino) I think that would be up to the
8 contractor, when they're selected, on when
9 their specific time line for implementation
10 of the plan would be.

11 Keith, perhaps you can speak to how soon
12 you'd be looking to get on an EPC contractor.

13 A. (Delallo) Yeah, so typically with an EPC
14 contractor we get a little bit farther along
15 within our process. We try to get it hired
16 on somewhere around the 90 percent. In this
17 case, because the tree clearing needs to
18 happen prior to the construction of the site,
19 we'll be kind of hiring a very specific
20 tree-clearing EPC for this site and then
21 hiring a different contractor to actually
22 install the site, because we currently won't
23 have detailed engineering completed for this
24 Project until basically tree clearing is

1 completed.

2 Q. Okay. So that sort of leads me to the next
3 question. So you're going to hire a local
4 logging group to do this, or several maybe.

5 A. (Delallo) Definition of "local." We try to
6 stay within the same state. And then if not
7 within the same state, the same region.

8 Q. Okay. So if you have -- when you start work,
9 you can start clearing trees on five
10 non-adjointing 10-acre sites. So that means
11 if it's 129 acres of panels or tree clearing,
12 that means you have to have three different
13 groupings of tree clearing; right? So you're
14 going to do 50 acres in one bunch before you
15 move on, generalized, you know, five 10-acre
16 sites; erosion control set up; cut the trees;
17 stump the trees; re-establish or restabilize
18 the existing ground, and then move on to
19 probably what is five more 10-acre sites, and
20 then somehow finish up after that's done with
21 the remaining 29 acres or whatever, if I
22 understand the sequencing correct.

23 A. (Persechino) Keith, perhaps I can help answer
24 this one.

1 So in the eyes of the Alteration of
2 Terrain Bureau, ground disturbance doesn't
3 kick in until the stumps are being removed
4 and earth is being disturbed. So the tree
5 clearing itself doesn't have to follow that
6 same phasing of the 10 acres. They can go in
7 and clear, you know, more than 10 acres at a
8 time, as long as the ground itself is not
9 disturbed by removal of stumps or earthmoving
10 activities.

11 Q. Okay. So for the erosion control, do you
12 have to have the sedimentation ponds
13 constructed when the ground is disturbed?
14 Because my understanding -- my understanding
15 is the sedimentation ponds are where all the
16 runoff's going to be collected. And the
17 whole idea is to have the erosion control
18 measures in place and then stump and disturb
19 them. That runoff is going to be directed at
20 the sedimentation basins, I'm assuming.

21 A. (Persechino) That's correct. Yes, that's
22 correct. So the tree clearing would happen.
23 Then they would go in and install the rest of
24 the erosion control measures, such as

1 sedimentation basins, et cetera, and then
2 they would go into removal of stumps and any
3 earthmoving activities that would be required
4 for that.

5 Q. Okay. So all of that's got to happen. And
6 in the schedule you have 21 days to cut the
7 trees and do that work. I'm just -- I
8 just -- it just seems like a lot to do in
9 that short period of time to be sequenced:
10 Do the erosion control, build the ponds, go
11 in and cut the trees, stump the trees,
12 re-establish and then move on to the next
13 area in that short a time frame. So it
14 didn't seem to me that the time frame jived
15 with the amount of work that needed to be
16 done.

17 A. (Persechino) I would like to make one
18 correction. The tree clearing itself, with
19 the exception of stump removal, so just
20 cutting the trees, can happen before the
21 sedimentation basins are installed. So the
22 sedimentation basins and additional erosion
23 control measures, that needs to happen -- or
24 that would happen after tree cutting, but

1 before stump removal and any other earth
2 disturbance. So that gives you a little more
3 time in that schedule.

4 CHAIRWOMAN MARTIN: Mr. Oldenburg,
5 I apologize for the interrupting, but I
6 cannot see Mr. Delallo right now. Oh, there
7 he is. Okay. He's back. You can proceed.

8 WITNESS DELALLO: I am currently
9 called in. So I'll at last be able to hear
10 constantly, but I might be having some
11 network issues.

12 CHAIRWOMAN MARTIN: Okay. Well, to
13 the extent you're testifying, we want to see
14 you. So I'll pause until we see you.

15 MR. DELALLO: Can you see me now?

16 CHAIRWOMAN MARTIN: We can see you
17 now.

18 Go ahead, Mr. Oldenburg.

19 MR. OLDENBURG: Thank you.

20 BY MR. OLDENBURG:

21 Q. In the geotechnical report, it appeared to
22 me, if I understand it right, the original
23 geotechnical report that came with the
24 Application was for the entire site. The

1 supplemental geotechnical report was more for
2 the substation. Is that correct?

3 A. (Delallo) That's correct. That's correct.

4 Q. Okay. So in the original geotechnical
5 report, there were only four -- or 11 borings
6 taken, if I remember right; two of them were
7 at the substation. So, nine for the entire
8 129-acre site. So that's only one boring for
9 every 12 acres. It seems like a low sample
10 size when you're so concerned about hitting
11 ledge and boulders.

12 But I do remember -- I could not find it
13 again, but there was an assumption that was
14 made that about 10 percent of the posts were
15 anticipated to hit ledge or boulders. Is
16 that an accurate amount?

17 A. (Delallo) From our understanding of the
18 geotech and basically external satellite
19 images, that is my understanding of how many
20 we expect to hit.

21 Q. Okay. And those posts go, if I remember the
22 plans right, between 6 and 10 feet in depth?

23 A. (Delallo) For the solar array, yes. For the
24 substation, we have not gotten that far. But

1 they might -- they will be significantly
2 deeper than that.

3 Q. I was more concerned about the solar panel
4 arrays because, if I got the numbers right --
5 let me see. So there's 116,000 solar panels,
6 10 solar panels per rack. So that's 11,600
7 racks. And two posts per rack, so that's
8 23,000 posts. That sound right?

9 A. (Delallo) It's a little high. Typical
10 industry standard is one post per seven
11 modules. So that would come in at about
12 16,400 and some change. So we're looking at
13 about 16,500 total posts.

14 Q. Okay. I was going off the detail in one of
15 the construction plans and it showed two
16 posts per rack and I was making that
17 assumption.

18 So I go back to the schedule, and I see
19 49 days to install the posts. It just seems
20 like if I do the math at 23,000 posts, that's
21 476 posts per day. That just seems like a
22 lot of -- not a lot of time. So I'm
23 wondering how accurate the schedule -- or how
24 specific the schedule is and how -- you know,

1 how do they do that? How many crews do you
2 have that come in and do that? And are they
3 installed? Are they augured? Are they
4 pounded in, or are they dug holes? I'm just
5 curious on the whole sequencing.

6 A. (Delallo) Yeah, so I could start with your
7 first question. I can provide a couple of
8 examples of projects that we have completed
9 or are under construction within the
10 Northeast region.

11 There's a project called Nutmeg Solar in
12 Connecticut. It is a 20-megawatt AC, a
13 little bit smaller than this one. It has a
14 current eight-month construction. So phasing
15 from mobilization to what we call COD, which
16 is construction, basically when
17 construction's complete, it's an eight-month
18 process. Within there they've got several
19 construction schedules. But overall, it's
20 from mobilization to complete, and that's in
21 eight months.

22 There's another project within Vermont,
23 called Coolidge Solar. That's a 20-megawatt
24 AC. We have a construction schedule of five

1 months. The reason why that one is
2 significantly less than the Nutmeg site and
3 this one is because we don't have to do the
4 phasing in Vermont for that site. We don't
5 have to do, like, one phase and then the next
6 phase and the next phase. We're able to
7 install that entire site in five months.

8 We have a portfolio of New York
9 projects. They're 5-megawatt AC, and those
10 are scheduled for three months.

11 And this Project, which is a 30-megawatt
12 AC, is also scheduled for eight months.

13 So I do want to provide a couple of
14 examples of projects within the Northeast
15 area in which we have and are currently under
16 construction within those accelerated time
17 lines.

18 To answer your second question, which I
19 believe is how do we do it, typically what we
20 do is when we hire a contractor, because
21 ourselves at NextEra aren't physically
22 building the Project, we send out scopes of
23 work and other contractors build the site.
24 We'll send out a contract with the schedule

1 out there and say, hey, this is what we need
2 to complete the Project in time. The
3 contractor will then put the adequate amount
4 of labor, manpower, machinery, et cetera, to
5 be able to hit those time lines. If they
6 don't hit the time lines, then there's kind
7 of consequences in not hitting those time
8 lines. But in general, like they provide the
9 manpower and the machines to be able to hit
10 it in the time lines in which we expect. So
11 when we put out an eight-month time line for
12 a construction project, they will apply as
13 many people to the site and machinery as
14 possible to hit those time lines.

15 I believe your third question was how do
16 they do it, or how do they install the piles.
17 So typically there are two types of piles
18 that get called installed as racking.
19 There's what's called a H-pile or --

20 (Court Reporter interrupts.)

21 A. (Delallo) Sorry. The two types of piles are
22 what's called H-piles and ground screws.
23 H-piles are your standard I-beams. They're
24 approximately -- they will be approximately

1 between 10 and 12 feet long, and they will be
2 driven in with basically a giant hammer. So
3 they will kind of hit the mark, their spot,
4 with a GPS coordinate, and then they'll take
5 their massive hammer and literally pile it
6 into the ground. What we call "refusals"
7 basically means that no matter how many times
8 they hit that hammer, the pile just doesn't
9 move. That either is indicated by we hit a
10 boulder or we hit bedrock. The geotech
11 reports that we've reviewed basically tell us
12 there are boulders roughly about 4 feet
13 underground. So if we hit that, what we end
14 up doing is we pull the pile back out, we
15 take a giant drill bit and we drill that
16 boulder until we hit dirt again, then put the
17 pile back in and then reinsert that pile
18 until we hit the depths that we need.

19 With the grounds screws, which it could
20 be a possibility here, some of them have a
21 sharp point at the end, and you can actually
22 just drill right through the boulder or drill
23 right through the bedrock. A little bit of
24 predrilling might be needed for that. But if

1 the rock is soft enough, we can kind of just
2 go right through it.

3 So those are the two typical, standard
4 types of piles. We have not determined which
5 one we're going to use quite yet. But those
6 will probably be the two we would be looking
7 at. Does that answer your question, sir?

8 Q. That does, and it makes sense. I would just
9 offer my two cents, being in the construction
10 industry, that our contractors in New
11 Hampshire, there's a very low unemployment
12 rate, and they are all short-staffed. And so
13 to get -- when we put out projects like what
14 you're talking about, we see -- we pay a
15 premium when there are schedule deadlines and
16 disincentives and things like that, just
17 because the contractors are so short on
18 staff.

19 A. (Delallo) Yeah, and we do end up playing that
20 game of if we make it an expedited schedule,
21 the costs are too high. But then you have to
22 look at we have our incentives up for
23 rebates, and then we play that game of, like,
24 okay, how fast do we really need to do this?

1 Because you're absolutely right, sir, that
2 there's an additional cost the quicker you
3 make that time line.

4 One thing I do want to add is many of
5 the racking manufacturers like to install
6 their own posts. So we hire the construction
7 company to install the solar project. A lot
8 of the warranty part of the solar racking
9 requires them to install their own posts. So
10 they have a specialized crew within their own
11 organization that will install the posts. It
12 isn't just any sort of contractor that comes
13 in and installs the posts. They have their
14 own certified installers for the posts.

15 Q. And I have to assume the time frame and the
16 scheduling for that contractor is all based
17 upon the tree-clearing operation being done
18 at a certain time so that they can start. So
19 if something happens with the tree-clearing
20 operation and it's not done by, like,
21 March 31st when you're cut off to cut trees,
22 then you have to wait an entire season to get
23 that section cleared. And that would be sort
24 of a bad thing.

1 A. (Delallo) Yup, you're absolutely right.

2 Yeah. Think about it as kind of like the
3 Henry Ford of construction a little bit.

4 Joe, correct me if I'm wrong on this.

5 But they will do all of the sediment
6 stuff. But once all of the erosion control
7 is done, they will, like, install the posts.
8 They work their way through and then install
9 the racking, work their way through. It's
10 not like they install all the posts, all the
11 racking, all the modules. They will, like,
12 be ahead of each other and almost create like
13 a train to get the modules on there as well,
14 because of the same concern with installing
15 16,000 posts, we have to install 116,000
16 modules.

17 Q. So the second the first five 10-acre
18 tree-clearing or grubbing operations are
19 done, those posts can be installed; right?
20 Okay.

21 A. (Delallo) Yeah. And the sediment controls
22 need to be in place as well, and then we can
23 install the posts.

24 Q. So one of the things I saw is the site is

1 sort of bisected by wetlands, and there's a
2 bridge that's required to be constructed
3 across the wetlands. And I didn't see that
4 anywhere in the schedule or in the timing.
5 Is there -- and I also notice that there's a
6 temporary construction access off of Route 12
7 to gain access to that lower portion, you
8 know, the bottom portion of the array that
9 seems to be cut off by the wetlands.

10 So is it your -- is it the thought that,
11 you know, from Folsom [sic] Road or whatever,
12 you'll be able to access the northern
13 portion, and then from Route 12 be able to
14 access the southern portion so that the
15 bridge construction isn't so critical?

16 A. (Delallo) I could speak about the bridge
17 construction, but I might need to lean on Joe
18 for the access road.

19 The reason the bridge construction isn't
20 detailed in our plans is we haven't figured
21 out exactly how we're going to build that
22 bridge. We have quotes out and engineering
23 out for a couple of companies to be able to
24 build that bridge for us. But we are still

1 in, I guess, the engineering phase for that
2 bridge.

3 Joe, do you mind speaking about the
4 temporary access road?

5 A. (Persechino) You're exactly right about the
6 access road. So the thought is that that
7 bridge construction will be time-consuming
8 and require access from both sides to build
9 the footings for it because of the large
10 span. So the idea is that from the majority
11 of the site from the north will off of Fullam
12 Hill Road, and then the southern portion of
13 the site will be off that. I believe it's
14 Route 12 that is mentioned.

15 The land on the south also includes some
16 laydown area so that they can use that
17 existing field that is not going to be
18 developed as solar, but can use that as a
19 staging area and laydown area for materials,
20 so they can go in and build that southern
21 section at the same time that the north
22 section is ongoing, which, as you know, the
23 northern section is much larger. It has room
24 for, you know, access to all the other areas

1 from that Fullham Hill Road access.

2 Q. So your intent would be to basically turn
3 this into two sites from an access location:
4 Laydown, construction, tree clearing.

5 Without that bridge being built, the loggers
6 aren't going to cross through the wetlands to
7 get from one side to the other. You're going
8 to basically separate the site into two.

9 A. (Persechino) Right. That was the thought in
10 flexibility to make sure that that could
11 happen. Depending on timing of the bridge,
12 the connection could be made much earlier.
13 So, again, we're leaving a little bit of
14 flexibility up to the final selected
15 contractors on how they approach that. They
16 may decide at the end of the day that coming
17 from the north makes sense without going to
18 the south and just using the south for access
19 to construct the other side of the bridge and
20 then going from the north. But we still have
21 the flexibility to use that area in the south
22 as laydown and access.

23 Q. Okay. My only other -- well, the trenching
24 for the electrical conduit. So the

1 electrical conduit that connects the racks to
2 the inverters, I think I read somewhere that
3 that is typically placed three feet below
4 grade.

5 A. (Delallo) It depends on the voltage of what's
6 coming out. So the NEC 300.5 dictates
7 basically what your depth is going to be
8 between zero and 1,000 volts. That's a
9 table, about six tables long. The NEC 300.50
10 tells you what you can do between ranges of
11 1,000 volts from 40 kilovolts. So it depends
12 on where we're at in that table. We
13 anticipate that the DC side, which is about
14 1500 volts, will be less than three feet
15 underground, while the high-voltage or medium
16 voltage lines going from the transformers to
17 the substation will be below four feet.

18 Q. So on the decommissioning plan, that was sort
19 of my question about whether or not the
20 decommissioning -- the valleys in the
21 decommissioning plan included or didn't
22 include the waiver.

23 So I know you've mentioned the posts.
24 You know, the intent is not to disturb the

1 area again and remove the posts. But would
2 that conduit also be included, I mean, if
3 it's below -- you know, the difference is, is
4 it three feet down or four feet down? So
5 you're asking for that four-foot dimension to
6 be changed to three feet. So does that now
7 include a whole myriad of conduit that could
8 be left in place as part of the
9 decommissioning as well?

10 A. (Delallo) That is correct. So one of the
11 main conduit lines that would run through,
12 according to code, would be 42 inches. So it
13 kind of falls right between the 36 and
14 48 inches. We estimate -- or I estimated up
15 to two miles, depending on the situation, if
16 we go through bedrock, if we have to go
17 around it. A lot of site conditions make it
18 very hard to estimate exactly how much
19 conduit will be left in the ground. But your
20 assessment, if we aren't granted the
21 waiver -- or if we are granted the waiver, we
22 would have conduit and conductors left in the
23 ground.

24 Q. So it sounds like the \$900,000 includes the

1 waiver. But if you don't get the waiver,
2 that's miles of conduit that you'd have to
3 remove, plus 16,000 -- a foot more of 16,000
4 posts, or all the 16,000 posts. How much
5 more would that be? Do you have an idea?

6 A. (Delallo) Joe might have to chime in on how
7 much that would add to specific costs.

8 Q. Because I look at it as the only -- if you
9 leave the posts in place, and I'm assuming
10 they're metal, eventually they'll corrode.
11 They're sort of inert. But the miles of
12 conduit, it's plastic PVC. It's going to be
13 there for centuries. And the next property
14 owner, or whoever owns this property, if it's
15 ever sold, has got miles of plastic in the
16 ground that isn't removed.

17 A. (Delallo) Yeah, so PVC is one option for
18 trenching. One of the other options is
19 what's called directional bore, which
20 basically just means like the same way an oil
21 company bores into the ground. It creates a
22 one-inch or two-inch hole, and you actually
23 just put the conductor straight through. So
24 if we have that as an option, what would be

1 left in the ground would be the copper of the
2 wires themselves, or aluminum, depending on
3 what we use -- could be copper or aluminum --
4 and the PVC kind of wrapping that goes around
5 those conductors.

6 Another option that we have in our
7 arsenal of options is not to do any sort of
8 trenching underground, but do something
9 that's called a cap system or a hanger
10 system, where all the conductors are above
11 ground and they run up above ground. That
12 could be an option as well.

13 Another option is to use kind of metal
14 conduits. So it would be the same conduit
15 you'd see in a house, much, much more
16 expensive. And then the one you're saying,
17 the PVC.

18 Most of our conduit that is called out
19 is actually a directional bore conduit, so it
20 wouldn't have any -- or a directional bore
21 trench, which wouldn't have any PVC or metal
22 conduit in there. That's what we would be
23 using for the roughly two miles, or at least
24 my estimate of two miles of medium-voltage

1 line. That would be a directional bore. So
2 what would be left in the ground is just the
3 copper wires and I guess the PVC jacketing
4 around those copper wires.

5 Q. So what you're asking in the waiver for is
6 just to leave it in place because of the
7 disturbance, the ground disturbance that will
8 happen, that will have to -- and, you know,
9 the potential for erosion or whatever, you
10 know, and the re-stabilization. I can see
11 that. But there's a -- I mean, the other
12 side is it's going to save you money in not
13 having to remove that. So I think what we
14 have to weigh is: Does the benefit of not
15 disturbing it outweigh, you know, the cost?

16 A. (Delallo) Yeah, and that's why we want to
17 emphasize -- and Joe, with his testimony --
18 that we're not looking at it for the
19 cost-savings aspects of it. We're looking at
20 the ground disturbance. We know this
21 Committee is very committed to the least
22 amount of ground disturbance. And if we do
23 install the conduit in that range between 36
24 and 42 inches, we would have to dig all of

1 that up. And it could get to a point where
2 we're in some sort of bedrock. We don't
3 anticipate it, but it could happen. So we
4 would have to then blast and remove that as
5 well.

6 So from our perspective, we're not
7 looking at it from a cost, we're looking at
8 it from ground disturbance.

9 Q. And this stuff that you would leave, it isn't
10 going to leach or anything? You know, this
11 conduit, if you leave the conduit, I mean,
12 this isn't over time hazardous; right?

13 A. (Persechino) Right.

14 A. (Delallo) Yeah, go ahead, Joe.

15 A. (Persechino) Yeah, I might be able to help a
16 little bit on the conversation.

17 So PVC conduit is essentially inert. As
18 you know, there's miles and miles of PVC
19 conduit that has been installed throughout
20 New Hampshire and the region. It's often
21 abandoned in place for the same reasons that
22 we're requesting this waiver, which is
23 digging up the conduit just to take it out
24 often doesn't make sense from a disturbance

1 standpoint. Of course, cost is -- you know,
2 can be a consideration as well.

3 I think the options that would be
4 considered if the waiver wasn't granted,
5 though, would be to avoid that future
6 disturbance, that the initial conduit
7 installation would therefore be install it at
8 48 inches or greater, if possible, so that
9 you don't have to come back 20 years from now
10 and dig up two miles of conduit. So that
11 would be part of the consideration.

12 The ledge or bedrock is a compounding
13 situation, where if you now encounter -- or
14 shallow rock -- the cost to install it four
15 feet deep now, or greater than 48 inches now,
16 becomes an issue. But the same consideration
17 of further disturbance in the future is still
18 part of that consideration. Does it make
19 sense to try to install it deeper now, or,
20 you know, is it left for that piece of run in
21 the shallow bedrock and just come back and
22 just remove that portion?

23 Regarding your comments on the -- or
24 your question on the piles. You know, the

1 idea is that most of those piles, if
2 possible, would just be pulled out, right, so
3 you're not having to excavate down three or
4 four feet; you'd cut them off. Because
5 that's extremely time-consuming and creates a
6 considerable lot more disturbance and
7 therefore site restoration. I mean, that's
8 the intent of decommissioning is to restore
9 the site, you know, to an undisturbed site
10 and removing everything from the landscape.

11 So, again, you know, if it was
12 10 percent, say, as an example, of piles that
13 were -- that encountered bedrock at a depth
14 that is less than, you know, four feet deep,
15 that's where the issue kind of arises, where
16 if we hit bedrock at three feet, you have to
17 excavate down to three feet and cut the pile
18 off because you're not going to be able to
19 pull the pile out of the ground. You just
20 excavate down to three feet and cut it off.
21 That assumes the waiver is granted.

22 If the waiver is not granted, then you'd
23 be stuck with excavating down three feet.
24 And for that last foot, is the effort and

1 additional disturbance worth it, really, to,
2 like you said, remove an inert metal pile an
3 additional foot out of that potential bedrock
4 or large boulder, which would create, you
5 know, blasting, hammering it out, or if it's
6 a large boulder, excavating a large cubic
7 yard of boulder out of the ground just to get
8 that last foot?

9 Q. So besides the posts and potentially conduit,
10 is there anything else that, you know, would
11 fall within what would be left in the ground,
12 not decommissioned?

13 A. (Persechino) I don't believe so.

14 Keith, anything in the substation that
15 would be deeper than that? I don't recall.

16 A. (Delallo) The piles for the substation are
17 going to be quite large. But it's going to
18 be the same material, same H-beam or I-beam
19 that's going in there. I can't think of
20 anything.

21 A. (Persechino) And those would still be
22 excavated down to at least a three-foot mark
23 if the waiver is granted and cut off at three
24 feet versus four feet if they were -- you

1 know, if the waiver was not granted. So
2 we're still -- we would still be removing
3 that same section, regardless.

4 Q. I mean, to me, the posts, whether it's three
5 feet or four feet, you're removing the posts.
6 It's that extra foot. To me, the issue is
7 the conduit. So if we keep it at four feet,
8 you could potentially be removing all the
9 conduit. If we made it three feet, there's
10 potentially miles of conduit that could stay
11 in place. And my thought, my concern, was in
12 30 years from now when the solar panels are
13 gone, what does the future property owner do,
14 you know, with this conduit? They're going
15 to remove it, and they're going to disturb
16 the site potentially and do exactly what you
17 don't want to do just because they have to
18 deal with the conduit now. That was my only
19 thought is, you know, are we just kicking the
20 can down the road and saying we're not going
21 to allow you to disturb the site when it's
22 decommissioned, but a future property owner
23 that does anything with that property is
24 going to have to deal with the conduit?

1 So that was my only thought. I get the
2 posts. The posts, you know, three feet, four
3 feet, it doesn't matter because there's still
4 going to be some left. But to me, it was
5 more are we leaving more stuff there that
6 should be removed, which is the conduit.

7 A. (Persechino) Got you. I think the last
8 thing I guess I would say to that is I
9 understand your point. And you're right. If
10 somebody was doing a different project there
11 in the future and had to install something,
12 that conduit may need to be removed. But it
13 depends on that future use. And we're all
14 unaware of what that future use would be. If
15 it was -- if it went back to an agricultural
16 field, they wouldn't have to do anything.
17 You know, that conduit at three feet or
18 four feet would be unimpacted. And if it
19 was -- you know, say it was a subdivision or
20 housing project. They could potentially
21 leave most of the conduit in and just remove
22 the ones that come into conflict with any
23 other utilities that they would be
24 installing, or house foundations, et cetera.

1 So you're -- (connectivity issue)

2 (Court Reporter interrupts.)

3 A. (Persechino) I think I said the rest of the
4 conduit would be undisturbed and could remain
5 in place.

6 CHAIRWOMAN MARTIN: Mr. Oldenburg,
7 before you go on, can I just ask a clarifying
8 question?

9 MR. OLDENBURG: Sure.

10 CHAIRWOMAN MARTIN: I don't mean to
11 interject, but I don't want to come back to
12 it later.

13 I heard a couple of comments about
14 options that are available. And the PVC was
15 mentioned initially, and then there was
16 mention of the directional bore. And I'm not
17 clear. It sounded as though there was a
18 decision that had been made to use
19 directional bore. Is that correct? Or is it
20 still a series of options that you've yet to
21 decide on?

22 WITNESS DELALLO: There are still a
23 series of options. It really depends. It
24 wouldn't be all or nothing. It wouldn't be

1 all directional bore. It wouldn't be all PVC
2 conduit. It wouldn't be all metal conduit.
3 There could be sections in which we would do
4 all three of those. Let's say on the DC
5 side, which would be the modular inverter,
6 that could be conduit. Then going from the
7 transformers to our step-up transformer, that
8 could be above ground. And then from our
9 transformer to what we call "point of common
10 coupling," which is getting it onto the grid,
11 that might be directional bore. So we could
12 be using all three of those, presumably,
13 within the site.

14 CHAIRWOMAN MARTIN: Okay. Thank
15 you.

16 Mr. Oldenburg.

17 MR. OLDENBURG: Actually, reviewing
18 my notes, I think I'm all set. Thank you
19 very much.

20 CHAIRWOMAN MARTIN: Okay. Mr.
21 Pelletier, do you have questions? We can't
22 hear you for some reason. Looks like you're
23 off mute. We can't hear you.

24 Ms. Lemay, any ideas?

1 WEB MODERATOR LEMAY: I just... I
2 feel like we can kind of hear something. Can
3 you try again?

4 CHAIRWOMAN MARTIN: Ms. Robidas,
5 let's go off the record for a minute.

6 (Discussion off the record)

7 CHAIRWOMAN MARTIN: All right. You
8 can go ahead.

9 MR. PELLETIER: Yes, I have no
10 further questions of the witnesses.

11 CHAIRWOMAN MARTIN: Okay. Ms.
12 Duprey.

13 MS. DUPREY: I have no questions,
14 but I would just comment that I had some of
15 the same concerns raised regarding
16 decommissioning. Thank you.

17 CHAIRWOMAN MARTIN: And Mr. Arvelo.

18 DIR. ARVELO: Mr. Oldenburg asked
19 all my questions, so no questions at this
20 point.

21 CHAIRWOMAN MARTIN: Okay. I think
22 I have a few questions left.

23 BY CHAIRWOMAN MARTIN:

24 Q. We had discussed leaving the questions about

1 how the bond amount was arrived at for Mr.
2 Persechino. So I would ask if you know what
3 data was relied on to arrive at the \$900,234
4 [sic] for the bond amount of decommissioning.

5 A. (Persechino) So we put together that bond
6 amount based on our experience throughout New
7 England, preparing decommissioning plans in
8 Massachusetts, Rhode Island and Connecticut.
9 Those numbers are consistent with similar
10 projects that were also looked at in New York
11 as part of the NYSERDA organization. And we
12 found that to be consistent with those
13 numbers as well, which equates to
14 approximately \$30,000 per megawatt of AC.

15 Q. And if you are -- if you do not get the
16 waiver and you have to do the blasting or
17 some of the other things that were described
18 here, would the \$900,000 bond need to be
19 raised to cover that? Did you take that into
20 account?

21 A. (Persechino) So the \$900,000 bond amount
22 would have to be increased. We would likely
23 use the assumption of 10 percent of piles for
24 that, which could result in approximately

1 1600 cubic yards of additional material being
2 removed or so if blasting or excavation was
3 required to remove that additional foot from
4 the piles. That being said, the number, the
5 ballpark number could be, you know, \$200,000
6 or so.

7 The question of the conduit would again
8 be more of a decision up front on would it
9 make more sense to install the conduit lower
10 now to be below the requirement of the
11 48 inches versus having to go back and then
12 remove anything that was less than 48 inches
13 deep if the waiver was not granted.

14 Q. Okay. So I want to make sure I understand
15 you. You're saying if you were not granted
16 the waiver, you've done an estimate, and you
17 believe it would be potentially an additional
18 \$200,000.

19 A. (Persechino) Approximately, yes. We haven't
20 done a detailed analysis of that. Again, we
21 would have to verify our assumptions for
22 that. But that's the approximate amount,
23 yes.

24 Q. Okay. And a question on the DES permit and

1 the conditions that were included in that
2 permit. You have submitted additional
3 information because of those conditions.
4 Have you heard from DES as to whether they're
5 satisfied with those submissions, or are you
6 waiting for that?

7 (Court Reporter interrupts.)

8 A. (Persechino) Sorry. You broke up a little
9 bit on that last question. Could you please
10 repeat the question?

11 Q. Yes. I'm wondering on the DES permit and the
12 conditions that were attached to it. You've
13 submitted additional information pursuant to
14 those conditions, and I'm wondering if you've
15 heard from DES as to whether they are
16 satisfied with those submissions.

17 A. (Persechino) Yes. We heard from Bethann
18 McCarthy in an e-mail this week,
19 September 16th, stating that the DES is
20 satisfied with the hydraulic and stormwater
21 design as presented in the response on
22 September 4th.

23 Q. Okay. I think that answers all my remaining
24 questions.

1 CHAIRWOMAN MARTIN: Attorney
2 Iacopino, did you have questions?

3 MR. IACOPINO: Just a couple, Madam
4 Chair. But first, did you want the Applicant
5 to submit that e-mail as a record request for
6 the record?

7 CHAIRWOMAN MARTIN: Yes, I think
8 that would be helpful.

9 MR. IACOPINO: Thank you.

10 BY MR. IACOPINO:

11 Q. Okay. So, for both of the engineers, when we
12 issue a certificate of site and facility, one
13 of the conditions is generally that the site
14 in the Project will comply with the plans.
15 And I just want to get something straight.

16 We have Exhibit 82, which are the
17 revised civil drawings. Is it my
18 understanding that they are to replace
19 Exhibit 8A, which I forget which appendix
20 that was?

21 MR. PATCH: I think 8A is the
22 exhibit -- is the appendix number. The
23 exhibit number is 20.

24 BY MR. IACOPINO:

1 Q. So am I correct that Exhibit 82 should
2 replace Exhibit 20?

3 A. (Persechino) The answer to that is I believe
4 so. The latest plans submitted to the DES
5 from September 4th would replace the prior
6 plans that were submitted in October of 2019,
7 yes.

8 MR. IACOPINO: Okay. Madam Chair,
9 I would ask that they just, in writing,
10 confirm that for us so that our certificate
11 and any decision that's written, if a
12 decision is to grant the Project, that we
13 make sure we're referencing the right
14 documents as conditions.

15 CHAIRWOMAN MARTIN: Okay. Attorney
16 Patch, can you provide that, please?

17 MR. PATCH: Yup. Certainly.

18 BY MR. IACOPINO:

19 Q. Okay. Mr. Delallo, during your testimony
20 today, in answer to some questions from Mr.
21 Oldenburg, you set out five -- four or five
22 other projects and what the length of their
23 construction schedule was. I was confused as
24 to whether or not you were asserting that

1 each of those projects met those construction
2 schedules, or was that just an example of how
3 your construction schedules are put together?
4 For instance, you -- go ahead.

5 A. (Delallo) No. Sorry, sir.

6 Q. Well, for instance, you referenced Nutmeg
7 Solar, which had an eight-month construction
8 plan. But I didn't understand whether or not
9 that Project met that construction schedule.
10 Same thing with Coolidge. I understand
11 Coolidge has been built. So am I correct in
12 understanding that Coolidge met the
13 five-month construction schedule?

14 A. (Delallo) So to answer the first one, Nutmeg,
15 that is under construction currently, and it
16 is meeting the construction schedule. We are
17 currently three months into the build, and we
18 are on time.

19 That Coolidge Project has been built,
20 and it did meet the five-month time.

21 Q. And what about the New York projects that you
22 had referenced?

23 A. (Delallo) The New York projects are on
24 schedule as of right now, but they are only

1 one week old. So I don't have a great depth
2 for hitting on that one as well. But smaller
3 time lines.

4 Q. All right. You referenced that the, I assume
5 it's the construction plans for the bridge
6 that's going to cross the wetlands -- that
7 was discussed I think with both Mr. Delallo
8 and Mr. Persechino -- that they have not been
9 finalized at this point. They are out to an
10 engineering contractor.

11 And I guess my question about that is, I
12 assume you're going to consult with DES with
13 respect to whatever construction plans are
14 derived with respect to that crossing?

15 A. (Persechino) Sure.

16 Keith, I think I can answer this one.
17 So with respect to the bridge, we put
18 out a performance spec, essentially, that a
19 design contractor will have to meet those
20 requirements on the plans. If the design
21 build contractor varies from the performance
22 specification that we put out for that bridge
23 and it does not meet those requirements, then
24 we would, yes, have to go back to DES and

1 discuss any changes from the plan with them.

2 Q. Okay. And just for the record, we don't
3 currently have construction plans in the
4 record; correct?

5 A. (Persechino) I guess I can answer that one.

6 The construction -- the current plans
7 are permit-level design plans. The
8 construction-level design plans would include
9 additional details and specifications for
10 some of the undefined components of the
11 Project, such as the structural design for
12 the racking systems that support the solar PV
13 panels and the substation design, similar
14 electrical design that has not been included
15 with this permitting package. The site plans
16 that were approved by DES were permit-level
17 design plans that meet their requirements.

18 Q. Okay. I ask that because it's typical for us
19 to require as a condition of a certificate
20 that when the construction plans are
21 prepared, that they be filed with the
22 Committee. So I just want to make sure we
23 wouldn't be asking you to do something that
24 you believe you've already done.

1 And then finally, the second
2 geotechnical survey that focused primarily on
3 the substation, I understand that you've
4 actually moved the substation by 23 feet
5 because there was a new wetlands delineated.
6 I'm not sure what the timing was there. Did
7 the geotechnical report take that into
8 account, or was that -- or not, and does it
9 make any difference?

10 A. (Delallo) I can answer that one, Joe.

11 So, no. We contracted to have the
12 geotechnical report for that area prior to
13 the decision of moving the substation. So
14 where the geotechnical report is currently
15 located is where it was proposed and not
16 moved.

17 To your question of does it matter, I
18 believe that is an interpretation based on a
19 P.E. My opinion is it does not matter based
20 on 23 feet. When you're doing some sort of
21 geotechnical report, you have to interpolate
22 and extrapolate data between data points
23 anyways. So having that moved 23 feet, in my
24 opinion, does not matter.

1 MR. IACOPINO: I don't have any
2 further questions, Madam Chair.

3 CHAIRWOMAN MARTIN: All right.

4 MR. OLDENBURG: Madam Chair, could
5 I ask a question, a follow-up question?

6 CHAIRWOMAN MARTIN: Sure. Of
7 course.

8 BY MR. OLDENBURG:

9 Q. The detailed phasing plan that you discussed,
10 did I just miss the location of that in the
11 Application, or was it an exhibit? If it
12 wasn't included, could we get it included for
13 the record? Because I think the construction
14 phasing that's proposed should be part of the
15 plan set.

16 A. (Persechino) It definitely was included to
17 the DES. I'll work with Attorney Patch to
18 make sure that you get a copy as well. It
19 should be in there, but we'll make sure you
20 get a copy.

21 Q. Okay. Thank you.

22 CHAIRWOMAN MARTIN: So we could
23 take that as an additional record request for
24 the detailed phasing plan.

1 MR. PATCH: Yes.

2 CHAIRWOMAN MARTIN: Mr. Oldenburg,
3 before we move away from you, I just want to
4 confirm with you that your questions were
5 answered related to the waiver and that you
6 do not need the record request at this point.

7 MR. OLDENBURG: Correct. I don't
8 need any more information. I was looking for
9 a number as well. If 900,000 is what it's
10 going to cost to decommission the Project if
11 the waiver is granted, what would the bond be
12 if we didn't grant the waiver I guess was my
13 other part of the question.

14 CHAIRWOMAN MARTIN: Yes, and I
15 think that was my question as well. I did
16 hear from the witness some information about
17 that, but I think it might be useful to have
18 a record request that provides the
19 information supporting their estimate that
20 was testified to today. Do you agree with
21 that, Mr. Oldenburg? Mr. Oldenburg, would
22 that satisfy you as well?

23 MR. OLDENBURG: Yes.

24 CHAIRWOMAN MARTIN: So that's two

1 additional record requests there, Mr. Patch.

2 MR. PATCH: Okay. We understand.

3 Thank you.

4 CHAIRWOMAN MARTIN: Great. Thank

5 you. And back to you if you have any

6 redirect.

7 MR. PATCH: Yes, I do have a few

8 questions.

9 REDIRECT EXAMINATION

10 BY MR. PATCH:

11 Q. And this is actually either one or both of
12 this can answer this question.

13 There was a discussion about two
14 different contractors that would be hired, as
15 I understood it. One would be for the tree
16 removal, and the other one would be for the
17 actual construction of the Project, the
18 grading and installation of the solar panels
19 and so forth. Is that correct?

20 A. (Delallo) It can be up to two, or it could be
21 the same one. We could have up to three. We
22 could have one that does the electrical, one
23 that does the civil and one that does the
24 tree clearing. But I wanted to emphasize

1 that contractors will be hired based on the
2 need and the time line in which it needs to
3 be completed.

4 Q. And so the eight-month time line that you
5 provided, is that -- does that include the
6 tree clearing or not?

7 A. (Delallo) It does not.

8 Q. So that's really from the time after the tree
9 clearing has been done, the time from thereon
10 that it would take to actually do the
11 grading -- well, first create the
12 sedimentation ponds, do the grading and then
13 install the panels; correct?

14 A. (Delallo) That is correct. What I would like
15 to add is the stumping. So we would have to
16 do the stump removals, then the sediment
17 ponds, then site stabilization, then we can
18 go in and install the rest of the Project.

19 Q. And I think there was a question about 21
20 days to cut the trees down or to remove the
21 trees. And are either of you familiar with
22 the Fish & Game recommendations that were
23 submitted to DES, which has been marked as
24 Applicant's Exhibit 84? I think they're also

1 included as Applicant's Exhibit 82, which is
2 the response to DES. And in that
3 recommendation it talks about tree clearing
4 for the Project to occur between November 1
5 and March 31 to avoid potential impacts to
6 roosting bats during the summer season.

7 Is that your understanding of when the
8 tree clearing would have to be done?

9 A. (Delallo) That is my understanding.

10 Q. So depending on if and when a certificate is
11 issued, because you couldn't begin any of
12 that until the certificate is issued -- but
13 once a certificate is issued, assume for a
14 minute it's sometime in November, possibly
15 December, then you would have from thereon
16 until March 31st to do the tree clearing;
17 correct?

18 A. (Delallo) That's correct.

19 Q. There were a few questions about the site,
20 sort of post-decommissioning. And I know
21 both of you at least are generally familiar
22 that Chinook has signed a memo of
23 understanding with the Town of Fitzwilliam,
24 which has been marked as an exhibit. I

1 believe it's Exhibit 67. And I want to ask
2 you a question about the proposed use of the
3 Project lands, not the non-Project lands --
4 in other words, the lands that will be
5 disturbed by the Project after
6 decommissioning.

7 There's a provision, and it's provision
8 Roman X, Paragraph B in the MOU. It's on
9 Page 9 of Exhibit 67. And it says, "Within
10 one year of decommissioning, Chinook Solar
11 shall either, (a), convey a conservation
12 easement to a qualified organization
13 burdening the remainder of the land it
14 purchased for the Project; or (b), it could
15 continue the same project or a similar
16 renewable energy generating facility with
17 similar vertical, horizontal and subsurface
18 footprint and impact, subject to relevant
19 regulatory approval."

20 So is that your understanding of how the
21 land could be used, or does that govern how
22 land could be used post-decommissioning? And
23 again, when I say "the land," I'm talking
24 about the area disturbed for the Project,

1 which I think the estimate at this point is
2 approximately 150 acres. Is that correct?

3 A. (Delallo) That is my understanding.

4 Q. And just one quick question about the current
5 bond amount and the detail associated with
6 it. It can be found -- is it your
7 understanding it can be found in the
8 decommissioning plan that was filed with the
9 Application last fall, and as an appendix to
10 that, Appendix 16C, which has been marked as
11 Applicant's Exhibit 48? Is it your
12 understanding that that contains more detail
13 about how the \$900,432 figure was arrived at?

14 A. (Persechino) That's correct.

15 MR. PATCH: That's all the
16 questions I have. Thank you.

17 CHAIRWOMAN MARTIN: All right.
18 Attorney Neville, do you have anything else?

19 MS. NEVILLE: No.

20 CHAIRWOMAN MARTIN: All right. So
21 the witnesses are excused.

22 It's currently 11:30. Ms. Robidas,
23 how are you doing?

24 (Discussion off the record.)

1 CHAIRWOMAN MARTIN: Mr. Patch, do
2 you have your next witness ready to proceed?

3 MR. PATCH: Yes, I believe so. Ms.
4 Geiger is actually going to be doing the
5 direct.

6 MS. GEIGER: It would be Mr.
7 Wallace, Marc Wallace.

8 (Discussion off the record)

9 CHAIRWOMAN MARTIN: Okay. Back on
10 the record. Ms. Robidas, could you swear the
11 witness in, please.

12 (WHEREUPON, MARC C. WALLACE was duly
13 sworn and cautioned by the Court
14 Reporter.)

15 MARC C. WALLACE, SWORN

16 DIRECT EXAMINATION

17 BY MS. GEIGER:

18 Q. Good morning, Mr. Wallace. Could you please
19 state your name, and spell your first and
20 last names for the record.

21 A. My name is Marc C. Wallace. M-A-R-C, middle
22 initial C, Wallace, W-A-L-L-A-C-E.

23 Q. Mr. Wallace, what is your address?

24 A. My business address is 303 Wyman Street,

1 Suite 295, Waltham, Massachusetts, 02451.

2 Q. And Mr. Wallace, by whom are you employed,
3 and in what capacity are you employed?

4 A. I am the vice-president at Tech
5 Environmental.

6 Q. Could you please provide the Subcommittee
7 with a brief summary of your qualifications.

8 A. I have over 30 years of experience addressing
9 air quality and noise concerns in New
10 England. I am a qualified environmental
11 professional for the past 18 years, and I'm
12 also a member of the Institute of Noise
13 Control. I have performed both air quality
14 and noise monitoring and modeling analyses
15 for municipalities, government agencies and
16 industry on projects in the transportation,
17 wastewater, solid waste disposal and
18 industrial market sectors.

19 Q. And Mr. Wallace, did you submit prefiled
20 direct testimony in this docket dated
21 October 14, 2019, and filed October 18th that
22 same year, along with an attachment which has
23 been marked as Applicant's Exhibit 8?

24 A. Yes.

1 Q. And did you also submit prefiled supplemental
2 testimony in this docket dated August 31st,
3 2020, along with three attachments, which has
4 been marked as Applicant's Exhibit 73?

5 A. Yes.

6 Q. Do you have any corrections or updates to
7 either your prefiled testimony or your
8 prefiled supplemental testimony?

9 A. Yes. I would like to update my written
10 testimony to add that the Counsel for the
11 Public has agreed, in Paragraph 7 of a
12 stipulation, marked as Applicant's
13 Exhibit 81, that the sound information
14 submitted by the Applicant is sufficient to
15 support a finding that the site and the
16 facility will not have an unreasonable
17 adverse effect on sound.

18 Q. Mr. Wallace, with the update that you just
19 described, if you were asked the same
20 questions contained in your prefiled
21 testimony, as well as your supplemental
22 prefiled testimony today under oath, would
23 your answers be the same?

24 A. Yes.

1 Q. Could you please provide a very brief summary
2 of your testimony.

3 A. My prefiled direct testimony provides a
4 description of the acoustic study for the
5 Project and summarizes the results of that
6 study. A written report of that study is
7 contained in Applicant's Exhibit 47, which is
8 Appendix 16B of the Application.

9 My supplemental prefiled testimony
10 presents information regarding additional
11 sound monitoring conducted as a follow-up to
12 concerns expressed during the public
13 information session and public hearing in
14 this docket. This additional study included
15 baseline sound monitoring performed near
16 existing electrical transmission lines in the
17 approximate location of the Project's
18 proposed transformer.

19 We also updated our June 2019 acoustic
20 model with sound power data from the Coolidge
21 Solar transformer in Ludlow, Vermont, which
22 revealed that the sound impacts from the
23 Chinook Solar Project will be imperceptible
24 and will not generate tonal sound impacts at

1 the nearest residences to the Project site.

2 In addition, we performed additional
3 acoustic modeling to investigate the
4 effectiveness of certain sound mitigation
5 alternatives.

6 Based upon our acoustic studies and
7 modeling, it is my opinion that the Project
8 will not have unreasonable adverse effects
9 upon public health as a result of the sound
10 that the Project is expected to generate.

11 Q. Thank you, Mr. Wallace.

12 MS. GEIGER: This witness is
13 available for cross-examination.

14 MS. NEVILLE: I do not have any
15 questions for this witness.

16 CHAIRWOMAN MARTIN: Okay. Thank
17 you.

18 Mr. Wilson, do you have questions?

19 DIR. WILSON: I do not have any
20 questions.

21 CHAIRWOMAN MARTIN: Mr. Oldenburg,
22 do you have any questions?

23 MR. OLDENBURG: I do not have any
24 questions.

1 CHAIRWOMAN MARTIN: Okay. Mr.
2 Pelletier, do you have questions?

3 MR. PELLETIER: I do not, Madam
4 Chair. Thank you.

5 CHAIRWOMAN MARTIN: All right. Ms.
6 Duprey, do you have questions?

7 MS. DUPREY: I don't. Thank you.

8 CHAIRWOMAN MARTIN: All right. And
9 Mr. Arvelo, do you have questions?

10 DIR. ARVELO: I have one question
11 for Mr. Wallace.

12 QUESTIONS BY SEC MEMBERS AND COUNSEL:

13 BY DIR. ARVELO:

14 Q. In your study, Mr. Wallace, is there any
15 consideration for how sound from the
16 transmission lines might impact bat
17 populations?

18 A. No, it does not.

19 Q. Follow-up. Is there any reason for that? I
20 mean, can you explain -- so I'm assuming that
21 such sound does not have an impact on bats.

22 A. I can't answer that question. I don't have
23 that sort of experience about the impacts on
24 wildlife. Our study was focused primarily on

1 demonstrating compliance with the New
2 Hampshire siting and environmental noise
3 limits, as well as the Town of Fitzwilliam.

4 Q. Thank you.

5 CHAIRWOMAN MARTIN: Okay. I don't
6 have any questions.

7 Attorney Iacopino, do you have
8 questions?

9 BY MR. IACOPINO:

10 Q. And just so we understand, your basic
11 conclusion on your sound study is that, as
12 modeled, it will be well within the sound
13 standards set forth in our rules and by the
14 Town of Fitzwilliam's ordinance?

15 A. That is correct.

16 MR. IACOPINO: No other questions.

17 CHAIRWOMAN MARTIN: Okay. Thank
18 you.

19 Attorney Patch, I've lost you on my
20 screen. Do you have any redirect?

21 MS. GEIGER: I don't have any
22 redirect. Thank you.

23 CHAIRWOMAN MARTIN: Attorney
24 Geiger. Sorry about that.

1 MS. GEIGER: No problem.

2 CHAIRWOMAN MARTIN: And Attorney
3 Neville?

4 MS. NEVILLE: No questions. Thank
5 you.

6 CHAIRWOMAN MARTIN: Okay. This
7 witness is excused.

8 Is your next witness prepared to
9 proceed?

10 MS. GEIGER: Yes. The next witness
11 is Michael Buscher, and so he will need to be
12 admitted to the meeting.

13 (Discussion off the record.)

14 CHAIRWOMAN MARTIN: Okay. Will you
15 swear him in.

16 (WHEREUPON, MICHAEL J. BUSCHER was duly
17 sworn and cautioned by the Court
18 Reporter.)

19 MICHAEL J. BUSCHER, SWORN

20 BY MS. GEIGER:

21 Q. Good morning, Mr. Buscher. Could you please
22 state your name and spell your last name for
23 the record.

24 A. My name is Michael J. Buscher. My last name

1 is spelled B-U-S-C-H-E-R. My business
2 address is 301 College Street, Burlington,
3 Vermont.

4 Q. Mr. Buscher, by whom are you employed, and in
5 what capacity are you employed?

6 A. I am the principal landscape architect and
7 owner of T.J. Boyle Associates, landscape
8 architects and planning.

9 Q. Could you please provide a brief summary of
10 your qualifications.

11 A. I'm a professional landscape architect. I
12 have a bachelor of landscape architecture
13 from the Department of Landscape Architecture
14 at Penn State University; it's an accredited
15 five-year program. I'm licensed in the state
16 of Vermont. As part of my career, I have
17 specialized in visual impact assessment. And
18 doing that, I've worked for private
19 developers, municipal, state and federal
20 review agencies for a variety of energy and
21 utility-related projects.

22 Q. And Mr. Buscher, did you submit prefiled
23 testimony in this docket dated October 14,
24 2019, and filed on October 18, 2019, which,

1 along with an attachment, was marked as
2 Applicant's Exhibit 7?

3 A. Yes.

4 Q. And are you the same witness who submitted
5 prefiled supplemental testimony in this
6 docket dated August 31st, 2020, which has
7 been marked as Applicant's Exhibit 72?

8 A. Yes.

9 Q. Do you have any corrections or updates to
10 either your prefiled testimony or your
11 supplemental prefiled testimony?

12 A. I do. In my supplemental testimony,
13 Applicant's 72, at Page 3, Line 1, the word
14 "not" should be deleted so that the sentence
15 reads, "However, no visibility was detected."

16 (Court Reporter interrupts.)

17 CHAIRWOMAN MARTIN: Mr. Buscher,
18 can you just repeat what word is to be
19 deleted?

20 WITNESS BUSCHER: The word "not"
21 should be deleted.

22 CHAIRWOMAN MARTIN: Okay.

23 A. I'd also like to update my written testimony
24 to add that Counsel for the Public has

1 agreed, in Paragraph 5 of a stipulation,
2 marked as Applicant's Exhibit 81, that the
3 information submitted by the Applicant
4 regarding the Project's visual impacts is
5 sufficient to support a finding that the site
6 and facility will not have an unreasonable
7 adverse effect on aesthetics.

8 Q. Mr. Buscher, with the corrections and updates
9 you just described, if you were asked the
10 same questions contained in your prefiled
11 testimony and your prefiled supplemental
12 testimony today under oath, would your
13 answers be the same?

14 A. Yes.

15 Q. Could you please provide the Committee with a
16 brief summary of your testimony.

17 A. Again, my prefiled testimony describes the
18 visual impact assessment, or VIA, that I
19 conducted in conjunction with others at T.J.
20 Boyle, as well as the results of that
21 assessment. The VIA included identifying
22 scenic resources in the surrounding area,
23 preparing viewshed analyses to identify areas
24 where the Project would be potentially

1 visible, conducting field investigations to
2 confirm viewshed mapping, preparing visual
3 simulations from certain viewpoints, and
4 assessing potential visual impacts. Detailed
5 analysis of the Project's potential visual
6 impact indicated that only two resources, the
7 Pinnacle hiking trails and Mount Monadnock,
8 would be adversely affected by the Project;
9 however, our analysis concluded that the
10 Project would not have an unreasonable
11 adverse effect on either resource. A
12 user-intercept survey of 84 hikers on Mount
13 Monadnock revealed that 50 percent of those
14 hikers could not identify any difference
15 between photo simulations of the Project and
16 photos that did not show the Project, and
17 none could identify that the Project was a
18 solar facility. In addition, the survey
19 documented that the Project would have no
20 discernible effect on the expectations of
21 persons using the resource.

22 My supplemental testimony discusses
23 efforts to assess the Project's potential
24 impacts on private properties and whether

1 photo simulations of the Project from private
2 properties would be appropriate. We
3 determined that while the viewshed results
4 indicated minor isolated views on private
5 properties in the area, field investigation
6 results and a desktop review of the viewsheds
7 led us to conclude that the likelihood of
8 significant visibility of the Project from
9 private properties was so limited that site
10 visits would be unlikely to result in
11 meaningful photographic images or photo
12 simulation.

13 My supplemental testimony also discusses
14 the Project's use of different solar panels
15 than those identified in the Application and
16 concluded that, so long as the solar array
17 configurations are at 25 degrees tilt or
18 less, and a 12-foot height or less, my visual
19 assessment work will still be valid.

20 As indicated in my prefiled testimony,
21 it's my opinion that the Project will not
22 have an unreasonable adverse effect on the
23 aesthetics of the surrounding area.

24 Q. Thank you, Mr. Buscher.

1 MS. GEIGER: This witness is
2 available for cross-examination.

3 CHAIRWOMAN MARTIN: Attorney
4 Neville.

5 MS. NEVILLE: I do not have any
6 questions for this witness.

7 CHAIRWOMAN MARTIN: Okay. Thank
8 you.

9 Mr. Wilson, any questions?

10 DIR. WILSON: I have none.

11 CHAIRWOMAN MARTIN: Okay. Mr.
12 Oldenburg?

13 MR. OLDENBURG: I have no
14 questions. Thank you.

15 CHAIRWOMAN MARTIN: Okay. Thank
16 you.

17 Mr. Pelletier.

18 MR. PELLETIER: I have none either,
19 Madam Chair.

20 CHAIRWOMAN MARTIN: All right. Ms.
21 Duprey.

22 MS. DUPREY: No questions. Thank
23 you.

24 CHAIRWOMAN MARTIN: Mr. Arvelo.

1 DIR. ARVELO: No questions.

2 CHAIRWOMAN MARTIN: Okay. I have
3 no questions.

4 Attorney Iacopino.

5 MR. IACOPINO: Thank you.

6 QUESTIONS BY SEC MEMBERS AND COUNSEL:

7 BY MR. IACOPINO:

8 Q. I just have questions about the Pinnacle
9 hiking trails, Mr. Buscher. You spent a lot
10 of attention in both your report and in your
11 testimony to Mount Monadnock. I'm not all
12 that familiar with the Pinnacle hiking
13 trails. But you do have an opinion that
14 there will be visibility from them; is that
15 correct?

16 A. That's correct.

17 Q. Do they actually go, or do they -- is that --
18 do they actually abut the property for the
19 Project?

20 A. They do not. They're slightly, if I have my
21 directions correct, northeast of the village
22 of Fitzwilliam.

23 Q. And these are trails that are maintained by
24 the Town of Fitzwilliam for hiking and

1 cross-country skiing?

2 A. That's correct.

3 Q. Okay. Can you explain to us what the
4 visibility is from these trails and why you
5 haven't addressed it in greater detail?

6 A. We didn't give it a lot of detail. Unlike
7 Mount Monadnock, where there's a variety of
8 different locations because of the vegetative
9 nature at the top of Mount Monadnock, for the
10 majority of the hiking trails there won't be
11 any -- (connectivity issue)

12 (Court Reporter interrupts.)

13 A. There won't be any visibility for the
14 majority of the hiking trails at Pinnacle.
15 The area that we did identify a view is an
16 isolated location on what's known as Telemark
17 Hill. So it's a very isolated location. You
18 would see it when at that point, but as soon
19 as you move off -- (connectivity issue)

20 (Court Reporter interrupts.)

21 A. When you would proceed on, you would -- any
22 visibility of the Project would be lost.

23 Q. Thank you.

24 MR. IACOPINO: I have no further

1 questions, Madam Chair.

2 CHAIRWOMAN MARTIN: Okay. Attorney
3 Geiger.

4 MS. GEIGER: I have nothing
5 further. Thank you.

6 CHAIRWOMAN MARTIN: Attorney
7 Neville?

8 MS. NEVILLE: Nothing. Thank you.

9 CHAIRWOMAN MARTIN: All right.
10 This witness is excused.

11 And is your last witness ready to
12 proceed?

13 MS. GEIGER: Our last witness is
14 Matthew Magnusson, and so I would ask that he
15 be allowed into the hearing.

16 (Discussion off the record)

17 CHAIRWOMAN MARTIN: Okay. Back on
18 the record. Ms. Robidas, swear in the
19 witness, please.

20 (WHEREUPON, MATTHEW MAGNUSSON was duly
21 sworn and cautioned by the Court
22 Reporter.)

23 MATTHEW MAGNUSSON, SWORN

24 DIRECT EXAMINATION

1 BY MS. GEIGER:

2 Q. Good morning, Mr. Magnusson. Could you
3 please state your name and spell your last
4 name for the record.

5 A. Sure. My name is Matthew Magnusson.
6 M-A-G-N-U-S-S-O-N.

7 Q. Mr. Magnusson, what is your address?

8 A. It's 144 County Farm Cross Road in Dover, New
9 Hampshire.

10 Q. And by whom are you employed, and in what
11 capacity are you employed?

12 A. I am the owner of Seacoast Economics. It's a
13 economic analysis firm.

14 Q. Could you please provide a brief summary of
15 your qualifications.

16 A. Yes. I have a master's of business
17 administration from the University of New
18 Hampshire. I have a master's of computer
19 science from Georgia Tech, both of which are
20 areas that are important to economic
21 analysis. I have over 15 years of experience
22 providing economic research, including four
23 years -- sorry -- including four projects in
24 New Hampshire that were wind facilities,

1 doing economic impact assessments of those
2 facilities. I've also worked on projects in
3 the state of New Hampshire, including New
4 Hampshire Greenhouse Gas Emissions Reduction
5 Fund, the Renewable Portfolio Standard, and
6 worked for the New Hampshire building program
7 related to energy efficiency.

8 Q. Mr. Magnusson, did you submit prefiled
9 testimony in this docket dated October 14,
10 2019, and filed on October 18, 2019, which,
11 along with an attachment, has been marked as
12 Applicant's Exhibit 11?

13 A. Yes.

14 Q. And did you submit prefiled supplemental
15 testimony in this docket dated August 31st,
16 2020, which has been marked as Applicant's
17 Exhibit 75?

18 A. Yes.

19 Q. Do you have any corrections or updates to
20 either your prefiled testimony or your
21 supplemental prefiled testimony?

22 A. I would just like to update my testimony to
23 add that Counsel for the Public has agreed to
24 stipulate, under two stipulations, marked

1 Exhibit 80 and 81 --(connectivity issue)

2 (Court Reporter interrupts.)

3 A. -- that the Applicant has provided
4 information sufficient to support a finding
5 that the site and facility will not unduly
6 interfere with the orderly development of the
7 region.

8 Q. And Mr. Magnusson, with that update, if you
9 were asked the same questions contained in
10 your prefiled testimony and your supplemental
11 prefiled testimony today under oath, would
12 your answers be the same?

13 A. Yes, they would be.

14 Q. And could you please provide a very brief
15 summary of your testimony.

16 A. Sure. So when I looked at the economic
17 impact of the Project on the local economy,
18 the regional economy, and the overall state
19 of New Hampshire, what I found was that over
20 a 20-year period the Project is expected to
21 bring 19.5 million in economic value added to
22 the state of New Hampshire. During the
23 development phase, which the Project is
24 currently in, it's expected to support 11

1 full-time-equivalent jobs in New Hampshire.
2 During the construction phase, the Project
3 would be expected to support 95
4 full-time-equivalent jobs and add \$8 million
5 in economic value to the state. So that's
6 the period of time where it will have the
7 greatest economic impact. But even after
8 that period, it still has ongoing benefits
9 during its operations period. It's expected
10 to add six to seven full-time-equivalent jobs
11 to the New Hampshire economy.

12 Based on my analysis, it's my opinion
13 that the Project will not unduly interfere
14 with the orderly development of the region.
15 The Project has a positive economic impact on
16 both the actual economy and employment, and
17 it also does not adversely impact local or
18 regional property values, tourism or
19 recreation.

20 In addition, the Project is expected to
21 have a positive impact, economic impact on
22 the Town of Fitzwilliam through the PILOT
23 payment. And that PILOT payment agreement
24 exceeds any potential costs in community

1 services or infrastructure to the town.

2 Q. Thank you, Mr. Magnusson. I have no further
3 questions.

4 MS. GEIGER: The witness is
5 available for cross-examination.

6 MS. NEVILLE: I do not have any
7 questions of this witness.

8 CHAIRWOMAN MARTIN: Okay. Thank
9 you.

10 Mr. Wilson.

11 QUESTIONS BY SEC MEMBERS AND COUNSEL:

12 BY DIR. WILSON:

13 Q. Could you explain the PILOT payment a little
14 more.

15 A. Sure. So for the PILOT payment in the
16 economic analysis, the estimate was \$300,000.
17 So that would be a payment in lieu of taxes.
18 And so that is, based on my understanding, is
19 one that is a reasonable assumption to use.
20 I do understand that there hasn't been an
21 actual PILOT agreement signed with the Town,
22 but that was the figure that seemed
23 appropriate at the time of the economic
24 analysis. And I haven't received any

1 information that that still is not a
2 reasonable estimate. Does that help answer
3 your question or...

4 Q. It does. Is this standard practice with a
5 project like this?

6 A. How do you mean? To have a PILOT payment
7 or --

8 Q. Yes.

9 A. So, in fact, I believe every renewable energy
10 project I've looked at, the PILOT payment is
11 what's used for taxation.

12 Q. Great.

13 DIR. WILSON: I have no further
14 questions.

15 CHAIRWOMAN MARTIN: Okay. Mr.
16 Oldenburg.

17 MR. OLDENBURG: Just a question or
18 two.

19 BY MR. OLDENBURG:

20 Q. In the Application, just for reference, on
21 Page ES8, under Economy of the Region, it
22 says that an estimated \$10.4 million in added
23 economic value to the overall state economy
24 is anticipated as a result of jobs created

1 for project construction. And then in your
2 prefiled testimony I think there was a series
3 of corrections or adjustments to that, that
4 now changed the wording to, "During
5 construction, the Project is expected to
6 support 127 full-time-equivalent New
7 Hampshire-based jobs, paying approximately
8 \$10.4 million in economic value in New
9 Hampshire."

10 So if I understand right, the
11 Application said we're going to create jobs
12 and add \$10.4 million in economic value to
13 New Hampshire, but now it's been changed to
14 we're going to support jobs and still have
15 \$10.4 million in economic value. So how does
16 it -- we're not creating --

17 A. Oh, sorry. Yeah, that's a good question. I
18 think the appropriate language to use, and
19 probably what should be used consistently,
20 and sometimes it's easy to say "create," but
21 really "support" is the correct term to use.
22 And the reason for that is there may already
23 be firms with existing jobs who get those
24 jobs. So the idea is it does create that

1 kind of work volume. But whether it actually
2 creates a brand new job or just supports the
3 existing job, you know, that's where I think
4 "support" is the more appropriate term to
5 use. But, you know, it's not really -- I
6 don't think "create" was meant to be
7 misleading. It's more like it creates that
8 work volume. But it could come from new jobs
9 or existing jobs in New Hampshire.

10 As far as for your question about the
11 discrepancy, so one thing that we did do was
12 work with Counsel for the Public. They hired
13 some economic analysts to review the work,
14 and they provided some good feedback. And
15 based on that feedback, it didn't change any
16 findings materially, but we did adjust the
17 numbers based on some suggestions they made
18 about methodology. We also got new
19 information from NextEra, you know, based on
20 their feedback. And I think that we still
21 got to the same conclusion. We have a number
22 that, you know, what I would say is better
23 refined at this point.

24 Q. Great. Thank you.

1 MR. OLDENBURG: That's all the
2 questions I have.

3 A. Yeah, you're welcome.

4 CHAIRWOMAN MARTIN: All right. Mr.
5 Pelletier.

6 MR. PELLETIER: I'm fine. Thank
7 you. All set.

8 CHAIRWOMAN MARTIN: Okay. Ms.
9 Duprey.

10 MS. DUPREY: No questions. Thank
11 you.

12 CHAIRWOMAN MARTIN: All right. And
13 Mr. Arvelo.

14 DIR. ARVELO: No questions.

15 CHAIRWOMAN MARTIN: I have no
16 questions.

17 Attorney Iacopino, do you have
18 questions?

19 BY MR. IACOPINO:

20 Q. Just have one question based on Mr. Wilson's
21 request about you to explain the PILOT.

22 If I understand correctly, the Applicant
23 will seek a PILOT agreement that is going to
24 be something different than what they would

1 normally pay in ad valorem taxes to the town.
2 Did you have any of that information to
3 determine whether the town would be better
4 off, be receiving more money or less money in
5 taxes through the PILOT?

6 A. Yeah. So for the purpose of the study, the
7 only assumption made was that 300,000 in
8 PILOT payment. So I didn't look at any
9 alternative scenarios.

10 Q. So you didn't consider what they might
11 receive if it was not a PILOT and the
12 Applicant paid the standard property tax for
13 Fitzwilliam?

14 A. That's correct.

15 MR. IACOPINO: Okay. I don't have
16 any other questions. I just wanted to make
17 sure that was clear, Madam Chair.

18 CHAIRWOMAN MARTIN: Okay. Thank
19 you.

20 Attorney Geiger.

21 MS. GEIGER: Yes, I have just one
22 follow-up question for clarification.

23 REDIRECT EXAMINATION

24 BY MS. GEIGER:

1 Q. Mr. Magnusson, I believe in your
2 conversation -- your response to questions
3 from Mr. Wilson, as well from Attorney
4 Iacopino, you talked about a PILOT, or
5 payment in lieu of taxes, made to the Town of
6 Fitzwilliam in the amount of \$300,000. Is
7 that your testimony?

8 A. That's correct.

9 Q. And that would be -- would that be an annual
10 payment, or would that be a total payment?

11 A. So that's a good question. In the modeling,
12 it was assumed to be an annual payment.
13 That's a good clarification.

14 Q. Thank you.

15 MS. GEIGER: I have no further
16 questions.

17 CHAIRWOMAN MARTIN: Attorney
18 Neville.

19 MS. NEVILLE: Nothing. Thank you.

20 CHAIRWOMAN MARTIN: Okay. Thank
21 you. This witness is excused.

22 All right. I think that we are
23 done with the Applicant's witnesses. And we
24 had scheduled for Monday at 1:00 another

1 session.

2 Attorney Iacopino, is that
3 something that we should cancel at this
4 point, seeing that we're set to resume with
5 Counsel for the Public's witnesses on
6 Tuesday?

7 MR. IACOPINO: That's correct. We
8 had reserved Tuesday for Counsel for the
9 Public's witnesses. They had, I guess, other
10 obligations, so they could not be here on any
11 of the days that we've scheduled before then.
12 So it looks like we would not have any
13 witnesses to testify on Monday.

14 CHAIRWOMAN MARTIN: Okay. So do
15 either of the parties want to be heard on
16 that, or shall we cancel Monday?

17 MR. PATCH: Madam Chair, we have no
18 issue with canceling Monday. I think there's
19 an issue, though, on Tuesday, when at least
20 one of the three joint testimony filers for
21 Counsel for the Public can testify. I think
22 Dr. Reynolds can't testify until 2 p.m. on
23 Tuesday, if I understand the communications
24 we've had with Counsel for the Public.

1 MS. NEVILLE: That's accurate. So
2 we had scheduled him for 2:00.

3 CHAIRWOMAN MARTIN: And does that
4 impact the schedule for the day, or can we
5 proceed to start at 9:00?

6 MR. PATCH: Well, if you were to
7 start at 9:00, I mean, it sounds like we
8 would -- even though the testimony was filed
9 jointly by all three witnesses, we would do a
10 cross on two of the three witnesses, and then
11 presumably -- you know, the estimate I gave
12 for cross at the prehearing conference was
13 two hours for the whole panel. I don't think
14 I'm going to need that much time, given
15 developments since then. But I assume there
16 would be a pretty big gap if we started at
17 9:00, between 9:00 and 2:00. So I think the
18 question in my mind would be whether we could
19 start, say, at 1 p.m. and finish with that
20 panel on Tuesday afternoon.

21 CHAIRWOMAN MARTIN: Attorney
22 Neville, does that give you time --

23 MS. NEVILLE: That's --

24 CHAIRWOMAN MARTIN: What was that?

1 I'm sorry.

2 MS. NEVILLE: Yes, that would be
3 fine.

4 CHAIRWOMAN MARTIN: Starting
5 Tuesday at 1:00 instead of 9:00?

6 MS. NEVILLE: Yes.

7 CHAIRWOMAN MARTIN: Okay.
8 Attorney Iacopino, any issue with
9 that?

10 MR. IACOPINO: I have no issue with
11 that. I just have a question whether -- will
12 the same invitation that we received for
13 Tuesday work?

14 CHAIRWOMAN MARTIN: Corrine, my
15 understanding is that it will work all day.

16 WEB MODERATOR LEMAY: Yes, it will
17 still work. You might get an updated
18 invitation with the change in time.

19 MR. IACOPINO: Thank you.

20 CHAIRWOMAN MARTIN: Okay. Is there
21 anything else we need to do before we
22 conclude for the day?

23 [No verbal response]

24 MR. PATCH: Madam Chair, could I

1 just clarify one thing?

2 CHAIRWOMAN MARTIN: Yes.

3 MR. PATCH: In terms of that panel
4 then on Tuesday, assume that we start with
5 the two panelists that can make it at 1 p.m.
6 and I do the cross of them, would we then
7 proceed to questions, you know, from
8 Committee members, and then presumably at
9 2:00, or maybe once all of those questions
10 were done, we would bring Dr. Reynolds in,
11 and then I would do the -- obviously, there
12 would be direct first, but then I'd do the
13 cross of Dr. Reynolds, and then questions of
14 him? Is that how we would intend to proceed?
15 I just would like to know for planning
16 purposes.

17 CHAIRWOMAN MARTIN: Attorney
18 Neville, do you have any thoughts on that?
19 That sounds like it would be the normal
20 procedure to me.

21 MS. NEVILLE: That's how I
22 anticipated. Dr. Reynolds will only be
23 speaking to bats. So if it's easy to dissect
24 what you're going to be crossing on, bats

1 would be the only thing that he's speaking
2 to, the last witness.

3 MR. PATCH: Okay. That's fine. I
4 just wanted that clarified.

5 CHAIRWOMAN MARTIN: Attorney
6 Iacopino, anything on that?

7 MR. IACOPINO: No.

8 CHAIRWOMAN MARTIN: All right.
9 Well, thank you, everyone. Then we will
10 continue this hearing on Tuesday,
11 September 22nd, at 1 p.m.

12 MR. PATCH: Madam Chair, sorry to
13 interrupt again. But could we just clarify
14 the record requests that came in today --

15 CHAIRWOMAN MARTIN: Sure.

16 MR. PATCH: -- to make sure we have
17 those straight?

18 CHAIRWOMAN MARTIN: Yes.

19 MR. PATCH: As I understand it, the
20 Committee would still like a response on the
21 decommissioning amount. But the response at
22 this point is really the additional amount
23 that would be created in the event a waiver
24 wasn't granted.

1 CHAIRWOMAN MARTIN: That's right.

2 MR. PATCH: That's one of the
3 record requests.

4 The second one that I have from my
5 notes is with regard to the phasing plan; is
6 it anywhere in the record. And so that's
7 what I understand to be the second record
8 request. And then --

9 CHAIRWOMAN MARTIN: Let me just
10 interrupt you quickly. Is it in the record,
11 and if not, if you would submit it, please.

12 MR. PATCH: Okay. Yes.

13 And the third one I have, and maybe
14 this is the same as the first, but I have
15 information supporting more than \$900,000 for
16 the decommissioning.

17 CHAIRWOMAN MARTIN: That is the
18 same as the first.

19 MR. PATCH: And then the other one
20 actually came prior to these. But I think
21 Attorney Iacopino asked that we provide the
22 e-mail from DES to confirm that they have the
23 information they needed.

24 CHAIRWOMAN MARTIN: That's right.

1 That's what I have.

2 MR. PATCH: Okay. All right. And
3 that's all I have.

4 MR. IACOPINO: Madam Chair, I
5 thought there was also a record request that
6 they confirm in writing which plans were
7 being replaced by Exhibit 82.

8 CHAIRWOMAN MARTIN: Yes, you had
9 asked that they put it in writing.

10 MR. PATCH: That's right.

11 CHAIRWOMAN MARTIN: Do you have
12 that one?

13 MR. PATCH: Thank you.

14 CHAIRWOMAN MARTIN: Okay. Anything
15 else?

16 [No verbal response]

17 CHAIRWOMAN MARTIN: All right.
18 Seeing nothing, then we are adjourned for
19 today. Thank you, everyone.

20 (Whereupon the Day 2 Hearing was
21 adjourned at 12:10 p.m.)

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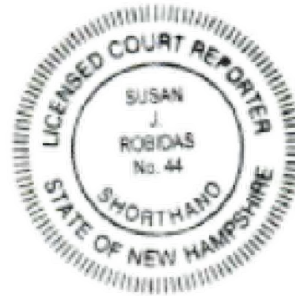
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C E R T I F I C A T E

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

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

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