

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

October 2, 2017 - 9:00 a.m. DAY 43
49 Donovan Street Morning Session ONLY
Concord, New Hampshire

{Electronically filed with SEC 10-16-17}

**IN RE: SEC DOCKET NO. 2015-06
NORTHERN PASS TRANSMISSION -
EVERSOURCE; Joint Application of
Northern Pass Transmission LLC and
Public Service of New Hampshire d/b/a
Eversource Energy for a
Certificate of Site and Facility
(Hearing on the Merits)**

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

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

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq. Counsel for SEC
(*Brennan, Caron, Lenahan & Iacopino*)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

COURT REPORTER: Cynthia Foster, LCR No. 14

I N D E X

WITNESS PANEL

LYNN FARRINGTON FRAZIER
SAMUEL JOHNSON
KENNETH BOWES
JOHN KAYSER

Cross-Examination by Mr. Thompson	5
Cross-Examination by Mr. Baker	43
Cross-Examination by Ms. Saffo	55

E X H I B I T S

EXHIBIT ID	D E S C R I P T I O N	PAGE NO.
CFP 562	Exception Request 125	85
CS 104	Exception Request 178A	13
CS 104	Exception Request 180	14
CS 104	Exception Request 184	26
CS 104	Exception Request 185	28
CS 105	NRTH_NHDOT Permit Set ROT 3C104	14
CS 106	NRTH_NHDOT Permit Set	15
CS 107	Splice Vault Diagram	7
CS 108	Exception Request 180 Area Work Space	19
CS 109	Laydown Area NoHill	20
CS 110	Laydown BRR-NoHill	20
CS 111	Laydown BRR&NHill	
CS 112a	Marie	28
CS 112b	Milker Marie	28
CS 112c	Young Maries	28
CS 113	Milk Truck Turning	
CS 114	Milk Truck Headon	
CS 115	Haywagon	27
CS 116	NPT Map Renewable Properties	31
CS 125	Civil Takeoffs Report	41

E X H I B I T S (continued)

EXHIBIT ID	D E S C R I P T I O N	PAGE NO.
GRAFTON 43	Surveys	55
GRAFTON 44	Conference Report, 9/19/17	58
GRAFTON 45	Media Center Special Projects	
	NPass DOT's Role	91
GRAFTON 46	Existing Land Use Along the Project Corridor	140
GRAFTON 47	Applicant's Response to Grafton County's Data Requests and Interrogatories - Set 1	88

P R O C E E D I N G S**(Hearing resumed at 9:00 a.m.)**

1
2
3 COMMISSIONER BAILEY: Good morning,
4 everybody. Welcome to Day 43 of the Site
5 Evaluation Committee's proceedings on Northern
6 Pass. We are at the cross-examination of
7 Mr. Thompson. You may proceed.

8 MR. THOMPSON: Thank you.

CROSS-EXAMINATION

9
10 **BY MR. THOMPSON:**

11 Q Good morning.

12 A (Johnson) Morning.

13 Q I feel as first person up this morning I have a
14 responsibility to simply state that we're all
15 thinking and praying for the people involved in
16 the senseless slaughter of people in Las Vegas
17 last night. It's very unfortunate.

18 I'd like to ask a couple questions first,
19 and then move on to four of the Exception
20 Requests. I'd like to just clarify, Mr. Bowes,
21 your understanding of New Hampshire DOT has
22 requested that Northern Pass stay out from
23 underneath the paved roads, the state highways,
24 is that your understanding? As much as

1 possible?

2 A (Bowes) I would say yes. That's the Utility
3 Accommodation Manual requirements, and they
4 allow for Exceptions.

5 Q Okay. And in my case I'm going to concentrate
6 on the roughly 7 and a half miles of underground
7 burial in Clarksville and Stewartstown. So that
8 would include about a quarter of a mile of 145
9 in Clarksville and probably a couple miles of
10 state highway, Bear Rock Road?

11 A (Bowes) Yes. I think that's accurate.

12 Q It would also include those two roads.

13 A (Bowes) That is correct.

14 Q Thank you. Has anything been said about the
15 town roads, staying out from under their roads,
16 the dirt roads?

17 A (Bowes) So in our Application, Northern Pass has
18 asked the SEC to assume jurisdiction over the
19 local roads, and we've also asked that to be
20 delegated to the New Hampshire DOT for control
21 as well as for processing the necessary permits
22 and approving the final design as well as any
23 Exceptions. So I would say that's similar to
24 what we have for State roads, but there is a

1 nuance that we're asking the SEC to assume that
2 jurisdiction and then delegate.

3 Q Thank you. I'd like to also help clarify one
4 issue that Dr. McLaren was talking about Friday
5 afternoon of the weight of the manholes. We
6 have -- that's it right there. I'd like to just
7 concentrate for a minute on the sketch that I've
8 done. There's some discrepancy I've seen in the
9 actual size of the manholes, but I think the
10 most common size is 8 feet wide, 6 feet high and
11 33 feet long. Do you pretty much agree with
12 that?

13 A (Bowes) Approximately, yes.

14 Q CS 107. I did some quick calculations just to,
15 at the bottom. You can go through them if you
16 want, but it figures out that each half of the
17 manhole is 22.8 ton per half piece based on
18 three feet high, 8 feet wide and 33 feet long,
19 and using what I would say is common, an
20 8-inch-thick wall reinforced. Using a figure of
21 4100 pounds per cubic yards it figures out to
22 22.8 ton. Would you agree with that?

23 A (Bowes) The calculation seems to be correct.
24 Yes.

1 Q Thank you. Leads me to question the size crane
2 that would be required to set one of these. Do
3 you have a feeling of what size tonnage crane
4 might be necessary?

5 A (Bowes) Probably 30 to 40-ton crane.

6 Q Probably 30 to 40 ton. Thank you. Do the
7 people that do the splicing inside these pits,
8 are they Eversource people or IBEW people or
9 subcontractors?

10 A (Bowes) So the people that would perform the
11 splicing, the actual lead splicers would be from
12 the cable manufacturer, and there may be
13 apprentices used as well which would be IBEW
14 employees or IBEW workers probably employed by
15 PAR at that point or --

16 Q Probably calling somewhat specialized in what
17 they do, certainly trained and --

18 A (Bowes) Highly specialized, I would say. This
19 is their sole profession, and they travel the
20 road with each project and perform the splicing
21 activities.

22 Q Okay. Stated Friday there's roughly 150, 160
23 manholes in all, somewhere in that range. About
24 every third of a mile, might be 170?

1 A (Bowes) I think we gave varying figures. 150,
2 154. I think there's actually 159 splice
3 enclosures.

4 Q Good. 159. It takes about a week to do a
5 two-section splice, give or take?

6 A (Bowes) Five days probably, yes. There may be
7 some setup time and some time at the end to
8 remove the preparation materials.

9 Q Leads me to ask the logical question of are
10 these gentlemen that, people doing the splicing
11 going to accept the fact that they're working in
12 a manhole that's only got 4 foot 8 inches of
13 head room if it's 6 foot high and 8-inch walls?

14 A (Bowes) Yes. The dimension is a little bit
15 larger than what you show here. I think it's 7
16 and a half feet or 8 feet total.

17 Q And it probably opens up the question of would
18 you have the crane come back a second time to
19 take the top off versus having a hole in the top
20 of the manhole. The option's there.

21 A (Bowes) So we did discuss last Friday that the
22 DOT has worked with our contractor and has
23 talked about some temporary chimneys. Those
24 would certainly be in the paved roads so we

1 would not have to come back and remove the
2 entire cover. We just have to dig down, meet
3 the chimney, and keep that excavation open for
4 the time period of the splicing.

5 Q Um-hum.

6 A (Bowes) I'm not sure we've come up with how we
7 plan to do that on the dirt roads, if that would
8 be also acceptable, or whether we will have to
9 come back and remove the cover for the splice
10 enclosure.

11 Q Do they have special equipment to do the
12 splicing that they have to get down into the pit
13 and into the vault?

14 A (Bowes) Yes, they do.

15 Q And so the hole, the opening, logically, would
16 have to be big enough to be able to get that
17 equipment down in and back out?

18 A (Bowes) Yes. The typical installation would be
19 with a paved road with two manholes so there
20 would be an entry and an exit manhole and all
21 the equipment for splicing would enter through
22 the manhole cover.

23 Q And then that would be disassembled afterwards?

24 A (Bowes) Correct. That's why I said --

1 Q It wouldn't be permanent.

2 A (Bowes) Correct. That's why I said it's
3 probably about a five-day splicing operation but
4 maybe a day to put the equipment into the
5 manhole or splice enclosure and a day to remove
6 it.

7 Q Thank you. I'd like to move on to the first
8 Exception. In the North Country there are, that
9 I could find there are 8 Exceptions requested by
10 Eversource. Does that sound right?

11 A (Johnson) That sounds about right, yes.

12 Q The Exceptions are presented to New Hampshire
13 DOT, and they make a decision whether to go
14 along with them or not. Are these Exceptions
15 sort of what you might call a change order? Or
16 are they a variance like we experience in town
17 planning board and zoning ordinances?

18 A (Johnson) I would say more like a variance.
19 I've never really thought about it in that
20 sense, but, yeah, clearly the DOT has the
21 Utility Accommodation Manual with the rules set
22 out, and these Exceptions are exactly that.
23 It's a variance to the UAM.

24 Q Who, is it Eversource that put these Exception

1 Requests together or is it the architect or is
2 it PAR?

3 A (Johnson) So it's a combination of the design
4 engineer and PAR working together from both a
5 design or engineering aspect and a
6 constructability aspect, and then that's
7 reviewed by the owner prior to submittal to the
8 DOT.

9 Q Was it done recently or were the Exceptions put
10 together knowing that they would have to be
11 asked for as part of the original, at the time
12 of the original development of the original
13 request?

14 A (Johnson) So working with the DOT, we identified
15 the process of Exception Requests probably late
16 last year to early this year, 2017, and it's
17 really been in the sort of spring and summer of
18 2017 that the Exception Request process has
19 evolved.

20 Q So they keep, more issues keep popping up as you
21 get deeper into it and get far more involved?

22 A (Johnson) Sure. It's a natural evolution as the
23 design gets more firm, if you will. Then we
24 have a better understanding of where those

1 Exception Requests are.

2 Q Exception Request number 178 which is my CS 104
3 is requesting that, typical of a lot of them, I
4 believe this one is requesting that one entrance
5 and one exit of the two HDD come out from
6 underneath or go into the paved, actual paved
7 road or Route 3 at the steel bridge in
8 Clarksville or Pittsburg; is that correct?

9 A (Johnson) That's correct.

10 Q I'd like to have CS 5 and CS 6, please. This is
11 the DOT Application to DOT maps, and this is an
12 area that a few weeks ago we had a tour of the
13 North Country and the full Committee here, Site
14 Evaluation Committee were there along with
15 representatives from pretty much all facets of
16 what is in this room. We walked, we parked up
17 around the corner, walked down to Old Canaan
18 Road, and kind of followed the ditch down toward
19 the steel bridge heading south on Route 3.

20 I guess I don't understand why you have to
21 have one of the two entrances into the pavement
22 of Route 3 causing certainly at the very least
23 problems with traffic when the ditch on the
24 right-hand side that we walked down next to

1 although it's a ditch that would need to be
2 regraded but it's roughly 35 feet wide from the
3 edge of the pavement to the edge of the wooded
4 area. And I'm referring to, in particular, CS
5 105 where it designates that the HDD entrance,
6 they call it end, but that to me is probably
7 where you'd start and then go south. Why do we
8 need to enter into using the asphalt when you've
9 got 30 feet of grassed area?

10 A (Johnson) So is your exhibit up on the ELMO?

11 Q Okay. Here's Old Canaan Road. This is Route 3
12 north, south, the bridge and the river in this
13 area. Here's Connecticut River. Here is, they
14 call it end, but I think the plan would be, if I
15 were doing it, would be to enter here and HDD
16 south.

17 A (Johnson) It's actually the opposite way.

18 Q Okay. So let's say you're doing it other way.

19 A (Johnson) Right. So I'm looking at the
20 Exception Request 178a which I pulled up on my
21 screen, and it looks like both the exit pits on
22 this side are off the pavement.

23 Q Yes.

24 A (Johnson) And I did take a look at the entry

1 pits on the south side of the river, and it
2 looks like that's where the request is for one
3 of them to be in the road.

4 Q So at the south side then, the request is to
5 enter one of the two from asphalt rather than,
6 and they both come out in the grassed area?

7 A (Johnson) That's correct. Yes.

8 Q Is that predicated in part because of a neighbor
9 here whose property comes up pretty close to the
10 corner and you've got to work your way around
11 and then head north?

12 A (Johnson) Referring to the south side now?

13 Q South side of the bridge, correct. CS 106.

14 A (Johnson) I don't know that it's predicated on
15 that particular property owner. I think the
16 alignment here goes from property that's owned
17 by the Project and crosses underneath the river
18 and comes up in property that's owned by the
19 Project as well. I guess it just makes sense
20 for it to be on property that we manage. I
21 don't know exactly whether that particular
22 landowner was part of the decision to locate the
23 facilities in the locations that they are.

24 Q Yes. I mean, this is all a great starting point

1 which would keep you out of the road. The
2 problem would be crossing underneath this
3 neighbor's property. Have you talked to them,
4 possibility of going under their land?

5 A (Johnson) Again --

6 A (Bowes) You mean locating outside the road
7 right-of-way?

8 Q I'm thinking stay away from Route 3 which is a
9 pretty heavily traveled area, set up in the
10 parking lot area, I think that gate here up to
11 go up into Transition Station number 2, but it
12 just logically makes sense if you could get
13 permission to cross under this land to set up in
14 that big parking lot.

15 A (Johnson) I don't know the answer, whether we've
16 talked to the Society or not in that particular
17 location.

18 Q Right. Some of the requests do involve
19 permission to, you're requesting permission to
20 work underneath the asphalt, both entering and
21 exiting.

22 A (Johnson) That is correct.

23 Q And they talk about plus or minus, left, right,
24 forward, back of five-foot tolerance. How do

1 you, how do you control to get within five feet?
2 I understand that there's a sensor of some sort
3 on the head so you can pretty much tell where
4 that cutting head is at any point, but do you
5 have a feeling for how the thing is steered?

6 A (Johnson) Again, I'm totally out of my element
7 here, but I believe that the drilling head is
8 steerable either through hydraulics or some
9 other thing, and they're able to move it as
10 necessary as far as the drill path is concerned.

11 Q I would have to think it's obviously steerable.
12 I agree. When you're doing one of these, Ms.
13 Frazier, and you're waiting for the thing to pop
14 out in the asphalt some place, plus or minus
15 five feet, until the point where it actually
16 occurs, you probably have a little question in
17 your mind as to what kind of traffic control
18 you're going to be putting together?

19 A (Frazier) So I believe since we're closing a
20 lane at that location, I think they said there's
21 a five-foot tolerance so that's well within the
22 travel lane for all of these. So not too much
23 anxiety over that. Just knowing the approximate
24 area is enough.

1 Q So you'd probably aim for the middle of one of
2 the lanes and plan on five feet plus or minus
3 still being somewhere in that lane.

4 A (Frazier) Exactly.

5 A (Bowes) It's actually a little more precise than
6 that. The five feet is just a margin of safety
7 that's added to it. An actual path is laid out
8 electronically with the machine, and they
9 actually stake the exit location with either a
10 stake if it's on, you know, not on pavement or
11 they'll mark the pavement itself, and any
12 deviation from that is monitored while the
13 drilling is taking place, and they correct and
14 bring it back on to the alignment line that's
15 laid out. Normally, they come right up where
16 the stake is, not five feet away, but they want
17 five feet as a work area around that location.

18 Q Thank you. Okay. Move to the next request.
19 Our CS 104 which is Exception Request number
20 180. This is also, I believe, a request to go
21 under the asphalt. This is at the corner of
22 where North Hill Road comes down the hill and
23 bears left heading east on Bear Rock Road. My
24 big question here if we can go to CS 108 for a

1 start. Exception Request 180, we're starting
2 with.

3 What I'll do, Ms. Frazier, is explain what
4 I understand is happening, and then you tell me
5 where I'm confused. Okay? Game plan?

6 A (Frazier) Okay.

7 Q Top of this page the dotted line shows the two
8 direct bury coming down North Hill Road, turning
9 on to Bear Rock Road down at the bottom, and
10 then the request is for the four foot by four
11 foot entry pit being set up under the pavement.
12 My concern here is this is, I understand, Mr.
13 Bowes, probably give or take a two-and-a-half to
14 four-week process?

15 A (Bowes) I would say probably.

16 Q That's what we've talked about, and that's kind
17 of in general, but -- so one lane is open, and
18 it looks like the lane, Mrs. Frazier, this is
19 Bear Rock Road down here. Go up North Hill.
20 Coming either way it appears to me the
21 cross-hatched is the closed area and work area.
22 Traffic goes up, makes a turn and goes down like
23 this and then heads east. Or if I'm coming the
24 other way, got to go along here, up around and

1 back. Do I understand that correctly? Am I
2 missing something?

3 A (Frazier) Yes. That's correct. Sam was just
4 saying we could also cut some of that kind of
5 peak of the triangle off as well to make it a
6 more gradual turning movement for larger
7 vehicles.

8 Q Right at the lower right corner where it turns
9 to go up if I was headed down Bear Rock?

10 A (Frazier) At the very top where the kind of
11 little arrow is around.

12 Q Let's take a look at that. We'll start off with
13 CS 109. This is if I'm up on North Hill Road
14 looking down, and the dotted line goes down the
15 left-hand side, down at the flat bottom is Bear
16 Rock Road and you turn left, that's where it's
17 set up. So you're proposing that we come up and
18 make a turn and then go back down the other
19 side.

20 A (Frazier) Yes.

21 Q Take a look at CS 110. That's at the bottom
22 looking up North Hill. Does that feel like it's
23 going to work to you? This is -- well, I'll ask
24 that question first.

1 A (Johnson) Sure. So, obviously, this is an area
2 that we would be, where the drill rig would
3 start and so the laydown area as is drawn is
4 basically encompassing that island, if you will,
5 the grassy knoll there, and it really is to
6 allow the drilling company to place their
7 equipment so that it's not all the way down Bear
8 Rock Road in a linear fashion.

9 Certainly the utility pole that's located
10 there and the actual grassy knoll can be
11 regraded to assist in the way that we would flow
12 traffic through here. I think what the designer
13 has tried to do is maximize or show at least on
14 the plan a maximum area. Certainly that could
15 be optimized as the process goes forward. But
16 ideally, we'd want to be able to turn right on
17 to the road there and then turn left again to go
18 back down Bear Rock Road in a continual path.
19 And, of course, any turning radiuses or anything
20 else would have to meet DOT standards as far as
21 large vehicle traffic and other things.

22 MR. WAY: To the Chair, if I could just
23 pose a quick question? Just clarification,
24 where exactly is this spot on the triangle that

1 you presented earlier?

2 Q The entrance?

3 MR. WAY: Right.

4 Q This would be Bear Rock Road.

5 MR. WAY: Right.

6 Q Which is pretty much level along that area.

7 North Hill comes down right here is the entry.

8 One of them, I assume, will be in the ditch, and

9 the other has to be in the paved road because

10 they have to be, I understand, to be ten foot

11 apart; is that specifications?

12 A (Johnson) Correct.

13 MR. WAY: Okay. So 109 was looking at that
14 exact spot?

15 Q 109 would be looking down, that exact spot would
16 be down right in here somewhere. And if you
17 look at 110, it would be right, somewhere, I
18 would, am I pretty close?

19 A (Johnson) You're pretty close.

20 MR. WAY: And that's Bear Rock Road?

21 Q That's Bear Rock Road.

22 MR. WAY: Okay. Thank you.

23 Q What else do I have there?

24 There's a couple photos on the Application

1 that I think there are, were there photos in
2 that Application that also showed it? Maybe
3 not. That's fine. Strike that.

4 I guess we're going to see a picture of a
5 milk truck in a minute. Every other day the
6 milk truck has got to go up Bear Rock Road to
7 pick up milk up at the McAllastar farm. Looking
8 at CS 109, and the map CS 108, Mrs. Frazier, are
9 you comfortable that milk truck can make that
10 turn?

11 A (Frazier) Not yet. But once that area is
12 regraded and that kind of top of the triangle is
13 pushed down a little to make it a smoother turn,
14 I'll have much more confidence.

15 So the DOT actually supplied some comments
16 on our traffic control plans initially, and one
17 of the repetitive comments was that we need to
18 accommodate a WB 67 on all roads which is what
19 the milk truck is. So it, we will have to run
20 the turning movements on it, and we will need to
21 be sure that that does work.

22 A (Johnson) And I'll just add we did talk about
23 this last time we were on the stand that there
24 may be situations, especially with road closures

1 that are farther down Bear Rock Road if it does
2 come to that, that we would work with
3 Mr. McAllaster from a business interruption
4 perspective to either buy his milk or bring in
5 smaller trucks, but, obviously, multiple trucks
6 to get his product to market, but that would be
7 the sole cost of the Project and not
8 inconvenience Mr. McAllaster as much as
9 possible.

10 Q All right. Have you talked to Mr. McAllaster
11 about that yet?

12 A (Johnson) Not yet. Obviously, we need a more
13 complete design or the final design, but
14 certainly that is on our list to come out and
15 have discussions with him regarding the time of
16 day, to see any seasonal issues he may have, but
17 certainly that is something that will happen in
18 the future.

19 Q You don't feel that it's pretty critical to be
20 talking to him now?

21 A (Johnson) We do feel it's critical. I think
22 what we'd like to do though is present a plan as
23 you, as Ms. Farrington just said, if we can
24 present a plan for this particular area that

1 allows for that type of truck to go through,
2 then we would certainly want to present that to
3 him. Obviously, if we are restricted from doing
4 that, then we'd have to come up with an
5 alternate plan, and I'd rather have the
6 alternate plan available before we begin that
7 conversation.

8 Q Right. Is that something that your customer
9 relationship people would do in the field? I
10 forget the names of them, but --

11 A (Johnson) I think it would be a concerted
12 effort. Certainly a customer relations person
13 would be with us, but I think in this particular
14 case, it's very important that the design
15 engineers as well as the owner be represented at
16 any meeting we'd have with this particular
17 gentleman.

18 Q This on the screen now is just to get a feel of
19 the size vehicle we're talking about.

20 A (Johnson) Agreed. To complement this, there's
21 also a lot of logging activity and the trucks
22 that come down Bear Rock Road are just as
23 similar to this.

24 Q Okay. That's that. I'll take that picture

1 back. Next one is number 184. See if I can
2 keep these straight. This is the one, this is
3 the one, the special exception at McAllaster
4 Road. And we have, this apparently is also a
5 request to dig in the pavement. Again.

6 A (Johnson) Correct.

7 Q Somewhere right around here there's also a
8 request to cross the road. I'm not too
9 concerned about that. This one is concerning
10 because it really is going to make access up on
11 to McAllaster Road very, at the very least very
12 difficult. These two photos are part of the
13 actual request for Exception Number 184. And
14 it's pointing to a point south, just south of
15 McAllaster Road which is a, if you're heading
16 east, in and out Bear Rock Road, McAllaster Road
17 as a left goes up the hill to the dairy farm.
18 Shows where the entrance under the asphalt will
19 occur. It's back a ways, a bit of a ways from
20 the exit to go up McAllaster Road.

21 The concern here, again, is the same issue
22 of closing off McAllaster Road, making it
23 impossible, making it impossible to get up to
24 the farm. Again, we take a quick look, this

1 photo happens to be, this first photo shows a
2 milk truck coming out of McAllaster Road. The
3 actual location of the digging in the asphalt
4 would occur somewhere in this area here.
5 Probably on, this side of the, this half of the
6 road, and then the next one shows as he's made
7 his turn coming down. Just get a feel for how
8 difficult this is going to work.

9 Do you agree that at the very least it's
10 going to be a difficult process to get vehicles
11 in and out of McAllaster Road?

12 A (Johnson) Sure. I looked at the plans and it
13 shows that one of the pits is off the road into
14 the grassy area, and another one is in the
15 shoulder area as you've shown right here.
16 Certainly a large vehicle such as this would be
17 a tight fit, but I believe that the way that
18 we've laid out the traffic management it allows
19 for the 11-foot-wide space for a vehicle to get
20 through. Certainly, though, it would have to be
21 at slow speed and with everyone paying
22 attention.

23 Q Also just to take it a step further, I think
24 this is Rod McAllaster hauling some hay up the

1 hill. That wagon has got ten bales on it, I
2 guess. Ten bales?

3 A Yeah.

4 Q He presently has over 900 bales in his dooryard
5 harvested this summer so it's a very ongoing
6 every day when the weather is -- you understand.

7 Take this just a step further, in humor a
8 little bit, we'd like to introduce Marie. It's
9 her milk that you're going to propose to dump
10 down the brook. And better look at her.

11 Here she is with a load of milk ready to go
12 to work. And while I was there I did happen to
13 take a picture of some of the offspring. These
14 are what we call apprentices getting ready.

15 Okay. Moving along, next one is number,
16 Exception Number 185. This also is, I think
17 this one has to do with, has to do with the
18 crossing the road, if I remember. By the way,
19 all of these Exceptions happen to be involved
20 with the state Bear Rock Road, the paved area.

21 A (Johnson) Correct.

22 Q There's also three HDDs that are in town dirt
23 roads, no exception requested there. Does that
24 lead me to believe that you just will be moving

1 ahead and digging in the middle of the road? In
2 the dirt roads?

3 A (Bowes) So we would plan to follow the same
4 process if the SEC delegates to the New
5 Hampshire DOT that responsibility, and that's
6 what we've asked for on pages 82 and 83 of this
7 Application. It was also recently granted for
8 the MVRP Project for Docket number 2015-05. So
9 we're asking basically for the same delegation
10 for use of local roads as we did in that past
11 Project.

12 Q So that you will be requesting for exception in
13 the dirt roads also?

14 A (Bowes) Exactly. It will be the same process we
15 would use, and whether it goes to the SEC or
16 whether it goes to the New Hampshire DOT we
17 would follow the same type of exception process
18 doing a detailed analysis and putting forth a
19 package like we've just seen on several of
20 these.

21 Q Are you saying that at this point you're really
22 not sure who's going to make a decision to
23 approve it or send it back and ask for more
24 information; SEC or New Hampshire DOT?

1 A (Bowes) We've asked the SEC, and they would
2 likely delegate to the New Hampshire DOT who has
3 the expertise to do that.

4 Q So Exception Request number 185, I believe, has
5 to do with crossing the road. Is that correct?

6 A (Johnson) Yes.

7 Q My concern isn't so much crossing the road as
8 why they need to be in the road at all. Who is
9 Renewable Properties? I know the question has
10 been asked, but I'd just like to be sure we
11 understand who they are.

12 A (Bowes) They're a wholly owned subsidiary of
13 Eversource Energy.

14 Q Are you aware that from south on Bear Rock Road
15 state highway with the paved area, south of
16 probably within 100 feet of where that entrance
17 under the asphalt occurs south of McAllaster
18 Road, for roughly .6-tenths of a mile by GPS, on
19 the right-hand side and in some cases both
20 sides, all that property for six-tenths of a
21 mile is owned by Renewable Properties.

22 A (Johnson) Correct.

23 Q We can strum through five of these maps of the
24 Application to DOT, and it's continuously owned

1 by Renewable Properties to a point probably two
2 or three hundred yards of where the state
3 properties stop. Here is our CS 116. This is
4 pretty big. This is property bought, the green,
5 different greens, and this was a map made before
6 they had purchased all the land they hoped they
7 needed to go overhead.

8 I'm referring to this piece of property
9 right here. This is Wiswell Road, Old County
10 Road, North Hill Road, Bear Rock Road,
11 Transition Station 4, Transition Station 3.
12 That's the 7 and a half miles. This piece of
13 property right here.

14 A (Johnson) I'm familiar with that property.

15 Q Why not use it? You bought it. Why not get off
16 the road and go underground for six tenths of a
17 mile up through that land and then come back on
18 to the road? You'd eliminate -- I'm sorry.

19 A (Johnson) No. Go ahead. My fault.

20 Q Point being, among a number of problems that
21 would be rectified you'd eliminate the blocking
22 of McAllaster Road?

23 A (Johnson) So if you look at Exception Request
24 185 which I think was the start of this

1 conversation, the Exception Request is to cross
2 the road.

3 Pam, do you have the map that's associated
4 with this?

5 Okay. Unfortunately, it just got cut off,
6 but on the very left side of this map, the
7 request is to cross the road from the north side
8 next to McAllaster property to the south side
9 which is along the RPI property. And so that's
10 what the exception was for. It was just the
11 crossing of that road.

12 As we continue along this entire stretch
13 here, along the Renewable Properties, Inc., you
14 can see that the green design has been moved off
15 of the roadway. So this is now in the shoulder
16 or on the edges.

17 Mr. Thompson, I believe you just asked why
18 we didn't put it fully onto our property there.
19 It's because of the environmental impacts that
20 it would bring up. That's a very swampy and wet
21 area, as you're aware. The slope drops down
22 onto the property, and it's a very swampy area.
23 So what we tried to do is to move this alignment
24 off of the paved roadway but in an area that

1 could be still constructible with the least
2 amount of environmental impact.

3 Q The only section that's wetlands is give or take
4 a couple hundred feet from Bear Rock Road. You
5 own back 80 percent of the distance up to Noyes
6 Road. The whole hillside. It's a gradual
7 sloping side hill, certainly much more workable
8 than a lot of the land you're going to face in
9 Dixville, Millsfield and Dummer.

10 A (Johnson) Sure. From an underground
11 perspective, though, from a constructability,
12 getting vehicles in and out, we'd have to build
13 new access road and cause quite a bit of either
14 alteration of terrain or tree clearing and other
15 things. Even though it is our property, the
16 least impactful environmental route is off the
17 roadway, but, again, next to the roadway.

18 Q Okay. Thank you. Next I'd like to get into
19 some questions concerning Transition Station 4
20 number 4. The reason, as I understand it, for
21 the Construction Committee, you people, were
22 called back was to go into detail on these many
23 Exceptions and try to understand them, and also
24 to answer some inaccuracies in the plans that

1 occurred. Is that --

2 A (Johnson) That's my understanding. Yes.

3 Q -- the way I understood it? What I'd like to do
4 for a few minutes now is to talk about during my
5 questioning a couple months ago to this Panel,
6 asked a lot of questions, got into a lot of
7 details, and I feel I've exposed an area where
8 I've got an inaccurate answer so that's the
9 reason that I'm pursuing. Do you remember the
10 discussions we had about the 30,000 cubic yards
11 of ledge that had to be excavated, blasted and
12 excavated out of Transition Station 4?

13 A (Johnson) I do.

14 Q After that discussion and day, and as I
15 recollect, I can't remember which one of you
16 gentlemen said but there was just probably a
17 mistake made or a misunderstanding with your
18 estimator concerning the understanding that it
19 was 30,000 cubic yards, correct?

20 A (Bowes) I think it was the cut and fill that was
21 the mistake.

22 Q Yeah.

23 A (Bowes) I think we always knew how much --

24 Q It was a misunderstanding. You thought it was

1 cut and fill, and it turns out it's all cut and
2 get rid of.

3 A (Bowes) Correct.

4 Q Yeah. Did you go back to him afterwards and
5 verify that 30,000 cubic yards?

6 A (Johnson) We did.

7 Q And verified that it was 30,000, plus or minus?

8 A (Johnson) Plus or minus, yes, sir.

9 Q I happened to do the same thing couple weeks
10 ago.

11 Put this one up first.

12 With a well-known estimator in Gilford
13 named Kevin Hayes.

14 Now the next one.

15 Asked him to do a takeoff. He did it by
16 quadrant cut and fill. This print right here is
17 basically the 3.12 acres from a plan view which
18 means looking straight down from above at it,
19 cut and fill of that whole area. And this cut
20 and fill includes the soil materials on top and
21 the blasted ledge.

22 Next?

23 His discovery, the bottom of column 1, is
24 that there'll be a total of 77,000 cubic yards

1 and there's some materials coming back making,
2 crushed bank run to make the driveway and the
3 landing area and so forth. So the net is
4 somewhat less than 77. We also, do you
5 understand CS Cole's research that he has said
6 that there's soil material on top of the ledge
7 anywhere from 6 inches to 5 foot 6 inches down?

8 A (Johnson) I'll take your word for it.

9 Q So if we, let's say, assume that there's an
10 average of five feet over that whole area, it
11 equates out to somewhere in the vicinity of
12 60,000 cubic yards of ledge and the other 15 or
13 so thousand is soil and stumps and everything
14 else. Will you accept that based on Mr. Hayes's
15 takeoff?

16 A (Johnson) Sure.

17 Q My concern here is many fold, and I keep having
18 to ask the question, and in particular of this
19 Committee, how are you going to take on a
20 Project of this magnitude in such a tight area
21 where now if in fact it's 60,000 cubic yards of
22 ledge it's got to be hauled off and I think we
23 can agree, I would expect that would you agree
24 with me that a 15 yard tri axle dump truck when

1 hauling crushed ledge would probably have ten to
2 12 yards in it, if it was crushed it would have
3 a full 15. Some would agree with that?

4 A (Johnson) Potentially, yes. Depends how you
5 process the material.

6 Q What I'm leading up to is that we're now talking
7 four or five thousand truck loads to be hauled
8 out of there to go somewhere. The exposure on
9 Bear Rock Road or whatever direction it's going.

10 MR. NEEDLEMAN: Madam Chair, I'm going to
11 object at this point. This is really akin to
12 counter testimony on this issue. Also, it's not
13 clear how it's within the scope of the recall,
14 but that's a separate issue.

15 COMMISSIONER BAILEY: Mr. Thompson.

16 MR. THOMPSON: I feel that the
17 discrepancies that I'm exposing just magnify the
18 problems that are going to occur, and I intend
19 to get into for a minute the blasting, the
20 amount of dynamite, and the health problems.
21 It's all being magnified.

22 COMMISSIONER BAILEY: Mr. Thompson, can you
23 tell me how this applies to the alleged
24 inaccuracies?

1 MR. THOMPSON: The inaccuracies are causing
2 the problem. It's doubling the amount of
3 dynamite that's going to be needed. It's vastly
4 increasing the probability of damage to the
5 glacial spring well that I own 1100 feet away.
6 It's a heavy exposure to a family with two
7 special needs people that live 650 feet away of
8 which the woman was here --

9 MR. IACOPINO: Let's focus on the question
10 the Chair asked you though. How does this apply
11 to the alleged inaccuracies in the plan? Not
12 how does it apply to the people who live there
13 right now, but the questioning is limited to
14 what inaccuracies in the plan. So can you tell
15 us what inaccuracy this information applies to.

16 MR. THOMPSON: The set of plans for
17 Transition Station No. 4 show a clearcut of
18 ledge. We talked about that, and the roll which
19 is on the table shows this huge cut of ledge.
20 And I guess my direction here is that I'm just
21 exposing the inaccuracy of the testimony that I
22 received before and that, in fact, it's a more
23 serious problem than we had first thought.

24 MR. NEEDLEMAN: Madam Chair?

1 COMMISSIONER BAILEY: Yes.

2 MR. NEEDLEMAN: This is not an inaccuracy.
3 I think if you asked this Panel they would
4 likely disagree with this. This appears to be
5 countervailing testimony from an apparent expert
6 who is not present.

7 COMMISSIONER BAILEY: I think that's what
8 he's trying to do though is give them an
9 opportunity to say why this isn't accurate. Go
10 ahead.

11 MR. NEEDLEMAN: Again, I mean, it seems to
12 me that what we're seeing here is something that
13 should have been in Mr. Thompson's testimony at
14 some point, not something that is within the
15 scope of order that I thought related to
16 inaccuracies in the plans with regard to DOT.

17 MR. THOMPSON: I think it was in my
18 testimony. I asked the questions and --

19 COMMISSIONER BAILEY: One minute,
20 Mr. Thompson. Why don't you ask them if they
21 can agree with these numbers or if they do agree
22 with these numbers?

23 BY MR. THOMPSON:

24 Q Do you agree with the numbers that this more

1 likely my expert estimating it to be roughly
2 60,000 cubic yards is more to the point than
3 what you thought to be 30,000 cubic yards? And
4 by the way, the 30,000 was actually a question
5 during the Technical Sessions earlier where I
6 asked the question and got the answer of 30,000.

7 MR. IACOPINO: So the question is do you
8 agree with the numbers that he's presenting to
9 you?

10 A (Johnson) So I cannot agree or disagree. This
11 is obviously an interpretation that's come forth
12 from this gentleman who did this. I can say
13 that our engineers looked at, and we were
14 talking specifically about ledge at the time, I
15 believe we were discussing 30,000, but our
16 engineers have looked at the geotechnical
17 results and the topography of the ground and
18 have calculated it out to be approximately
19 30,000 cubic yards of ledge. I don't think in
20 our discussion we were talking about any of the
21 overburden. Clearly, there is overburden that
22 needs to be removed. Whether that gets trucked
23 away or whether it's gets spread on the uplands
24 is still to be determined, I believe, from a

1 constructability perspective, but I believe our
2 numbers that we were talking about specifically,
3 the 30,000 cubic yards were in relation to
4 ledge.

5 Q The overburden you talk about is the topsoil,
6 stumps, dirt?

7 A (Johnson) That's correct.

8 MR. IACOPINO: Just for the record, when we
9 say these numbers we're referring to what Mr.
10 Thompson has marked as CS 125 which appears to
11 be some kind of spreadsheet.

12 COMMISSIONER BAILEY: Are you ready to go
13 to your next question?

14 MR. THOMPSON: Yes. Thank you. Can I
15 continue in the direction I'm going or do you
16 want me to bail out?

17 COMMISSIONER BAILEY: Well, ask your next
18 question, and see if you get an objection.

19 BY MR. THOMPSON:

20 Q At open house hearing number 3 which occurred
21 back in July, there were a roomful of people
22 here testifying, comments, they could come
23 forward, they had three minutes, they were
24 regulated very tightly and could pretty much

1 make comments on whatever they felt like. Kerry
2 Motiejaitis was of the last people that
3 afternoon to speak, and she's a resident of
4 Stewartstown, Bear Rock Road.

5 For the Committee's direction, if you came
6 up Bear Rock Road past Noyes Road that goes into
7 the dip and up to my home, and then you come to
8 the intersection with Heath Road, if you take a
9 left and start up the hill, Transition Station 4
10 is immediately on your left. If you'd taken the
11 right on Bear Rock Road going around the corner
12 about 4 or 500 feet, you'd find a home on the
13 right which is the Motiejaitises, Brian and
14 Kerry.

15 Are you aware of the fact that they have
16 two adult special need people as she testified
17 that afternoon? Not testified but spoke?

18 A (Johnson) I was unaware.

19 Q Are you aware of the fact that, will you accept
20 the fact that an estimator in the road building
21 department at Pike industries, Lee Miller, has
22 indicated that in order to blast the 60,000
23 cubic yards will require approximately 120,000
24 pounds of dynamite?

1 MR. NEEDLEMAN: Objection. I think these
2 questions are beyond the scope of the recall
3 order.

4 COMMISSIONER BAILEY: Mr. Thompson?

5 MR. THOMPSON: Once again, I'm searching
6 and looking for answers for the serious
7 ramifications of what the increased amount of
8 blasting is going to cause.

9 COMMISSIONER BAILEY: I'm sympathetic to
10 that, but I believe this is beyond the scope of
11 what the recall was for so your objection is
12 sustained. You have to move on to your next
13 question, please.

14 MR. THOMPSON: Thank you. At some point, I
15 expected this to happen so I'm now done. Thank
16 you. Appreciate your time.

17 COMMISSIONER BAILEY: All right.
18 Mr. Baker. You're on the list as the next up.

19 MR. BAKER: Thank you, Madam Chairman.

20 COMMISSIONER BAILEY: You may proceed.

21 **CROSS-EXAMINATION**

22 **BY MR. BAKER:**

23 Q Good morning. My name is Bob Baker. I've asked
24 questions of this Panel before briefly, and I

1 intend to be even briefer this morning.

2 My questions relate to only, at least
3 initially, only the underground portions in the
4 area you've designated as NRTH where my clients
5 have real estate. And, specifically, what I
6 want to know is is the redrawing or reworking of
7 the maps, surveys of the road right-of-ways for
8 the town maintained roads in Stewartstown and
9 Clarksville also occurring like it is for the
10 White Mountain National Forest area?

11 A (Johnson) It is.

12 Q And when will those new maps be available to the
13 SEC and to the participants in this process?

14 A (Johnson) As we discussed Friday, I believe
15 there was a four- to six-week period in the
16 field, and then another couple weeks so it was 6
17 to 8 weeks starting last Monday so that's now 5
18 to 7 weeks.

19 Q So we're talking, for the sake of my clients'
20 understanding of what your final determinations
21 are, we're talking about the end of November?

22 A (Johnson) Yes. If that's 5 to 7 weeks. Yes.
23 That's about right.

24 Q Okay. In that regard, who are you submitting

1 those maps to for comment, for consent to use
2 those roads, at the current time?

3 A (Johnson) So we will submit those to the DOT
4 through the DOT process. The DOT can decide
5 whether they are willing to review the local
6 roads or not. If not, then it will remain
7 pending until the SEC has made a ruling
8 regarding the delegation of that right per Mr.
9 Bowes's testimony earlier.

10 Q Did I hear earlier, and I apologize, I was
11 listening carefully but I may have missed it,
12 Mr. Bowes, did you say that the Applicants have
13 asked the SEC if they will refer this matter
14 back to the DOT?

15 A (Bowes) So we've asked the SEC to rule on this.
16 It's in our Application on page 82 and 83. And
17 it goes through all the legal issues around
18 this, precedence, et cetera, so we believe that
19 it would be likely that the SEC would delegate
20 that to the New Hampshire DOT. So it's as
21 similar to the State road process that we're
22 using. And therefore, we are preparing all the
23 same documents including in the original
24 Appendix 9 and Appendix 10 of our Application

1 the same process is being used for the local
2 roads.

3 Q Okay. I just want to make it clear. Maybe this
4 is a redundant question, but I assume by your
5 response that you are not submitting these maps
6 to any of the local municipalities for their
7 review, comment, or determination?

8 A (Bowes) That is correct.

9 Q If the SEC were to determine that a license from
10 the towns and municipalities is necessary for
11 you to do this work in the local roads, how much
12 longer do you plan that process to take if that
13 determination doesn't occur until the end of
14 this case?

15 A (Bowes) I think you're asking for how long
16 ultimately?

17 Q Um-hum.

18 A (Bowes) If that were to occur, it's a compound
19 hypothetical. If that were to occur, it would
20 probably add an extra month to the process.

21 Q How long has it taken for the iterative process
22 with the State DOT with all the Exception
23 Requests you've been making?

24 A (Bowes) So some have been approved rather

1 quickly, and some are still ongoing. So I think
2 once the road right-of-way issues are clear, I
3 think the process going forward with improved
4 accuracy of submittals by Northern Pass, I think
5 that process will be smoother than it has been
6 in the past.

7 Q So again, how long has that process taken? When
8 did you first start dealing with the DOT on the
9 undergrounding in the White Mountain National
10 Forest? Was that back in December? A year ago?
11 That's really my question.

12 A (Bowes) Sure. I know in October of 2015 there
13 was a submittal, and then the Application was
14 submitted in that same time frame. So
15 approximately two years with the DOT. I think
16 there were preceding meetings to that as well
17 over the course of maybe 12 to 18 months prior
18 to that submittal.

19 Q So the Applicant's position is that while it
20 takes the DOT and the Applicant approximately
21 two years to work these issues through, the
22 towns will be given one month if it's referred
23 to the towns?

24 A (Bowes) I didn't say how long they would be

1 given. I said how long would it take for them
2 to review them.

3 Q Okay. So the month is just the review period.

4 A (Bowes) Again, you asked a compound hypothetical
5 question.

6 Q I did.

7 A (Bowes) I gave you an answer --

8 Q That's really not a question, and I withdraw it
9 and so we'll go to the next question.

10 If the State DOT at the present time is,
11 no. Withdrawn.

12 Am I correct that the State DOT has
13 declined to review any of the Applicant's
14 requests for work in the town-maintained roads?

15 A (Johnson). No, you're incorrect. We have not
16 submitted any requests in the town roads.

17 Q Didn't you submit requests to the DOT for survey
18 or sampling work in the roads, geotechnical
19 testing?

20 A (Johnson) So the geotechnical testing along the
21 town-maintained roads were done on private
22 property outside of the road right-of-way.

23 Q I understand. My question is did you submit
24 geotechnical testing requests to the DOT at any

1 time?

2 A (Johnson) So I was answering that, and the
3 answer is no, because we're not on DOT land. On
4 the geotechnical we produced the results of
5 those geotechnical results for them. We also do
6 not need to request the right for survey. That
7 is a, anybody can go out and publicly survey a
8 road.

9 Q I understand that, but I know that, I'm talking
10 specifically about geotechnical testing.

11 Am I incorrect that landowners were given
12 notice that requests to do geotechnical testing
13 in the road had been made to the DOT?

14 A (Johnson) For areas that are roads maintained by
15 the DOT, yes. For areas that are maintained by
16 the town, no.

17 Q Okay. Thank you. If the DOT assumes
18 responsibility through whatever process for the
19 work that the Applicants intend to do in
20 town-maintained roads, will the state be taking
21 over those roads for purposes of all future
22 maintenance and care?

23 A (Bowes) I don't believe so, no.

24 Q So the towns will then be stuck or at least the

1 town taxpayers will be stuck with any of the
2 problems which might arise, and I know your
3 position is oh, we won't do anything that would
4 cause a problem, but if it should arise in the
5 future, the town will be stuck with that?

6 A (Bowes) So again, I can't answer what the town
7 would face in the future. A set of conditions
8 could be provided that are very similar to the
9 conditions set forth in the New Hampshire DOT
10 requirements.

11 Q Is the Applicant prepared to indemnify the towns
12 involved with your request to use
13 state-maintained roads to fully indemnify the
14 towns from all future problems caused by this
15 problem in those roads including any additional
16 maintenance and work that has to be done?

17 A (Bowes) So I think that's probably a question I
18 would want to review with our lawyers when I saw
19 the actual wording, but in general, I think
20 we'll willing to accept conditions that are
21 consistent with what the New Hampshire DOT has
22 for the local roads.

23 Q Then why wouldn't you go to the towns and seek
24 their permission to license your use of the

1 town-maintained roads right now and get on with
2 it?

3 MR. NEEDLEMAN: Objection. That calls for
4 a legal conclusion. It's been explained in the
5 papers.

6 COMMISSIONER BAILEY: Mr. Baker?

7 MR. BAKER: I'm not asking for a legal
8 conclusion. If they know an answer to the
9 question that doesn't involve an interpretation
10 of the law, they can give it. If they don't,
11 they can say they don't know.

12 COMMISSIONER BAILEY: Are you able to
13 answer the question?

14 A (Bowes) So if you could repeat the question
15 again?

16 Q I don't know if I can do that. Can the court
17 reporter read it back?

18 COURT REPORTER: "Then why wouldn't you go
19 to the towns and seek their permission to
20 license your use of the town-maintained roads
21 right now and get on with it?"

22 COMMISSIONER BAILEY: Are you able to
23 answer that question without a legal conclusion?

24 A (Bowes) I think so.

1 COMMISSIONER BAILEY: All right. You may
2 proceed.

3 A (Bowes) Because we believe the SEC process
4 should be followed in this case.

5 Q Thank you. That's on the record now.

6 Minor question arising from your testimony
7 on Friday, and I'm not sure who said it, but you
8 were talking about the need to cut scrub brush
9 or scrub bushes along the side of the road in
10 the White Mountain National Forest area that was
11 the subject matter of the question. Can you
12 tell me whether it was one of you that used that
13 language or did I mishear?

14 A (Johnson) That was me.

15 Q Okay. What did you mean by scrub brush?

16 A (Johnson) So I think we discussed that was four
17 inches or less diameter tree or shrub and any of
18 the weeds or any kind of growth along the side
19 of the road.

20 Q I think you also talked about the need to take
21 care not to take down ornamental trees and shade
22 trees.

23 A (Johnson) Correct.

24 Q How are you defining shade trees and ornamental

1 trees? Is there some reference that you look to
2 to make that definition?

3 A (Johnson) There's no specific reference, no.

4 Q Is there any process that the Applicants have
5 developed to seek the landowners' input who's
6 involved as to whether or not they consider
7 something to be scrub brush or ornamental tree
8 or a shade tree?

9 A (Johnson) I would say not directly. However,
10 there will be construction outreach as we get
11 further into the design effort that will discuss
12 or show potential impacts.

13 Q Assume that the outreach is done and the
14 landowner says that scrub brush is not scrub
15 brush. That's an ornamental tree, and I don't
16 want it removed.

17 A (Johnson) It would have to be evaluated on a
18 case-by-case basis.

19 Q Okay. What will the process be to evaluate
20 that?

21 A (Johnson) Are there alternatives of design where
22 we can potentially come up with an Exception
23 Request to go back into the road? Would the
24 DOT, understand the merit of that or evaluate

1 the merit of that?

2 Q All right. Do you know at this point who
3 statutorily has jurisdiction to determine
4 whether or not that tree gets removed or that
5 scrub brush gets removed, assuming that the
6 landowner objects? And the question is do you
7 know.

8 A (Johnson) I'm assuming the SEC does as part of
9 this process by approving the plans or by
10 delegating that authority to the DOT.

11 Q I'm going to end my questioning here, and by
12 ending it, I don't want you to assume I agree
13 with your response, but I understand it. Thank
14 you.

15 COMMISSIONER BAILEY: Thank you, Mr. Baker.
16 I understand, Ms. Fillmore, you don't have any
17 questions; is that correct? Thank you.
18 Ms. Saffo, you're up next.

19 MS. SAFFO: If we can have the ELMO turned
20 on, please?

21 MS. GAGNON: The ELMO is on.

22 (Discussion off the record)

23 COMMISSIONER BAILEY: Why don't we take a
24 ten-minute break now.

1 (Recess taken 10:23 - 10:38 a.m.)

2 COMMISSIONER BAILEY: Are you ready,

3 Ms. Saffo?

4 MS. SAFFO: I am. Thank you.

5 COMMISSIONER BAILEY: All right. You may
6 proceed.

7 **CROSS-EXAMINATION**

8 **BY MS. SAFFO:**

9 Q Good morning. I'm starting with Grafton Exhibit
10 now 43 which is 65 pages of the surveys. Do you
11 recognize at least the top page of that?

12 A (Johnson) Not a specific location, but, yes,
13 it's part of the survey report.

14 Q Okay. Thank you.

15 MR. IACOPINO: Did you say 43?

16 MS. SAFFO: Let me double-check. Yes.

17 Grafton 43.

18 **BY MS. SAFFO:**

19 Q And we all agreed that now you're redoing these
20 documents, correct? The surveys?

21 A (Johnson) Correct.

22 Q And so these are no longer accurate, correct?

23 A (Bowes) No. I don't believe that's correct.

24 Q Okay. So if these are accurate, why are you

1 redoing them?

2 A (Bowes) Do you want me to repeat what we went
3 over on Friday?

4 Q No, I understand, but for the purpose of lining
5 this question so we know where the next set of
6 question is going, fair to say you're redoing
7 them to confirm the centerline, correct?

8 A (Bowes) No.

9 Q Are the easements accurately noted on these
10 document, these 65 pages?

11 A (Bowes) Which easements?

12 Q The easement that you claim that you're able to,
13 whatever word you use, that you claim you're
14 able to construct on.

15 A (Bowes) Do you mean the DOT right-of-way?

16 Q Yes.

17 A (Bowes) So I think in most locations it is
18 accurate. We've been asked to provide
19 additional details including all the underlying
20 supporting documents.

21 Q So you're maintaining that what you have listed
22 on these documents as the DOT, I'll call it the
23 DOT right-of-way, my understanding is it's a
24 road prescriptive easement, but I'll put that

1 aside or the different kinds of easements, but
2 your understanding is that's accurately
3 reflected in this document?

4 A (Bowes) Yes, I think for the most part.

5 Q Okay. And, for example, for Route 116, you
6 primarily used a four-rod layout, correct?

7 A (Johnson) Correct.

8 Q Okay. And Mr. Palmer showed you a document
9 outlining a three-rod layout on Friday, correct?

10 A (Johnson) Correct.

11 Q And you'll look at that document in the future?

12 A (Johnson) Absolutely.

13 Q Okay. Now, in any event though, we're starting
14 the survey process, and it won't be ready for 6
15 to 8 weeks, correct?

16 A (Johnson) Five to 7 now but yes.

17 Q In the meantime, so your work with DOT is in
18 abeyance, correct?

19 A (Johnson) No. We continue to meet with the DOT
20 on a monthly basis and continue to have
21 discussions with them. They are reviewing a
22 document, the draft survey plan, if you will,
23 today, and we expect correspondence from them by
24 the end of today or tomorrow.

1 Q But you won't have the survey ready for 5 to 7
2 weeks, correct?

3 A (Johnson) Correct.

4 Q Okay. Exhibit 44.

5 Now, I'm now showing you what is known as
6 Grafton 44 which is the Conference Report from
7 the September 19th, 2017, minutes. Do you see
8 that?

9 A (Johnson) I do.

10 Q Were you present for that?

11 A (Johnson) I was.

12 Q Okay. And one of the things that it noted, I
13 put an arrow where I'm reading from, is using
14 existing and new research, right-of-way plans
15 will show a geometrically correct survey
16 centerline with stationing. The resulting
17 right-of-way determination from the research,
18 the station and offset to recovered monuments
19 and key right-of-way points and annotation of
20 the right-of-way basis with layout and record
21 plans used. Correct?

22 A (Johnson) Correct.

23 Q And the right-of-way survey plans will show
24 discrepancies between established right-of-way

1 location and other survey records such as deed
2 information to provide clarification if there
3 are questions between documents, correct?

4 A (Johnson) Correct.

5 Q And a survey report addendum would then be
6 issued explaining the process and providing the
7 above revised right-of-way plans, correct?

8 A (Johnson) Correct.

9 Q And when you complete that, will you be mailing
10 it to the individual landowners along the way as
11 part of your outreach?

12 A (Bowes) I don't believe so, no.

13 Q And why wouldn't you do that?

14 A (Bowes) It's the first request we've had for it.

15 Q Okay. So as the Grafton County Commissioners, I
16 would like to request that you mail those to all
17 the affected landowners along the way so the
18 Grafton County citizens are aware of what you're
19 claiming to be an ability to construct on land
20 that they may think is theirs. Can you consider
21 that as a request and do that?

22 A (Bowes) So I would consider it after the DOT
23 makes their determination.

24 Q And why wouldn't you want to tell these

1 landowners before DOT makes their determination
2 about what you're claiming is your ability to
3 impact their private property?

4 A (Bowes) I guess I would like to see the DOT's
5 records in confirmation of our survey. They
6 actually have the responsibility to determine
7 the DOT right-of-way, not the Applicant.

8 Q Well, yes, but the private landowners have a
9 right to look at what people are claiming is the
10 ability to dramatically impact their property,
11 correct?

12 A (Bowes) I don't know where that right exists.

13 Q Well, if we look at, this would be Grafton 32.

14 MR. IACOPINO: Before you go to them, can I
15 just ask a question, Ms. Saffo. This exhibit
16 that is on the screen right now is Exhibit 44?

17 MS. SAFFO: Yes. Grafton 44.

18 MR. IACOPINO: Is the report that last week
19 you gentlemen said you had not seen yet?

20 A (Johnson) Correct. It was published late on
21 Friday afternoon.

22 MR. IACOPINO: Okay. But you have seen it?

23 A (Johnson) I read it over the weekend, yes.

24 MR. IACOPINO: Thank you. Okay.

1 MS. SAFFO: I obtained it from the website,
2 the DOT Northern Pass website.

3 MR. IACOPINO: Thank you.

4 BY MS. SAFFO:

5 Q So this is the Declaration of Purpose for New
6 Hampshire RSA 162-H:1. And it says, "The
7 legislature recognizes that selection of sites
8 for energy facilities may have significant
9 impacts on and benefits to the following." And
10 the second one in is private property, correct?
11 It starts with welfare of the population? And
12 the very next one is private property?

13 A (Bowes) Yes.

14 Q So certainly the impacts on private property is
15 something this Committee wants to hear about,
16 correct?

17 A (Bowes) I don't know this document. It's the
18 first time I've ever seen it so I don't know if
19 it delegates jurisdictional responsibility to
20 the SEC or not.

21 Q I don't think it's the first time you've seen it
22 because I used it as Grafton 32, and we
23 discussed it during the last time I was in front
24 of this Panel, but this is New Hampshire law of

1 the SEC.

2 A (Bowes) Fine.

3 Q So fair to say, though, it starts out by saying
4 the, well, I won't re-read it. It speaks for
5 itself, correct?

6 A (Bowes) I don't know what you want me to say.

7 Q Okay. So do you in looking at this statute
8 think private property is an important
9 consideration for the Site Evaluation Committee?

10 A (Bowes) Yes.

11 Q And do you think every private property owner
12 along the 52 miles in Grafton County are aware
13 of what you think DOT has the right to authorize
14 you to do?

15 A (Bowes) I can't answer what every property owner
16 along the route, what their thoughts are.

17 Q Okay. So doesn't it seem prudent that what you
18 claim before DOT approves it should be shown as
19 part of your outreach, as part of this wonderful
20 outreach to the landowners so the landowners can
21 give comment if they have any information to
22 share?

23 A (Bowes) They can certainly share that
24 information with us today. They would have done

1 outreach to them. If they have records, as I
2 think Mr. Palmer shared with us, we'd certainly
3 welcome that as part our design.

4 Q Mr. Bowes, last time I was with you we talked
5 about the outreach to the citizens who did
6 respond to your letter, didn't we?

7 A (Bowes) We may have.

8 Q Well, we did. And what we talked about was how
9 some citizens did respond to your letters. In
10 case you don't recall what you said last time,
11 do you recall that some citizens did respond to
12 your letters, correct?

13 A (Bowes) Yes.

14 Q And you met with those citizens, correct?

15 A (Bowes) Some of them I'm sure we did.

16 Q And some of them when you met with them when
17 this Project began, fair to say you told them
18 that the Project would be under the roadway,
19 correct?

20 A (Bowes) Probably, yes.

21 Q And so they were under the impression that the
22 Project was under the roadway, correct?

23 A (Bowes) We discussed this quite extensively on
24 Friday as well.

1 Q Um-hum. No, I know. I spoke to people to make
2 sure -- never mind. Okay.

3 Now, the accurate, an accurate centerline
4 is vital, correct? We can agree on that?

5 A (Bowes) Certainly.

6 Q And it's particularly vital because regardless
7 of what people think is the appropriate layout
8 of the road, in many cases you count from the
9 centerline how many feet you can go over,
10 correct?

11 A (Bowes) Go over for what?

12 Q Well, for the, like, for example, if you're
13 claiming a four-rod layout, you use the
14 centerline as your starting point of reference,
15 correct?

16 A (Bowes) I would say we'd use the outside as our
17 starting point of reference.

18 Q The outside of what?

19 A (Bowes) Outside of the right-of-way.

20 Q Okay. So how do you determine the outside of
21 the right-of-way?

22 A (Bowes) Based upon the survey and the property
23 records.

24 Q And what does the survey in the property records

1 use as their starting point of reference?

2 A (Bowes) The historic documents that are
3 available. The DOT plans.

4 Q Okay. Fair to say the right-of-way is a
5 reasonable detail to have accurate, correct?

6 A (Bowes) Yes.

7 Q Fair to say a centerline is a reasonable detail
8 to have accurate, correct?

9 A (Bowes) I've already responded yes to that.

10 Q Now, turning to the right-of-way plans, is it
11 accurate to say that the Northern Pass is
12 proposing that New Hampshire DOT right-of-way
13 plans, applicable Commissioner's return of
14 layouts, historic layout records, current
15 landowner deed references to monuments, and
16 other record plans referenced in the deeds would
17 be used to establish the right-of-way?

18 A (Bowes) Yes. Mr. Johnson covered that
19 extensively on Friday.

20 Q And reading from the September minutes, revised
21 right-of-way survey plans will be submitted in
22 segments for the Department review through Ms.
23 Estaburg with copies to the Bureau of Right of
24 Way; is that still correct?

1 A (Johnson) Correct.

2 Q And the Northern Pass will highlight or note
3 areas of concern for more detailed Department
4 review, correct?

5 A (Johnson) Correct.

6 Q And the Department anticipates 1 to 2 weeks to
7 review a segment. That's your understanding of
8 what they told you at the meeting?

9 A (Johnson) Correct.

10 Q So how many segments do you anticipate?

11 A (Johnson) Upwards of 12.

12 Q So it's 5 to 7 weeks to get them the survey
13 plans, and then if there's 12 segments, between
14 12 and 24 weeks for DOT to review those
15 segments, correct?

16 A (Johnson) Correct.

17 Q So that would put us, so we're October 1st now,
18 to the end of January, correct? That's
19 conservatively because that's if we're just
20 saying 12 weeks instead of the 24 weeks to
21 review.

22 A (Johnson) So the submittal process will occur on
23 a rolling basis as the survey information comes
24 in from the field. So the first submittal is

1 expected to be next week for this segment
2 review.

3 Q So if the first segment's available for review
4 next week, can you post that on the Northern
5 Pass site for all of us to review it?

6 A (Johnson) Possibly, yes. I don't see why not.
7 The DOT is going to post it to their website as
8 they do --

9 Q Next week the first week will be posted?

10 A (Johnson) As they do for all submittals, yes.

11 Q Then if we start getting them next week, we're
12 looking at 12 to 24 weeks from next week to get
13 through all these documents, correct?

14 A (Johnson) Which would put us into the December,
15 yes.

16 Q End of December because October, November,
17 December, if we're at the one-week mark, not if
18 we're at the two week mark, correct?

19 A (Johnson) Correct.

20 Q And if it takes two weeks, we're all the way
21 into the end of March, correct?

22 A (Johnson) If they take two weeks, yes.

23 Q So as each segment becomes available, as part of
24 your outreach can you mail it to the landowners

1 so they can review it?

2 A (Bowes) I think you've already asked us that and
3 we said we'd consider that.

4 Q I'm trying to get a sense of the public outreach
5 because it's something that Northern Pass
6 Transmission is wanting the people along the
7 underground route to rely on. So that's why
8 this is an important question. I'm being told
9 maybe. Is there any reason why you can't
10 provide an answer to that?

11 A (Bowes) I think I have answered.

12 Q You've answered maybe.

13 A (Bowes) I've answered we'd consider that.

14 Q You'd consider it.

15 A (Bowes) After the DOT has ruled on it.

16 Q So you want the DOT to rule on it with your
17 input but not the landowners' input?

18 A (Bowes) I think I've answered that as well. We
19 welcome the landowners' input.

20 Q So you want the landowners to give you input and
21 then you'll take the landowners' input into
22 account, you'll decide how to put it in the
23 report to DOT, and then DOT would make a
24 determination on your report without the

1 landowners' direct input?

2 MR. NEEDLEMAN: Objection. This has been
3 asked and answered, and these are also public
4 documents that anyone can review and anyone can
5 comment on.

6 COMMISSIONER BAILEY: Ms. Saffo?

7 MS. SAFFO: I don't think it's asked or
8 answered because, quite frankly, there is
9 probably 70,000 pages of public documents, and
10 to expect a citizen along a road for 52 miles to
11 be able to wade through all this information and
12 find a document that is vital to their
13 particular land when we're being told public
14 outreach is a vital part of this process, I
15 think the question is fair and needs to be asked
16 and answered as opposed to we've already
17 answered it.

18 COMMISSIONER BAILEY: Are you asking them
19 if they would provide a copy of the documents on
20 a specific property owner's, the document that
21 applies to the specific property owner to the
22 property owner?

23 MS. SAFFO: Exactly. I think segment 1
24 should go to the segment 1 property owners.

1 Segment 2 can go to the segment 2 property
2 owners.

3 COMMISSIONER BAILEY: Did you understand
4 that was the question?

5 A (Bowes) Well, she added a whole bunch of other
6 things in that question of what we should be
7 doing.

8 COMMISSIONER BAILEY: Why don't you try to
9 rephrase it.

10 BY MS. SAFFO:

11 Q Can Northern Pass provide the segment 1
12 documents to the segment 1 landowners when you
13 submit it to DOT?

14 A (Bowes) I said we would consider providing it to
15 the landowners once DOT has ruled on it.

16 Q And why do you want to have DOT rule on it
17 without the public's input first?

18 A (Bowes) I didn't say that.

19 Q Why would you agree to a process that would have
20 DOT rendering a decision before the public knows
21 that this document is out there about their
22 personal property?

23 A (Bowes) I didn't say that either.

24 Q Okay. Why are you only considering this request

1 instead of doing it?

2 A (Bowes) Because I don't know the scope and scale
3 of the request yet.

4 Q The scope and scale of the request is when you
5 create a survey for DOT for segment 1, please
6 mail it to the people along segment 1.

7 A (Bowes) I don't understand what the requirements
8 to do that would be so that's why I say we would
9 consider it. I said we'd consider it after the
10 DOT has ruled on it.

11 Q So I'm not talking about legal requirements.
12 I'm talking about just as part of your public
13 outreach. Why wouldn't you mail a copy of what
14 you consider to be the segment 1 accurate
15 right-of-way survey to the individuals on the
16 segment 1 right-of-way survey as part of your
17 public outreach so those citizens, if they have
18 additional information for DOT to consider, can
19 provide it to DOT for their consideration prior
20 to DOT making their decision?

21 A (Bowes) So I would say same as I've said in the
22 past. I said we would consider it. And there's
23 nothing preventing those private citizens from
24 providing either the Applicant, or if they

1 choose not to provide it to us, to provide that
2 information to DOT today.

3 Q But you're in charge of public outreach, and
4 you're the one who's talking about your goals to
5 do public outreach.

6 A (Bowes) I haven't talked about public outreach
7 as part of this testimony this morning.

8 Q Okay. So now when you submitted your
9 Application, the design plan submitted had no
10 impact on adjoining landowners because the plan
11 was to put the lines under the roadway, correct?
12 I know this is asked and answered. I'm trying
13 to get through this quickly.

14 A (Bowes) So we covered this extensively with
15 other questioners on Friday.

16 Q I know.

17 A (Bowes) Would you like me to repeat the answer?

18 Q Yes.

19 A (Bowes) What was the question? Have we thought
20 that, the original plan showed much of the
21 alignment within the roadway. That is correct.

22 Q And when you had your community outreach and you
23 talked to the people who responded to your
24 letters, you didn't say it was up in the air.

1 You said this was the plan, correct?

2 A (Bowes) So we covered this on Friday. Would you
3 like me to repeat the answer?

4 Q Yes. I would.

5 COMMISSIONER BAILEY: Just so yes or no,
6 please.

7 A (Bowes) So we showed plans that had it within
8 the roadway.

9 Q And so it's fair to say you submitted plans for
10 52 miles that you knew violated the UAM,
11 Utilities Accommodation Manual.

12 A (Bowes) On Friday we talked at length about a
13 letter that went to the DOT Commissioner in
14 October of 2015.

15 Q Yes.

16 A (Bowes) That outlined our concerns and a general
17 Exception Request to the Utility Accommodation
18 Manual. It was filed as part of our Application
19 to the SEC. I believe it's Appendix Number 9.

20 Q Yes. And the 30,000 pages in your Application,
21 correct, and that's the document in front of you
22 right now?

23 A (Bowes) I don't know how many pages that were
24 part of the Application, but it definitely was

1 part of the Application.

2 Q That number, the number on the bottom here, do
3 you recognize that number, the Bate number right
4 here?

5 A (Bowes) I do not.

6 Q So NPT for Northern Pass Transmission, DIS
7 30067.

8 A (Bowes) It wasn't on the version I was looking
9 at.

10 Q And this issue wasn't resolved before filing the
11 Application, and it's still not resolved now,
12 correct?

13 A (Bowes) Which issue is that?

14 Q That what exception, where you're going to
15 exactly bury the line, where you're digging the
16 hole.

17 A (Bowes) So, again, along the underground route
18 portion?

19 Q Yes.

20 A (Bowes) So we have filed plans with the DOT,
21 we're working through an iterative process with
22 Exception Requests to satisfy both the Utility
23 Accommodation Manual and any environmental or
24 aesthetic impacts that would impact the Project.

1 Q And iterative, that's moving forward towards the
2 goal, correct?

3 A Yes, to get issued for construction and final
4 design, and then ultimately and final as-built
5 design because changes will occur during
6 construction as well.

7 Q And you filed the over 100 Exceptions last
8 summer, correct?

9 A (Bowes) So I believe it was done since the April
10 letter from the DOT listing the requirements,
11 and we talked about this on Friday. I think
12 there's been a total of 188 depending on how you
13 count them.

14 Q And now you've pulled those 188 Exceptions,
15 correct?

16 A (Bowes) So we had a chart on Friday that went
17 through the status of each one of them.

18 Q I have the chart.

19 A (Bowes) So many have been approved. Many
20 require additional information for submittal.
21 And at this point, we have stopped the process
22 to allow the DOT survey to continue and complete
23 first.

24 Q And when you say many -- it was answered on

1 Friday. Never mind. Okay. Now, that is an
2 important point because I'd like to switch over
3 to the computer screen, please.

4 So I'll represent that this is Google maps,
5 okay, so it's like Google maps that anybody can
6 pull up on the internet, and we tried to outline
7 the various Exceptions as they impacted Grafton
8 County, and using our best ability which was
9 generally a road, street number, marked all the
10 different Exceptions, correct? Well, you can't
11 say exactly what this is. So I appreciate the
12 Exceptions and appreciate trying to track them
13 and that's part of the reason why we're back
14 here today, correct?

15 A (Bowes) I think it was for other reasons. I
16 don't think it's to track the Exception
17 Requests.

18 Q I'd like to go up to, for example, just take 125
19 as an example. While that's being called up, if
20 you're a landowner and there's an Exception
21 Request on your property or near your property,
22 you're at least an adjoining landowner, do you
23 think it's important for that landowner to know
24 about this Exception Request involving their

1 land?

2 A (Bowes) I think once the final design is
3 complete, yes.

4 Q So as part of your outreach to the public, you
5 don't want them to be able to provide their
6 input before the final design is created,
7 correct?

8 A (Bowes) I know we've covered this a couple times
9 already. We'll welcome their input, and they
10 can go, either go to us. If they choose not to,
11 they can go directly to the DOT.

12 Q And as part of soliciting their input that you
13 welcome so much, have you sent the people who
14 have one of these 188 Exceptions involving their
15 property, have you sent them a copy of the
16 Exception?

17 A (Bowes) Not until they're ruled upon. We have
18 not.

19 Q So you want them to be ruled upon and a final
20 decision to be made before the public has an
21 opportunity to provide input on it.

22 A (Bowes) I didn't say that.

23 Q You expect the public to weed through 188
24 Exceptions to see if their land is somehow

1 involved in the process on their own accord,
2 correct?

3 A (Bowes) I didn't say that either.

4 Q How else would you expect the public to learn
5 that there's an exception involving land that
6 involves them?

7 A (Bowes) So they can reach out to the Project at
8 any time.

9 Q So how do you expect them to know? You expect
10 them to call you and ask you?

11 A (Bowes) I didn't say that.

12 Q You said they could reach out to the Project at
13 any time, correct?

14 A (Bowes) Yes.

15 Q And citizens did that, correct?

16 A (Bowes) Yes.

17 Q And when they reached out to you --

18 A (Bowes) And continue to do so.

19 Q When the citizens reached out to you and you
20 told them that it was under the roadway, how do
21 you expect them to know to keep reaching back
22 out to you to say oh, was what you told us
23 before still correct?

24 A (Bowes) Most of the Exception Requests deal or

1 discuss going back into the roadway.

2 Q I realize that. But it also meant that if the
3 exception isn't granted, they're going back out
4 of the roadway and that would be into somebody's
5 adjoining land, correct?

6 A (Bowes) Not necessarily.

7 Q Of all These 188 Exceptions, if you're not
8 granted the exception, is a possibility going
9 into the adjoining landowners' land?

10 A (Bowes) Within the DOT right-of-way on the
11 shoulder, in the ditch line, yes.

12 Q So again, in the beginning people reached out to
13 you which is what you're saying they need to do,
14 correct?

15 A (Bowes) I understand the question. I believe
16 I've answered this question.

17 Q I don't believe you have in the context of the
18 Exceptions. So people have reached out to you,
19 you told them information which is that it would
20 be under the road and not to worry about their
21 land, correct?

22 A (Bowes) Let's use a specific example. Not a
23 hypothetical. Is there a specific land owner we
24 can talk through?

1 Q I don't want to put any individual landowners on
2 the front line on this, but you have told me the
3 last time you testified that Northern Pass did
4 tell landowners not to worry, it was under the
5 road. That's what you said to them when they
6 reached out to you and when they asked about
7 their private property. They were told it was
8 going under the road.

9 A (Bowes) So I agree with the last part of your
10 statement but not the first part.

11 Q Okay. Do you agree that landowners reached
12 out -- we're going to take it again one step at
13 a time. Do you agree that landowners reached
14 out to you in response to your letters?

15 A Some did, yes.

16 Q And of the some, do you agree that you told them
17 it was going to be under the road?

18 A (Bowes) At the time when we talked with them,
19 the existing design as submitted to the DOT was
20 under the road.

21 Q Did you tell them that that existing design that
22 was submitted to DOT violated the Utilities
23 Accommodation Manual so you needed permission to
24 keep it under the road?

1 A (Bowes) I don't know if we did or not.

2 Q And then having had that conversation with them,
3 told them what the existing plans showed, which
4 was going to be under the road, having left that
5 conversation, walked away from that landowner,
6 when the plans changed, did you go back to those
7 people and tell them that you were not allowed
8 to go a hundred percent under the road?

9 A (Bowes) So we've had a very public process with
10 the DOT.

11 Q No. My question is not about your public
12 process. It's the people who reached out to you
13 who you met with who you told, gave information
14 to, did you go back to those people and explain
15 that the information you gave to them was no
16 longer accurate?

17 A (Bowes) I don't know.

18 Q Now, one area that's a significant project is
19 the microtunnel at Gale River, correct?

20 A (Bowes) I would say it's a significant part of
21 the Project.

22 Q Yes. And it's a significant Project in its own
23 accord, correct?

24 A (Bowes) Maybe you could better define what you

1 mean by a Project then.

2 Q Well, drilling under a major river is a
3 significant endeavor in a community, correct?

4 A (Bowes) Yes. I would agree with that.

5 Q Okay. Now, it initially started as an HDD and
6 then it became a microtunnel, correct?

7 A (Bowes) That is the latest design, yes,
8 submitted to the DOT.

9 Q And now we're being told that it might become an
10 HDD after all, correct?

11 A (Bowes) So our constructor and the DOT have had
12 conversations, and they believe they may have a
13 viable alternative. It has not been submitted
14 yet to the DOT.

15 Q Now, exactly what you do at that location,
16 that's a significant location to the town of
17 Franconia, correct? Will you agree to at least
18 that?

19 A (Bowes) I believe it is. Yes.

20 Q It's smack-dab in the middle of their downtown,
21 correct?

22 A (Bowes) So I think it's to the south of the
23 downtown area, but it's clearly a major
24 intersection within the town.

1 Q Right off the highway exit. So how long you're
2 there and what you do at that location impacts
3 the other concerns for the SEC, correct?

4 A (Bowes) Are you referring to traffic management?

5 Q Certainly traffic management. But also it would
6 impact the economics of the town of Franconia,
7 correct?

8 A (Bowes) I'm probably not the best witness to
9 answer that, but I could see how it might.

10 Q Okay. Now, I want to give you just an example.
11 I know you just had some so I don't want to
12 rehash what you had on Friday, but this is the
13 Exception Request for 125. Numbered 125. And
14 this is on Route 116. Do you recognize that
15 area at all?

16 A (Bowes) Generally, yes.

17 Q And so you have the entrance area. Which side
18 is the entrance area? The top of the screen or
19 the bottom of the screen?

20 A (Bowes) I'm sorry. The entrance area of the
21 roadway?

22 Q No, for the HDD pit.

23 A (Bowes) Hold on just a sec. We'll pull up the
24 Exception.

1 Q Thank you. I'll get it, too.

2 A (Bowes) So the entry for the HDD appears to be
3 the top right-hand corner in the exit on the
4 bottom or in the middle of the diagram.

5 Q Yes. And you need a particularly long HDD there
6 because water goes along the road there,
7 correct?

8 A (Bowes) Yes.

9 Q In fact, kind of a stream meanders along the
10 road kind of like the Pemi meanders along the
11 road. You can't tell on Google Earth right
12 there because the trees cover it, but I assume
13 your Exception Request notes the stream,
14 correct?

15 A (Bowes) It does.

16 Q And on one side you have a stream on the right
17 past a guardrail and then on other side it's a
18 pretty steep roadside, correct?

19 A (Bowes) Yes. We're looking on page 5 of 9, if
20 people are interested. It appears to the south,
21 and it drops off quite rapidly.

22 Q That's kind of one of those areas that like you
23 can't really go to one side or the other of the
24 road because you have a steep embankment on one

1 side and you have a stream on the other,
2 correct?

3 A (Bowes) Correct.

4 Q So how wide is the HDD entrance pit that you're
5 requesting?

6 A (Bowes) About four feet by four feet.

7 Q And then the exit area.

8 A (Bowes) It would be the same size. Four feet by
9 four feet.

10 Q And the length?

11 A (Bowes) I would say approximately 800 feet.

12 Q I'll let the Counsel for the Public point out
13 which exhibit it is on the record.

14 MR. PAPPAS: For the Committee's benefit
15 and everybody else, this is Counsel for the
16 Public's Exhibit 562 which is Exception Request
17 125.

18 BY MS. SAFFO:

19 Q Now, the construction area needed for the four
20 by four hole is what?

21 A (Bowes) The temporary work area for construction
22 is shown on page 9 of 9.

23 Q As what?

24 A (Bowes) It's a rectangular-shaped area.

1 Q About how big?

2 A (Bowes) Approximately 30 feet wide.

3 Q 30 feet wide by what?

4 A (Bowes) And about 330 feet long.

5 Q Okay. So you have to fit a 30-foot wide area on
6 this road that is, doesn't have 30 feet,
7 correct? You have to take down trees for the
8 construction area? Mature growth?

9 A (Bowes) We don't show any trees being removed at
10 this location.

11 Q Okay. So for the record, you're saying there is
12 30 feet by 300 feet available for construction
13 right there without removing any trees?

14 A (Bowes) So the plan shows on page 9 of 9 the
15 exact layout, and we don't show any trees being
16 removed there.

17 Q Okay. So if the road is 24 feet and there's
18 trees immediately on one side, where do you
19 expect the 30 feet to be?

20 A (Bowes) As shown on the diagram. We can bring
21 it up.

22 Q No. I've seen it. We actually have a picture
23 of it right now.

24 A (Bowes) Maybe we can show it and we can just

1 walk through it?

2 Q Okay. So you're saying for all the Exceptions
3 that you have right there, there is 30 feet at
4 that location without removing trees.

5 A (Bowes) Just speaking of the Exception Report
6 125.

7 Q Well, no. Well, I presume you're standing by
8 your Exception Report as being accurate.

9 A (Bowes) For 125?

10 Q Yes.

11 A (Bowes) I don't know if it's one that they've
12 asked for a resubmittal for more information or
13 not.

14 Q Okay. So is it fair to say that you might have
15 submitted it without noting mature tree growth
16 that would have to be removed to create a
17 30-foot work zone?

18 A (Bowes) It's possible, but like I say, it does
19 not show on this diagram.

20 Q Now, from the beginning, from the beginning the
21 Grafton County Commissioners simply asked for
22 details of the plans, correct? Is that your
23 understanding?

24 A (Bowes) If you have a document to refresh my

1 memory, I'll be glad to look at it.

2 Q Well, are you aware they attended public
3 hearings?

4 A (Bowes) Specifically, no.

5 Q I'm showing you what will be Grafton 47. I
6 apologize. This is a re-mark. It might have
7 been marked earlier, but if we could switch --
8 thank you.

9 These are the Interrogatories by the
10 Grafton County Commissioners, and this is the
11 very first request.

12 "Please provide any and all surveys, plans,
13 communications, and engineering documents
14 current at the time of the Applicant Response
15 which detail the planned specific path of the
16 buried lines in quantified relation to the
17 current road, sidewalks, and buildings
18 (including the location of the splice pits,
19 specific distances and depths of the line)
20 within Grafton County, including information
21 regarding the extent of interference with and
22 plans for mitigation of said interference with
23 existing infrastructure."

24 Do you see that?

1 A (Bowes) Yes.

2 Q And the last line, it is expected that the
3 detailed design will be completed by late 2016
4 or early 2017. Do you see that?

5 A (Bowes) I do.

6 Q Are you aware of the many pleadings where
7 Grafton County said let's suspend the process
8 until we get better plans? Has that been
9 brought to your attention?

10 A (Bowes) I know that I've seen one motion that
11 was filed that's the subject of why we're here
12 today.

13 Q Okay. And would it surprise you that prior to
14 that we said can we just hold things in abeyance
15 until we get better designs and as soon as we
16 get better designs we can start right up again?

17 MR. NEEDLEMAN: Objection. How does this
18 relate at all to the subject of the order
19 recalling these witnesses?

20 COMMISSIONER BAILEY: Ms. Saffo?

21 MS. SAFFO: I'm setting up the next
22 question which is how does the Grafton County
23 Commissioners evaluate the impact on the
24 communities if they don't know this information.

1 COMMISSIONER BAILEY: Why don't you just
2 ask that question.

3 BY MS. SAFFO:

4 Q So how does the Grafton County Commissioners
5 evaluate the impact on their communities if they
6 don't have a plan that shows them where things
7 are going to be buried?

8 A (Bowes) So we have submitted a plan that was
9 deemed complete by the SEC. We continue to work
10 with the DOT, receive their conditions. It will
11 be an iterative process as we go back and forth
12 dealing with Exceptions or, as I mentioned
13 before, when we find things during construction,
14 there will have to be modifications to the plan
15 made. Holding a certificate for final detailed
16 design engineering is not a part of the process
17 that I'm aware of in any state. It's not part
18 of the process here in New Hampshire either.

19 So going forward with an approval with a
20 layout is what's required in most jurisdictions,
21 and then you delegate that responsibility and,
22 obviously, in this case the New Hampshire DOT is
23 doing a very thorough job in reviewing our
24 plans, finding discrepancies, providing

1 solutions, that would ease both use of the road
2 as well as customer impacts. I think you can
3 rest assured that the New Hampshire DOT is doing
4 a thorough job in reviewing our plans.

5 Q So Grafton Exhibit 45, this is from the DOT
6 Northern Pass website, and, absolutely, I don't
7 think anybody would dispute that the DOT is
8 doing a good job getting through this material.
9 However, where I've underlined it, they write
10 their second role. The first is a member of the
11 Committee to decide whether or not a new energy
12 facility will be permitted. Do you see that?
13 And then it goes on to say the second role is as
14 a state agency that has permitting or other
15 regulatory authority but only, and please note
16 the word only there, as it relates to the
17 proposed Project and impacts to transportation
18 assets. Do you see that?

19 A (Bowes) Yes, I do.

20 Q And that makes sense. DOT does transportation.
21 That's their bailiwick. That's their expertise,
22 correct?

23 A (Bowes) Yes, it is.

24 Q But Northern Pass is so much more than

1 transportation, and I was going to say just
2 transportation, but transportation is a huge
3 deal, and an important deal so to put the word
4 just in front of it is not correct. Northern
5 Pass has to deal, the Site Evaluation Committee
6 has to deal with things that transportation
7 doesn't deal with. They have to deal with the
8 welfare of the population, correct?

9 MR. NEEDLEMAN: Objection. Same argument.
10 I don't see how this relates to the subject of
11 the recall.

12 COMMISSIONER BAILEY: Ms. Saffo?

13 MS. SAFFO: Yes. The subject of the recall
14 is the design keeps changing and the plans keep
15 changing and I've got the order. As I
16 understand it. Now we've got Exceptions but now
17 the Exceptions have been withdrawn, and then
18 we're told they're going to be redrafted and now
19 we're being told since the order was issued or
20 least since the motion was filed that the
21 surveys are going to be redone and the easements
22 are going to be redrafted. It is incredibly
23 important, and that's the whole point, is that
24 it looks like the plan is for there to be no

1 plan and then delegate it to one of the state
2 agencies as opposed to all of the agencies in
3 the Declaration of Purpose.

4 COMMISSIONER BAILEY: I think that's an
5 argument, and you can put that in your brief
6 when we get there.

7 MS. SAFFO: Okay.

8 COMMISSIONER BAILEY: So I guess the
9 objection is sustained.

10 MS. SAFFO: I'll move on. You've gotten me
11 to speak and I'll move on.

12 BY MS. SAFFO:

13 Q Do you have a plan for how DOT is going to
14 evaluate aesthetics of your designs as they
15 develop?

16 A (Bowes) So just so I understand the question, do
17 we have a plan for how the DOT will do
18 something?

19 Q Yes.

20 A (Bowes) No. We do not.

21 Q Do you have a plan for what kind of information
22 you plan on submitting to DOT about aesthetics?

23 A (Bowes) So we agreed on Friday that we would
24 submit Exception Requests for the portion of the

1 highway that was scenic, cultural highways, as
2 well as approximately less than one mile where
3 it's not. We're going to treat the highways for
4 the underground portion in the same manner for
5 the DOT roads, and we would be submitting
6 Exception Requests that deal with mature trees.

7 Q And do you have a plan for how you're going to
8 protect private, how you're going to give DOT
9 information about private property rights when
10 you submit information to them as part of this
11 process?

12 A (Bowes) Yes. That's the protocol that Mr.
13 Johnson talked about that we expect to get from
14 the DOT in the next few days.

15 Q Which is you tell -- never mind. Strike that.

16 Do you expect DOT to raise as part of its
17 approval process down the road aesthetic
18 concerns, private property concerns, overall
19 economic concerns, historic site concerns and
20 water quality concerns?

21 A (Bowes) Some of them, yes.

22 Q Some of them no?

23 A (Bowes) Some of them I'm not sure it's their
24 responsibility.

1 Q So which of those would you, and you can look at
2 the Declaration of Purpose for a list. Which
3 one of those would not be their responsibility?

4 A (Bowes) So I think most of the environmental
5 discussion would take place if the Exception
6 Requests were not granted. And as I said, I
7 think the last time I spoke there may be some
8 discussions jointly with New Hampshire DES and
9 New Hampshire DOT to reconcile what we believe
10 would be differences between the permit
11 requirements.

12 Q Okay. So that takes care of transportation,
13 environment. What about welfare of the
14 population?

15 MR. NEEDLEMAN: Objection. This calls for
16 a legal conclusion.

17 MS. SAFFO: No, it doesn't. It's their
18 opinion as the people heading construction,
19 submitting plans in this process that they keep
20 saying is iterative, that is entirely what
21 they're doing.

22 MR. NEEDLEMAN: I disagree. Asking these
23 witnesses how the SEC intends to implement
24 portions of the Declaration of Purpose of the

1 statute is the essence of a legal conclusion.

2 MS. SAFFO: I'm not asking him what the SEC
3 is going to do, and I'm not asking him what DOT
4 is going to do. I'm asking him what information
5 is he going to provide and who does he expect to
6 be watching out for these interests.

7 COMMISSIONER BAILEY: That's a fair
8 question. You can answer it.

9 A (Bowes) So I think the original was originally
10 around welfare of the population.

11 Q Um-hum.

12 A (Bowes) I think DOT has that, based on the
13 experience I've had both in this state and other
14 states. I believe that's their primary focus is
15 the safe, safety of the public, the welfare of
16 the public when they're using the transportation
17 facilities as we have asked to do for the
18 underground portion of this line. So I think
19 there's complete alignment between the Project
20 and the DOT on welfare for the population.

21 Q Well, this doesn't say welfare of the population
22 as it relates to transportation only, does it?

23 A Again, I don't think it does, but I'm not sure
24 what the legislature's intent was.

1 Q Who do you think is going to protect the private
2 property interests as this process goes forward
3 if the SEC fully delegates --

4 MR. NEEDLEMAN: Same objection.

5 COMMISSIONER BAILEY: Yes. I thought the
6 question was what did you provide to the DOT or
7 what will you provide to DOT.

8 MS. SAFFO: I apologize. If you can read
9 back my last question. What will you provide to
10 DOT.

11 COMMISSIONER BAILEY: The question that was
12 asked before I ruled on the last objection.

13 COURT REPORTER: I'm not asking him what
14 the SEC is going to do, and I'm not asking him
15 what DOT is going to do. I'm asking him what
16 information is he going to provide and who does
17 he expect to be watching out for these
18 interests. And you said that's a fair question.
19 You can answer it.

20 COMMISSIONER BAILEY: What information are
21 you going to provide to DOT with respect to
22 these issues listed in this part of the statute?

23 A (Bowes) Okay. So for welfare of the population,
24 we will prepare a Traffic Management Plan or

1 equivalent and submit that to make sure that
2 during construction, we're protecting the public
3 in accordance with their requirements. For the
4 design itself, we'll make sure it meets all of
5 the requirements of the applicable standards and
6 codes; whether it's, again, a highway crossing
7 for the overheard portion or whether it's an
8 underground alignment next to or within the
9 roadway itself. For private property, the DOT
10 has asked us to provide a survey to submit for
11 their review and approval. That's how we'll
12 protect private property rights as far as the
13 design goes.

14 During construction, we'll have a
15 construction management process that will
16 respect the individual's property and as stated
17 in the letter we've sent to property owners, to
18 try to restore their property to a better
19 condition than when we found it. The location
20 and growth of industry is probably a question
21 better for another witness than for this Panel.

22 The overall economic growth of the state,
23 you know, we've touched on that very briefly
24 with this Panel. Talking about the number of

1 construction jobs and the type of construction
2 jobs that would be created. So that's probably
3 the only role that we could speak to with this
4 Panel. Environment of the state, we've talked
5 about that balance of keeping things, whether
6 it's on the overhead portion of the
7 right-of-way, making the right-of-way as narrow
8 as possible by our designs, including using a
9 V-string design, a certain voltage, using a type
10 of technology that is different than other HVDC
11 systems that, again, limits both structure
12 height and width of the right-of-way.

13 For the underground portions, we've talked
14 about trying to maintain in disturbed soil areas
15 when we do our construction and minimize
16 disturbance to soils that have not been
17 previously disturbed. Sometimes that's
18 associated with being in the roadway or adjacent
19 to the roadway. And I spoke of that process
20 that we may use to resolve conflicts between
21 Permit Applications with the New Hampshire DES
22 and New Hampshire DOT.

23 The historic sites, I think we've asked for
24 Exceptions and will ask for Exceptions for the

1 underground route if we're too close to an
2 obstruction. We spoke on Friday of some of the
3 barns, stone walls, things like that that we
4 would try to avoid, and we would use the
5 exception process to do that.

6 Aesthetics, we spoke a lot on Friday on the
7 underground portions of the line where we'd go
8 forward with a series of Exception Requests that
9 deal with taking of mature trees along the
10 underground route. And we would look for
11 potentially even conditions set forth by the SEC
12 that would limit taking of any trees along the
13 underground route.

14 The air and water quality we have some
15 significant requirements in the DES Application
16 for during construction where we have to
17 maintain water quality, stay within the permits.
18 Air quality, we've identified there are
19 temporary air quality impacts during
20 construction. What the nature of the generation
21 source as well will have significant benefits
22 for air quality for all of New England and
23 beyond.

24 The use of natural resources in much of the

1 Project is aligned along either existing
2 rights-of-way, about 100 miles, or 52 miles in
3 State roads and the 8 miles in the North Country
4 so another 160 miles in total is in areas that
5 have previously been disturbed or previously for
6 transmission line use.

7 Impact for natural resources, for example,
8 wetlands for this Project is very minimal.
9 About two and a half acres of permanent wetland
10 impact. So again, that's part of the natural
11 resources. We've gone forward with the National
12 Fish & Wildlife Foundation and identified
13 several species in New Hampshire where we're
14 providing grants to local universities and
15 nongovernment organizations.

16 Q Okay. You don't need to go into that at this
17 point.

18 MR. NEEDLEMAN: Wait. The witness should
19 be permitted to finish the answer.

20 Q That's okay.

21 COMMISSIONER BAILEY: Go ahead and finish.

22 A (Bowes) So in the public health and safety, we
23 are going to maintain all of our activities in
24 the design phase within the National Electric

1 Safety Code. The various FAA regulations for
2 the overhead portion of the line. We've
3 petitioned the FAA and got responses on those of
4 what we need to do for tower identification, for
5 example. All of our road crossings have gone
6 through the public utility process. Received
7 approval for those. Again, with a determination
8 that they will be safely installed. And we've
9 set forth a construction and maintenance plan
10 that will ensure the operation of the line over
11 its life maintained in accordance with
12 Eversource standards and industry best
13 practices.

14 Q Done?

15 A (Bowes) I am finished. Thank you.

16 Q And all of this has been done pertaining to the
17 52 miles in Grafton County with no assurances as
18 to exactly where the hole is going to be dug.

19 A (Bowes) I disagree with that statement.

20 Q Where is the hole going to be dug?

21 A (Bowes) So, again, I'm not sure what hole you're
22 talking about.

23 Q I'm talking about the line. Where you're
24 planning on burying the lines. You've

1 identified some HDD locations. You've
2 identified some splice vault locations. But
3 where this line is going to be buried,
4 landowners still don't know if it's going to be
5 on the right side of the road, or the left side
6 of the road, or even in the middle of the road.

7 A (Bowes) If you select a specific location, I
8 will tell you where it will be located. You're
9 dealing with hypotheticals that are just
10 misrepresenting what we've proposed in this
11 Project.

12 Q I have repeatedly asked if you're going to the
13 right side of the road or the left side of the
14 road and been told we don't know.

15 A (Bowes) Where would you like to know?

16 Q For the record, Exhibit NAPOBP 32. 979 Easton
17 Valley Road.

18 A (Bowes) We'll be in the roadway here to the
19 right of the white line.

20 Q You'll be in the road.

21 A (Bowes) Yes.

22 Q Have you gotten the approval of that?

23 A (Bowes) We have not got a final design approved
24 at this point. That will come with the final

1 design approval.

2 Q Exactly. You're hoping to be in the road.

3 A (Bowes) I did not say that.

4 Q Well, you haven't gotten design approval.

5 A (Bowes) That is correct.

6 Q 1372 Easton Valley Road.

7 A (Bowes) So in this location we are proposing a
8 splice vault in the previously disturbed area in
9 front of the Franconia Inn. We have had
10 outreach to the Franconia Inn, and they have not
11 responded to us.

12 Q Have you mailed them the diagram of where you
13 want the splice vault to go?

14 A (Bowes) We have reached out both with mail and
15 telephone. I do not know what was included in
16 that correspondence.

17 Q Have you mailed them anything more than the
18 generic letter that you've sent to everybody?

19 A (Bowes) We have reached out to them, yes, by
20 telephone.

21 Q Have you mailed them a picture of the splice
22 vault that you plan on putting, NAPOBP 25, in
23 between their pool area and the Inn?

24 A (Bowes) Have we mailed them this diagram?

1 Q Yes.

2 A (Bowes) I do not know.

3 Q Have you given them any details?

4 A (Bowes) We've offered to, yes. If this is an
5 informal request to relocate the splice vault,
6 we will certainly consider that.

7 Q And where would you put it?

8 A (Bowes) We would have to evaluate where it would
9 go. It would go somewhere, a couple hundred
10 feet either to the north or to the south in this
11 location. Right now this is a very good
12 location to select because it's previously
13 disturbed soil. We can also work with this
14 commercial customer in a manner that suits their
15 needs as we have with many other customers in
16 the past that deal with the temporary impacts
17 that they will face.

18 Q Another splice vault location. Tamarack Tennis
19 Camp. Have you reached out to Tamarack Tennis
20 Camp and sent them the design of what you want
21 to do on their property?

22 A (Bowes) So what I would say, no, I don't know if
23 we have or not, what the actual design is. We
24 spoke quite a bit about this barn location on

1 Friday.

2 Q I know.

3 A (Bowes) The representation you have on B is not
4 correct.

5 Q The representation on A?

6 A (Bowes) Nor is A correct.

7 Q It's correct in that adjacent to the road there
8 is going to be a long hole, correct?

9 A (Bowes) But it's not represented properly and
10 there's not two splice vaults going at this
11 location.

12 Q And that was from the beginning it was
13 represented that this would be a one splice
14 vault location. So the hole, where do you
15 expect to go in reference to the white line?

16 A (Bowes) So at this location, it would be
17 approximately 14 feet in total, and it would be
18 not directly in front of the barn, but it would
19 be relocated closer to where it says "splice
20 vault."

21 Q But then the actual hole for the trench would
22 continue down the road, correct?

23 A (Bowes) It would be off-road, I believe, in this
24 location as you tried to represent in section A

1 above.

2 Q And you talked about the Traffic Management
3 Plan. Ms. Farrington. Fair to say that
4 depending on whether, fair to say when you spoke
5 last time you didn't have a traffic management
6 plan for 116 or 112 that would involve diverting
7 the traffic around it, correct?

8 MR. NEEDLEMAN: Objection. How does this
9 relate to the subject of the recall?

10 Q I'll go to the next question. How many
11 construction teams do you anticipate having in
12 Grafton County on the underground route at any
13 given time once construction begins?

14 MR. NEEDLEMAN: Same objection.

15 COMMISSIONER BAILEY: How does this relate
16 to why the Panel was called back today.

17 MS. SAFFO: Because once again it goes into
18 the fact that these design plans keep changing
19 and they keep modifying, and whether, for
20 example, you have a microtunnel or an HDD or
21 exactly where you're going to be putting these
22 particular vaults impacts the time frame work is
23 going to take. That impacts the time frame that
24 in turn impacts the economic development of the

1 region. When they're going to be doing this,
2 when they plan on doing it, and the fact that we
3 don't have a plan yet and we have rolling
4 Exceptions shows we don't know the answers to
5 those questions.

6 COMMISSIONER BAILEY: I think you need to
7 ask him about a specific location where there's
8 an Exception Request.

9 MS. SAFFO: Okay.

10 BY MS. SAFFO:

11 Q Can we switch back to the screen? Thank you.

12 While we're doing that, so the 52 miles and
13 some of these exception areas that you're
14 requesting, you're going beyond the areas
15 previously disturbed, correct?

16 A (Bowes) For the Exception Requests, I don't
17 believe so.

18 Q So the purpose of the Exception Requests is to
19 try not to go beyond the areas previously
20 disturbed, correct?

21 A (Bowes) Or to go back within the pavement area,
22 yes.

23 Q So if these Exception Requests are denied, then
24 you are going to be going into areas that have

1 not been previously disturbed, correct?

2 A (Bowes) It's possible because, again, we're
3 planning to go in the shoulder or the ditch
4 line. If we go outside of the ditch line, I
5 would agree with that.

6 Q Okay. And, for example, in looking at 125,
7 which we were looking at before, and for any of
8 the HDD Exception Requests, you admit you need a
9 staging area of 30 feet wide, correct?

10 A (Bowes) In general, yes.

11 Q So if you're not in the road, you're outside of
12 the road, correct?

13 A (Bowes) Yes.

14 Q And if either that area was previously disturbed
15 in which case it's most likely somebody's yard
16 or a driveway or something, correct?

17 A (Bowes) In this case, maybe we should speak to
18 this one?

19 Q Yes.

20 A (Bowes) In this case we're not impacting any
21 driveways.

22 Q No, you're not impacting any driveways, but you
23 still have to find 30 feet without closing down
24 the entire road, correct?

1 A (Bowes) We don't plan to close the entire road,
2 and you are correct we would need 30 feet.

3 Q And so if right where 125 is there's a stream on
4 that side, then you can't impact the stream,
5 correct?

6 A (Bowes) As the design shows, we would not impact
7 the stream.

8 Q So then you have to go into the road further
9 than the width of the road, correct?

10 A (Bowes) Do you mean lane or do you mean road?

11 Q The lanes are how wide?

12 A (Bowes) I'm trying to get to the first question.

13 Q I look at a road as two lanes.

14 A (Bowes) So we're not going to take the entire
15 road if that's what you mean.

16 Q So where are you finding the 30 feet?

17 A (Bowes) Page 9 shows it very clearly of where
18 we're going to be, and it takes approximately
19 one travel lane, and in this case it is area to
20 the south.

21 Q So it's one travel lane which is roughly 12 to
22 14 feet plus an additional 18 feet past it,
23 correct?

24 A (Bowes) Plus the shoulder, the ditch line, so it

1 would be some area that is outside the ditch
2 line probably.

3 Q And there's, okay. Now, you noted that the
4 construction will respect property lines, right?

5 A (Bowes) I believe I said something like that.
6 Yes.

7 Q So the Exceptions have us going into the
8 roadway, correct?

9 A (Bowes) For the most part. For this one, yes.

10 Q And if the Exceptions aren't granted, you're now
11 in the property of the people, correct?

12 A (Bowes) We would be further off the roadway so
13 it would have more impacts to the land adjacent.

14 Q And if the final design calls for going into a
15 private property's front lawn, what can that
16 private property do to change that design?

17 A (Bowes) So we can work for an Exception Request
18 with the New Hampshire DOT.

19 Q And you would do this after the final design has
20 been approved?

21 A (Bowes) Yes. We anticipate that there will be
22 Exception Requests after the final design.

23 Q But these are areas where you've already asked
24 for an Exception Request and the DOT has said

1 no.

2 A (Bowes) Not necessarily. The one, the example
3 you gave, I was assuming, was something that had
4 never been requested before.

5 Q Now, what if it's something that was requested
6 before, it was denied, and then you go to a
7 landowner and say this is final design, and the
8 landowner says no? What are the options?

9 A (Bowes) It would be best to deal with a specific
10 example.

11 Q How would you handle that situation?

12 A (Bowes) Let's say it was a HDD design.

13 Q Um-hum.

14 A (Bowes) We would look to relocate a portion of
15 either the sending or receiving location to
16 change the construction work area if we could.
17 We'd certainly look at it. If we can't,
18 unfortunately, we would have to go forward with
19 the design as presented.

20 Q So once again, it's best to get the landowner's
21 input now, not later.

22 A (Bowes) Like I said, we have put out a design,
23 preliminary in nature. We are looking for
24 feedback. We have solicited feedback from the

1 residents along this roadway, and as we receive
2 requests, we certainly go out and meet with
3 those customers and talk about the impacts. An
4 example was on Friday the Schoolhouse
5 Restaurant. We have had conversations with the
6 Schoolhouse Restaurant.

7 Q Okay. So as far as you're concerned, the
8 current design has reasonable detail, correct?

9 A (Bowes) It's a preliminary layout. We are going
10 forward with an iterative process to achieve a
11 final design.

12 Q Okay.

13 A (Bowes) Very common process used in siting
14 underground transmission projects.

15 Q So right now you have a preliminary layout. Do
16 you feel it has reasonable design?

17 A (Bowes) So I think we said on Friday we're about
18 60 percent design level. As an example, in the
19 months of August and September, we sited two
20 other transmission line projects with what I
21 would say would be a 20 percent design level.

22 Q So one of the other things that's changed is the
23 order of hiring. So the order of hiring now is
24 nonunion, I mean, is union New Hampshire, and

1 then previously then nonunion New Hampshire was
2 going to be hired, correct?

3 MR. NEEDLEMAN: Objection. This is beyond
4 the scope.

5 COMMISSIONER BAILEY: Sustained. It is
6 beyond the scope.

7 BY MS. SAFFO:

8 Q So you're familiar with the Petition October 16,
9 2015, correct? That's in front of you right
10 now?

11 A (Johnson) We don't have it yet. Hold on.

12 A (Bowes) Yes.

13 Q Is it your position that any State road is fair
14 game to become an energy corridor for
15 transmission as opposed to distribution lines?

16 A (Bowes) I can't say that I've ever distinguished
17 the two. So I would agree with that statement.

18 Q Okay. So any State road in New Hampshire is
19 fair game to become an energy corridor?

20 A (Bowes) So you said transmission the first time.
21 So energy corridor, I'm not sure I understand
22 what that -- that's a nontechnical term.

23 Q I'll strike the question.

24 And do you feel that any of the work that

1 you're doing in your current plan would impact
2 Route 112's road scenic quality? Would it
3 invariably alter it? Do you think any work in
4 your current proposal.

5 A (Bowes) So I'm going through the process to
6 understand the question, and I would say we will
7 have no permanent impacts to visual quality.
8 There will be temporary impacts during
9 construction.

10 Q And you agree that removing mature trees would
11 impact visual quality?

12 A (Bowes) I would agree with that.

13 Q Now, your aesthetics expert, Mr. DeWan, claimed
14 that he was relying on a reference of not going
15 more than 6 feet off the shoulder, correct?

16 MR. NEEDLEMAN: Objection. I'm not sure
17 that's what he testified to, and I certainly
18 don't know the context.

19 Q So if Mr. DeWan said he analyzed aesthetics
20 based on an understanding that you would not be
21 going more than 6 feet off a shoulder or a ditch
22 line, do you know where he would have gotten
23 that information?

24 MR. NEEDLEMAN: Same objection.

1 COMMISSIONER BAILEY: Do you have a
2 transcript reference?

3 MR. SAFFO: I can actually find it. That's
4 absolutely what Mr. DeWan testified to, but I
5 think I can use it as a hypothetical and then --

6 COMMISSIONER BAILEY: Okay. Why don't you
7 do that.

8 BY MS. SAFFO:

9 Q Hypothetically, if Mr. DeWan said he was relying
10 on a presumption that you would not be going
11 more than six feet off a shoulder or ditch line,
12 would you think that was an accurate assumption
13 to make?

14 A (Bowes) Again, this is an assumption for the
15 visual impacts from the underground
16 construction?

17 Q This is the aesthetics expert. This is your
18 aesthetics expert's assumption.

19 A (Bowes) I'm trying to get what your hypothetical
20 is about. It's about the underground portion of
21 the line.

22 Q Just underground. Absolutely.

23 A On state roads in Grafton County?

24 Q Yes.

1 A (Bowes) So I would agree that our analysis is
2 consistent with actually I think five feet off
3 the shoulder and ditch line so it's a little bit
4 within what his testimony was, provided that was
5 his testimony, the analysis we did, Mr. Johnson
6 discussed on Friday, of the visual impacts along
7 scenic roads and nonscenic roads, I think it's
8 consistent with his measurement criteria.

9 Q Okay. Are you willing to limit your Application
10 to five feet off the shoulder and ditch line?

11 A (Bowes) I'm not sure what the Application means.
12 That's the only word I'm struggling with.

13 Q Okay. Are you willing to limit a design
14 presented to DOT to no more than five feet off a
15 road shoulder or ditch line, whatever the
16 undisturbed area is. And sometimes there's no
17 shoulder and ditch line?

18 A (Bowes) I would say in general, yes. There may
19 be an exception to that. We can't think of one
20 right now. But I think with an Exception
21 process to that, I think that would be an
22 agreeable condition.

23 Q And then for all the HDD areas on the
24 underground portion in Grafton County. Can you

1 do the HDD in less than five feet off?

2 A (Bowes) Not the temporary work space. So that
3 would be an area where we probably couldn't meet
4 that condition.

5 Q And then for the vaults, the 130 vaults in
6 Grafton County, can you meet that condition?

7 A (Bowes) Subject to check of the latest design, I
8 think we could.

9 Q So I've underlined a part that all entities
10 planning to construct facilities in the state be
11 required to provide full and complete disclosure
12 to the public of such plans. Do you see that?

13 A (Bowes) I do.

14 Q Do you think those plans need to be disclosed
15 prior to the public hearings?

16 MR. NEEDLEMAN: Objection. Calls for a
17 legal conclusion.

18 Q In your opinion, should they be disclosed prior
19 to the public hearing?

20 MR. NEEDLEMAN: Same objection. Asking for
21 his opinion about what the legal requirements
22 are.

23 MS. SAFFO: I'm not asking for legal
24 requirements. I'm just asking for his opinion

1 as part of public outreach in the public
2 hearings.

3 COMMISSIONER BAILEY: Can you tell me how
4 that's within the scope of what we're here for?

5 MS. SAFFO: Because, again, we're here for
6 because we've added Exceptions, we've changed
7 Exceptions, now we've withdrawn Exceptions, but
8 we've already had the public hearings. So the
9 fact that the Exceptions keep changing after the
10 fact and now we have a whole new survey being
11 done, I think it's entirely relevant because
12 this is occurring after the public hearings.

13 COMMISSIONER BAILEY: Well, if you think it
14 wasn't done, couldn't you argue that in your
15 brief?

16 MS. SAFFO: I certainly can. I wanted to
17 know his opinion as to whether these public
18 hearings should occur as one of the people in
19 control of this Project and in control of the
20 construction process.

21 COMMISSIONER BAILEY: Why don't you ask
22 them if they have occurred.

23 BY MS. SAFFO:

24 Q Was there full and complete disclosure to the

1 public of the plans for the construction of
2 facilities in the state prior to the public
3 hearing?

4 A (Bowes) So maybe I can just ask a clarifying --

5 Q Sure.

6 A (Bowes) When do you think the public hearings
7 began?

8 Q For example, the one at Loon Mountain in Grafton
9 County.

10 A (Bowes) So as part of the SEC Application
11 process.

12 Q Yes.

13 A (Bowes) So I don't know if there's been a
14 Project, certainly that I've ever worked on,
15 maybe in the entire country, that has had more
16 disclosure of information. In fact as you
17 mentioned before, we're on page 30,000 --

18 Q But that isn't my question.

19 MR. NEEDLEMAN: Objection. I think he
20 should be permitted to finish the answer.

21 MS. SAFFO: I think he's not answering my
22 question.

23 A (Bowes) I was getting to it.

24 MS. SAFFO: My question is very specific to

1 not what's happening around the country, but in
2 this particular case, prior to the Loon Mountain
3 Grafton County public hearing, had there been
4 full and complete disclosure to the public of
5 the plans to construct the facilities.

6 A (Bowes) So we've gone through a federal process
7 prior to that --

8 Q That isn't my question.

9 MR. NEEDLEMAN: Same objection. He should
10 be permitted to answer, and, again, I don't see
11 how this relates to the subject of the recall.

12 COMMISSIONER BAILEY: I think her question
13 is has the public been shown the plans as they
14 have been updated for this phase of the hearing.

15 MS. SAFFO: I'm wondering if they were
16 shown the plans prior to the public hearings at
17 which they're --

18 COMMISSIONER BAILEY: The original plans?

19 MS. SAFFO: No. The plans now. The
20 Exceptions and as they're developing.

21 COMMISSIONER BAILEY: You can answer the
22 question.

23 A (Bowes) So the plans that were shown at that
24 specific public hearing were the plans that were

1 current at that time with the best information
2 available, and probably the amount of disclosure
3 was so extensive that it has led to difficulties
4 in the general public and even members of the
5 Project team tracking all of the nuances that
6 have occurred. If we're talking about a
7 specific set of trees in front of a historic
8 house, I think the plans in essence today are
9 the same that they were at that public hearing;
10 that we were going to go past that house, we
11 were going to try to maintain the integrity of
12 that structure and of the aesthetic quality of
13 those trees, and that's something that has
14 remained unchanged through the entire process.

15 Q But, again, there are plans and there is intent,
16 correct?

17 A (Bowes) Our intent was stated for this portion
18 of the Project was to go within the travel
19 portion of the roadway.

20 Q Okay. And that's what was said, that was the
21 intent at the time of the public hearings,
22 correct?

23 A (Bowes) I believe it was, yes.

24 Q Do you think it's a significant modification to

1 go from what was the intent at the time of the
2 public hearings or even the plan at the time of
3 the public hearings to what we're doing now?

4 A (Bowes) So certainly there has been an evolution
5 of the design.

6 Q That isn't my question. I think we agree
7 there's been an evolution of the design. My
8 question is do you think it's significantly
9 different than what the initial plan was
10 presented at the time public hearings?

11 A (Bowes) So "significantly" is the word I'm
12 having difficulty with. It has changed. Many
13 locations it's moved to the shoulder. If that's
14 a significant change for someone, then I would
15 agree.

16 Q Okay. Now, you've stated to the media that the
17 SEC decision to extend the time framework for
18 additional nine months was disappointing, and
19 that the request for friendly cross-examination
20 has bogged down the proceeding. Do you remember
21 saying that?

22 MR. NEEDLEMAN: Objection.

23 COMMISSIONER BAILEY: How is this relevant?

24 MS. SAFFO: I think there's this rush to

1 get approvals and rush to get a design and then
2 we're changing, but at the same time the rush is
3 being created by Northern Pass.

4 COMMISSIONER BAILEY: That's not really
5 relevant to what this Panel was called back to
6 do. So I'm going to sustain the objection.

7 BY MS. SAFFO:

8 Q If the SEC delegates the Department of
9 Transportation, do the property owners have a
10 mechanism to raise its concerns?

11 A (Bowes) So is this again for the local roads?
12 Or for the State-owned roads?

13 Q Both. Start with the State-owned roads.

14 A (Bowes) My understanding is they already have
15 jurisdiction for the State-owned roads. And
16 we're asking the SEC to take jurisdiction for
17 the local roads, and they will likely delegate
18 to the New Hampshire DOT for that process. Is
19 there a public process as part of that? I
20 believe there is, yes.

21 Q So you talked about a timeline for the survey
22 for the DOT approval, the easements,
23 identifications, the assessments. When do you
24 anticipate having a use and occupancy agreement?

1 A (Bowes) I would say probably some time in March
2 of 2018.

3 Q So doesn't it make sense to hold off the SEC
4 decisions until you have that information that
5 can be analyzed by the people who are impacted?

6 MR. NEEDLEMAN: Objection. Unrelated to
7 scope, and this issue has already been decided.

8 COMMISSIONER BAILEY: Agreed. Sustained.

9 BY MS. SAFFO:

10 Q Do you agree that the surveys are something the
11 public needs to in order to evaluate what's
12 happening on their property?

13 A (Bowes) I would agree it's probably part of the
14 information they need. A final design is
15 probably as important.

16 Q Now, I know at least one location DOT has
17 rejected your HDD location. In the Campton
18 area. When do you expect to have a new proposed
19 location for that HDD?

20 A (Bowes) When the survey is completed, then we'll
21 resubmit the design.

22 Q Okay. So the survey is completed, and then
23 you're going to put a new location for HDD,
24 correct?

1 A (Bowes) I don't believe so.

2 Q Okay. So right now they've rejected an HDD that
3 is by a mobile home park, correct?

4 A (Bowes) Do you have a specific number for that
5 one? I'd like to just verify before we answer.

6 Q I can ask the Counsel for the Public what number
7 that is. If you want to go back over to the
8 maps we can find it, too.

9 COMMISSIONER BAILEY: We can be off the
10 record.

11 (Discussion off the record)

12 COMMISSIONER BAILEY: You may proceed.

13 Q Counsel for the Public Exhibit 509 is what we're
14 looking at. The input back --

15 A (Johnson) It's not Exception Request 13.

16 COMMISSIONER BAILEY: All right. Let's go
17 off the record again.

18 (Discussion off the record)

19 Q So there's a mobile home park there, correct?

20 A (Bowes) Yes, there is.

21 Q And so DOT has told you that they're rejecting
22 that Exception Request due to the proximity to
23 the mobile home park, correct?

24 A (Bowes) Indirectly, I think that's correct. I

1 think it was actually because we're locating
2 within the driveway or roadway into the mobile
3 home park.

4 Q Yeah. Absolutely. So where do you, when,
5 relocating that is a big venture, correct? I
6 mean, you need 30 feet by 300 feet to put that
7 entrance, correct?

8 A (Bowes) I'm just waiting for the Exception
9 Request to come up.

10 MR. PAPPAS: That would be Counsel for the
11 Public's Exhibit 522, I believe.

12 A (Bowes) So in this case, on page 6, it shows the
13 two entry pits just into the road or the
14 driveway right-of-way or in front of that. We
15 would pull those pits about 50 feet back so the
16 entry pits would be outside of the driveway.
17 They would be, the work zone then would slide
18 approximately 50 feet as well along the roadway
19 there.

20 Q And any time you make a modification of that
21 nature, fair to say whoever's land is adjoining
22 to that deserves to be able to provide input,
23 correct?

24 A (Bowes) That's not the process we have been

1 using.

2 Q I realize that isn't the process you've been
3 using, but now you want the SEC to approve the
4 whole Project. The process we've been using has
5 not been to solicit landowner input, correct?
6 Just a generic letter to them?

7 A (Bowes) For the HDDs, I believe that may be
8 accurate. Yes.

9 Q So we're putting a 30 foot by 300 foot
10 construction zone adjoining somebody's property,
11 correct?

12 A (Bowes) In this case, I believe it's about that
13 size, yes.

14 Q And most of the HDD work zones are big, correct?

15 A (Bowes) Some are larger than that. Yes.

16 Q Yeah. And the adjoining property owners' input
17 before something of that nature is put on their
18 property is particularly important, correct?

19 A (Bowes) It may be important. Yes. I think once
20 we have a final design is the time to speak with
21 them.

22 Q But again, at that point in time, if they say
23 you're destroying my front yard, your only
24 option is to move it to somebody else's front

1 yard, correct?

2 A (Bowes) Or again, locate to within the DOT
3 right-of-way, into the travel lane a little bit
4 further, yes.

5 Q But if you need 30 feet, there's only so far,
6 you're already going into the travel lane,
7 correct, with a construction zone of that size?

8 A (Bowes) In this case we're taking the full
9 travel lane.

10 Q Yeah. So the only way to go further into the
11 travel lane is to take over the road and close
12 it.

13 A (Bowes) And we're not proposing to do that at
14 this location.

15 Q Exactly. For so for HDDs, if you're already
16 using half the road, the only place to go is to
17 the adjoining landowner for the remaining
18 footage, correct?

19 A (Bowes) It would slide one way or the other and
20 could impact different landowners. You're
21 correct.

22 Q And you don't plan on closing any roads,
23 correct? For HDD construction?

24 A (Bowes) For the State roads in Grafton County

1 that is accurate.

2 Q So that means the only place to go for the other
3 half is the adjoining landowners, correct?

4 A (Bowes) Within the road right-of-way, yes.

5 Q Can you think, presuming you have a 30-foot work
6 space, can you think of any landowner that wants
7 18 feet of work space in front of their
8 residences or businesses?

9 A (Bowes) I can't answer for everyone, but I think
10 many would not like that.

11 Q And so when they say to you "I don't like that,"
12 your option is to move it to some other
13 landowner or leave it there, correct?

14 A (Bowes) Probably in most cases, that's correct.

15 Q And those landowners just drew the short straw,
16 correct?

17 A (Bowes) Again, it's within the road
18 right-of-way, but I would agree that they're
19 going to be impacted on a temporary basis.

20 Q And because the temporary impact includes
21 clearing their land for a work zone, some of
22 those impacts are going to be permanent,
23 correct?

24 A (Bowes) It's possible. However, we have

1 committed to restoring the property and doing
2 additional plantings as necessary.

3 Q But you can't make mature trees grow back,
4 right?

5 A (Bowes) Again, I think we talked before that we
6 weren't planning to impact mature trees as part
7 of this process, but we would evaluate that as
8 part of the Exception Request that goes to the
9 DOT.

10 Q So really if the plan to develop the details of
11 this Project in an iterative process, kind of as
12 it goes along, including past approval, then
13 really what you're saying is that once the
14 Application was approved, then your plan is for
15 DOT to have the final say. And potentially DES
16 a little bit.

17 A (Bowes) It would depend upon the specific topic,
18 but for the use of the State's roads, I would
19 agree with that.

20 Q And the use of the State roads include being
21 able to bury a transmission line on property
22 that you feel the State has an easement over or
23 right-of-way over.

24 A (Bowes) Yes.

1 Q And the Application itself described the entire
2 underground part of Grafton County as just under
3 the roadway, correct?

4 A (Bowes) I think in general that's a fair
5 statement, yes.

6 Q And that is no longer the case, correct?

7 A (Bowes) That is correct. We identified by town
8 the locations that would be off the roadway.

9 Q So can we switch back? Thank you very much.

10 I'm almost done. So Application shall
11 contain sufficient information to satisfy the
12 Application requirements of each -- I'm sorry.
13 I'm sorry.

14 So you feel the Application contains
15 sufficient information to satisfy the
16 Application requirements for the underground,
17 for each state agency for the underground
18 portion of Grafton County. I'm not going to
19 speak to the overhead part.

20 MR. NEEDLEMAN: Objection. This is a
21 completeness issue. It's already been
22 determined.

23 COMMISSIONER BAILEY: Would you like to
24 respond, Ms. Saffo?

1 MS. SAFFO: I think one of the purposes to
2 be here is the Exceptions that are being filed
3 which are significant from what was in the
4 Application so I think -- and the design
5 modifications that are different from what was
6 in the Application so I think it's a fair
7 question.

8 COMMISSIONER BAILEY: I think it's
9 consistent with the Chair's Order on this Panel,
10 on the recall of this Panel. You may proceed.

11 A (Bowes) So could you repeat the question again?

12 Q I'm sorry, Ms. Stenographer. Do you mind
13 repeating the question?

14 COURT REPORTER: So you feel the
15 Application contains sufficient information to
16 satisfy the Application requirements for the
17 underground, for each state agency for the
18 underground portion of Grafton County. I'm not
19 going to speak to the overhead part.

20 A (Bowes) So for the DOT and the DES, I believe
21 the answer is yes. They've also issued other
22 conditions for us to meet.

23 Q What about any other agency? Did the
24 Application contain sufficient information to

1 satisfy the Application requirements of agencies
2 other than DOT and DES?

3 MR. NEEDLEMAN: Objection. Beyond the
4 scope.

5 COMMISSIONER BAILEY: That is beyond the
6 scope, Ms. Saffo. Sustained.

7 BY MS. SAFFO:

8 Q And I'm pointing to Section 5. Each Application
9 shall also. Each Application shall also
10 identify the configuration of each major part of
11 the proposed facility.

12 COMMISSIONER BAILEY: But that's not really
13 what's relevant for the recall of this Panel.
14 That was --

15 MS. SAFFO: So, again, my understanding is
16 the recall is because the plans have changed and
17 so I'm wondering if he feels that their
18 Application identified the configuration for
19 each major part of the proposed Application
20 facility.

21 MR. NEEDLEMAN: These issues go directly to
22 the completeness determination which was issued
23 by this Committee a long time ago.

24 MS. SAFFO: They say what the Application

1 shall include.

2 COMMISSIONER BAILEY: Right, and that was
3 determined a long time ago.

4 MS. SAFFO: But if you keep -- it was
5 determined under a different design for Grafton
6 County. When you look at Grafton County, the
7 Application was accepted for a different design
8 than what's in front of this Committee now.

9 COMMISSIONER BAILEY: Right, and you just
10 asked him whether the information that has been
11 provided is sufficient regarding the Exception
12 Requests, and he said yes, he believed it was.
13 And that's what we're here to talk about today.

14 MS. SAFFO: It is what we're here to talk
15 about today, but the Exception Requests that
16 have now been pulled, they've got to be reissued
17 and potentially might be changing, are different
18 than what was in the Application. And that one
19 was approved. There was an Application that was
20 given for 52 miles in Grafton County. That
21 Application said one thing and now it's changed.
22 So the approval for the Application was on a
23 different design than what we have now.

24 COMMISSIONER BAILEY: And if you think

1 that's not fair, you can argue that in your
2 brief.

3 MS. SAFFO: Okay.

4 COMMISSIONER BAILEY: Or if you think
5 that's not sufficient. Rather than fair.

6 BY MS. SAFFO:

7 Q Site Regulation 301.14. Criteria relative to
8 findings of unreasonable adverse effects. Do
9 you see that?

10 A (Bowes) Yes.

11 Q Looking at number 7, the effectiveness of the
12 measures proposed by the Applicant to avoid,
13 minimize or mitigate unreasonable adverse
14 effects on aesthetics and the extent to which
15 such measures represent best practical measures,
16 correct? Do you see that?

17 A I do.

18 Q So that is something that is supposed to be part
19 of the Application, correct?

20 MR. NEEDLEMAN: Objection. These are
21 criteria for making the determination.

22 MS. SAFFO: They're Committee criteria for
23 making a determination. So how does this
24 Committee make a determination if they delegate

1 to DOT?

2 A (Bowes) Maybe you should ask them, not me.

3 Q So if your interpretation is correct regarding
4 these Exceptions that you can keep submitting
5 Exceptions that are dramatic, that would have a
6 dramatic impact on the design, and that the
7 design can be different than what was in the
8 Application, then property owners are checkmated
9 as soon as the Application is approved, correct?

10 A (Bowes) There's a couple words in there I'm not
11 sure I understand the meaning of. Dramatic and
12 checkmated.

13 Q Okay. So let me start. So under your request
14 to the Site Evaluation Committee, you submitted
15 design that would have one impact which is go
16 down the road. And they approved that
17 Application. And that approval was based on a
18 design that would not impact adjoining
19 landowners. That was your intent when you first
20 filed the Application.

21 But then that changes after Application
22 approval to you can file Exceptions, you can
23 move it off the road to adjoining the road, and
24 your answer to being able to do that is we

1 delegated to DOT, correct?

2 A (Bowes) So I still don't understand. Is this
3 still in relation to dramatic and checkmated?

4 Q Yes. Okay. So yes, so private landowners go to
5 public hearings at Loon Mountain in Grafton
6 County. And at Loon Mountain in Grafton County,
7 their understanding is you're going under the
8 road and not into adjoining land, and the
9 Application says that. The design in the
10 Application says we're going under the road and
11 not on adjoining land. And we go all the way
12 through the public hearing process with that
13 being the understanding, that being what you're
14 hoping to do. And then it completely changes
15 and we don't include those private landowners
16 that went to the public hearings and that
17 responded to your letters at all until after
18 final approval of a completely different design.
19 Is that your plan for the Exceptions and for the
20 design of this underground roadway for 52 miles?

21 MR. NEEDLEMAN: Objection. This has been
22 asked and answered multiple times.

23 COMMISSIONER BAILEY: I think it has. I
24 mean, I think he already testified that he was

1 willing to limit construction activity to five
2 feet, no more than five feet off the shoulder.

3 Q Okay. So is your survey going to show the no
4 more than five feet off the shoulder? Can you
5 add that line to your surveys?

6 MR. NEEDLEMAN: I'm not sure it was the
7 shoulder. I thought it was the ditch line.

8 Q Ditch, shoulder or roadway. Whatever there is.

9 COMMISSIONER BAILEY: It is two different
10 things.

11 A (Johnson) In our drawings today, we do show the
12 extent of the work zone.

13 Q So some roads don't have shoulders, correct?

14 A (Bowes) Very limited, yes.

15 Q And some roads have shoulders but no ditches,
16 correct?

17 A (Bowes) Yes.

18 Q And some have roads, shoulders and ditches,
19 correct?

20 A (Bowes) Yes.

21 Q What we call the disturbed area, correct?

22 A (Bowes) Yes.

23 Q Okay.

24 A (Bowes) In general.

1 Q So five feet from the disturbed area. Can you
2 note that on your plans? Your new survey?

3 A (Bowes) We could certainly note that on the
4 construction drawings, but the survey is really
5 just the property bounds, not the design. But
6 on the design we could certainly indicate the
7 final alignment as well as where we think the
8 disturbed area is.

9 Q And then as it relates to property lines. So
10 when a landowner wants to know what is happening
11 in front of their property, they can tell.

12 A (Bowes) Those will be on the final construction
13 drawings and we can add this new boundary, I
14 would say, for the disturbed area.

15 Q And those final construction drawings will be
16 ready in March.

17 A (Bowes) Probably a little before that. But yes.
18 February or March.

19 Q Too late for any property owner -- okay. Strike
20 that.

21 Grafton 46 is Easton. And the reason why
22 I'm showing you this is is it fair to say this
23 is the major road in Easton? 116?

24 A (Bowes) Yes.

1 Q And pretty much development in Easton is along
2 this road, correct?

3 A (Bowes) Yes.

4 Q So what happens on this road impacts the entire
5 town, correct?

6 A (Bowes) I'll accept that. I'm not sure what the
7 entire town means, but --

8 Q And what happens on this road impacts the
9 temporary construction if it's two years or
10 whatever they plan on it being for this road,
11 impacts all aspects of this town, ability to get
12 to work, ability to get to Emergency Services,
13 correct?

14 MR. NEEDLEMAN: Objection. Scope.

15 COMMISSIONER BAILEY: Sustained.

16 BY MS. SAFFO:

17 Q So the current plan is to continue to be able to
18 submit exception requests, correct?

19 A (Bowes) We're talking about now the New
20 Hampshire DOT exception process, yes.

21 Q And the current plan is that the current
22 Exception Requests might be modified, the ones
23 that have been technically withdrawn, but the
24 188 that have been submitted to date would be

1 changed?

2 MR. NEEDLEMAN: Objection. Asked and
3 answered.

4 MS. SAFFO: I think it's fair. I'm almost
5 done.

6 COMMISSIONER BAILEY: I think it has been
7 asked and answered. Try another question.

8 MS. SAFFO: Okay.

9 BY MS. SAFFO:

10 Q So the current plan is that we don't, a
11 landowner has to still look at what you define
12 as the entire right-of-way as potentially on the
13 table, correct?

14 A (Bowes) I'm not sure what the landowner, you
15 want the landowner to look at. Their property
16 or something else?

17 Q Well, meaning if I'm a landowner along any of
18 the 52 miles in Grafton County, just the
19 underground portion, I have no guarantees about
20 what's going to happen in front of my house yet,
21 do I?

22 A (Bowes) So the, I'm not sure that guarantee is
23 the right word.

24 Q Okay. What word would you use?

1 A (Bowes) I would think that the process will
2 continue to evolve through the iterations with
3 the New Hampshire DOT, and, ultimately, a final
4 design will be issued and approved, and
5 construction would then begin, and there could
6 be Exceptions noted during construction if
7 unforeseen underground obstructions are
8 encountered.

9 Q So in light of the fact of this exception
10 process, if I'm a current landowner on the 52
11 miles of the underground path in Grafton County,
12 I need to look at your survey very closely to
13 see what you consider the right-of-way to be,
14 correct?

15 A (Bowes) If they're concerned about the land
16 rights issue, I could agree with that.

17 Q If they're concerned about what could happen on
18 their property.

19 A (Bowes) I'm not sure I understand.

20 Q So I'm a landowner with property along 302, 18,
21 116, 112 and Route 3, the 52 miles of
22 underground lines. And someone says to me, or I
23 want to know what is going to happen on my land,
24 right now what is potentially fair game is

1 anything in the right-of-way.

2 A (Bowes) I'm not sure I'd characterize it that
3 way. I would say it the other way. If a
4 customer has a specific concern about their
5 property, they can reach out to the Project.
6 We'll show them the initial design. We'll show
7 them the exception that we're asking for, if
8 any, and we'll show them a probable future
9 design. And I would even go further. A highly
10 probable future design based on what we've
11 learned from the DOT process to date.

12 Q So if a customer has a concern, you'll show them
13 the initial design which was if you look online
14 it's to go down the middle of road, correct?

15 A (Bowes) I'm not sure it's down the yellow lines,
16 but I think it was down one travel lane.

17 Q I'll agree to disagree on that.

18 And you say that's off the table. And they
19 go oh, okay. So what's on the table. And then
20 you show them this, and they go okay, so you can
21 guarantee nothing more is going to happen on my
22 property, but you can't, because this is an
23 iterative process where things could change,
24 correct?

1 A (Bowes) So, again, the word guarantee is the
2 issue.

3 Q Okay. Let me rephrase it. So if I am a member
4 of the public that simply wants to know what do
5 I need to be potentially worried about, meaning
6 what could happen on my land, the best, is it
7 fair to say that I should find out exactly what
8 you think the right-of-way is, correct?

9 A (Bowes) If that's of concern to them, yes.

10 Q I think it's fair to say everybody's concerned
11 about their residences, correct?

12 A (Bowes) Well, you're talking about the width of
13 the right-of-way. I think that's a little
14 different than their residences.

15 Q Okay. So people are concerned about, you think
16 it's fair to say that current landowners are
17 concerned about what's happening from their
18 front door to what is currently pavement?

19 A (Bowes) Yes. I could agree with that.

20 Q Yeah. So and up here, people's houses are their
21 primary asset. Do you understand that as well?

22 A (Bowes) So I'm not sure what the "up here"
23 means.

24 Q Grafton County along this 5 miles of underground

1 roads.

2 A (Bowes) I think that's a universal issue. I
3 don't think there's something special about your
4 county.

5 Q Absolutely. I think you're right. That for
6 most citizens, their land and their residence is
7 their primary asset, correct?

8 A (Bowes) I would agree.

9 Q Yes. So this is important. What's happening to
10 their primary asset and their home is important,
11 correct?

12 A (Bowes) Again, we're not proposing any takings
13 of property, homes, or anything like that.
14 We're proposing to work within the DOT
15 right-of-way.

16 Q Exactly. So what you think is the DOT
17 right-of-way is information that a landowner
18 needs to know, correct?

19 A (Bowes) We've provided maps of that to date.

20 Q Because what you think is the right-of-way can
21 be used for this Project, correct?

22 A (Bowes) No.

23 Q Okay. What you think is the right-of-way is
24 land that you could be clearing for this Project

1 if you need it. If the design calls for it.

2 A (Bowes) I think that's a hypothetical and
3 improbable. We don't plan to clear the DOT
4 right-of-way as part of this Project.

5 Q No, but if you want to be assured of what's
6 going to happen on your property, you're saying
7 that DOT has a right-of-way to use that many
8 feet of what they might consider their front
9 yard.

10 A (Bowes) I don't think we're saying that.

11 Q You are saying the final details are not
12 complete on this Project, correct?

13 A (Bowes) The final design does not have to be
14 issued prior to getting a Certificate for this
15 Project.

16 Q And there was 188 Exceptions along the 52 miles
17 in Grafton County, correct?

18 MR. NEEDLEMAN: Objection. Asked and
19 answered.

20 MS. SAFFO: Okay.

21 BY MS. SAFFO:

22 Q Now, clearly, you do need to eventually come up
23 with an accurate design plan to give the people
24 who are digging the holes and pouring the

1 concrete, correct?

2 A (Bowes) So we've talked a lot about the
3 issued-for-construction drawings which would be
4 just that document.

5 Q And so why not suspend these proceedings until
6 that plan is developed? You can't start
7 construction until that is developed anyways.

8 MR. NEEDLEMAN: Objection. This has been
9 covered already, and it's beyond the scope.

10 COMMISSIONER BAILEY: It is beyond the
11 scope.

12 MS. SAFFO: Thank you. No further
13 questions.

14 COMMISSIONER BAILEY: Thank you, Ms. Saffo.
15 I believe that concludes the cross-examination
16 from the parties. So we will take a break for
17 lunch, and then we'll have questions from the
18 Committee and redirect. Thank you. We'll
19 resume at 20 of 2.

20 (Lunch recess taken at 12:38
21 p.m. and concludes the **Day 43**
22 **Morning Session**. The hearing
23 continues under separate cover
24 in the transcript noted as **Day**

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43 Afternoon Session ONLY.)

C E R T I F I C A T E

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

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, 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.

Dated at West Lebanon, New Hampshire, this 14th day of October, 2017.

Cynthia Foster, LCR