

NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

BOSTON EDISON COMPANY, et al.

(Pilgrim Nuclear Generating
Station, Unit 2)

Docket No. 50-471

Place - Plymouth, Massachusetts

Date - Friday, June 1, 1973

Pages 2347 -

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of: :
BOSTON EDISON COMPANY, et al. :
(Pilgrim Nuclear Generating : Docket No. 50-471
Station, Unit No. 2) :

Plymouth Memorial Hall,
Plymouth, Massachusetts

Friday, 1 June, 1979

The hearing in the above-entitled matter was reconvened, pursuant to adjournment, at 9:00 a.m.

BEFORE:

- EDWARD LUTON, Chairman
- DR. RICHARD F. COLE, Member
- DR. DIXON CALLIHAN, Member

APPEARANCES:

- GEORGE LEWALD, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts; and
- DALE G. STOODLEY, Esq., Boston Edison Company, Legal Department, 800 Boylston Street, Boston, Massachusetts; on behalf of the Applicant
- HENRY HERRMANN, Esq., 151 Tremont Street, 27K, Boston, Massachusetts; on behalf of the Massachusetts Wildlife Federation, Intervenor
- WILLIAM S. ABBOTT, Esq., on behalf of Alan R. Cleeton and Marion Cleeton, Intervenor

APPEARANCES (Continued):

MICHAEL B. MEYER, LAURIE BURT and FRANCIS WRIGHT, Assistant Attorneys General, Statehouse, Boston, Massachusetts; on behalf of the Commonwealth of Massachusetts, Intervenor

BARRY SMITH and MARCIA MULKEY, Esqs., Office of the Executive Legal Director, Nuclear Regulatory Commission, Washington, D. C. on behalf of the Nuclear Regulatory Commission Staff

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C O N T E N T S

<u>Witnesses</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>	<u>Board</u>
3	Dino Scaletti)	10,052			10,179
4	Terry Johnson)				
5	John Lehr)				
6	Michael Masnik)				
7	Joseph Levine)				
8	Falk Kantor)				
9	Leonard Soffer)				
10	Germain LaRoche)				
11	Louis Bykoski)				
12	Richard McMullen)				
13	<u>Exhibits</u>			<u>Iden.</u>	<u>Rec'd.</u>
14	Commonwealth 103				
15	(Chapter 5, MA Coastal Region				
16	and Atlas of Resources)			10,108	
17	Commonwealth 109				
18	(USGS 7.5 min. quadrangle				
19	inset, MA, 1967)				
20	(Copies to be furnished to				
21	parties and reporter at				
22	next hearing)			10,112	10,113
23	Commonwealth 110				
24	(Letter from W.E. Gordon, NOAA,				
25	to USNRC, 11/28/77)			10,158	10,159
26	Commonwealth 111				
27	(Letter from Mr. Landry, EPA,				
28	to N.E. Utilities Service Co.,				
29	Mr. B. Fox, undated.)			10,161	10,161

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LITZER/mm 1

P R O C E E D I N G S

2 CHAIRMAN LUTON: Good morning ladies and
3 gentlemen.

4 Are there any matters of a preliminary nature, before
5 we continue with cross-examination?

6 MR. MEYER: Yes, Mr. Chairman.

7 On the need for power issue, I understand it was
8 discussed yesterday on the transcript, and the schedule was
9 left that the Commonwealth would file by the 29th of June
10 and that hearings would be scheduled to begin the 9th of July.

11 CHAIRMAN LUTON: That's right.

12 MR. MEYER: When the Commonwealth originally asked
13 for June 29 for filing of testimony, it was with the under-
14 standing that the hearings would start 15 days thereafter.

15 We particularly picked that day because I was going
16 to be in San Francisco the week of July 9 through the 13th.
17 I would request -- and I understand that the Board feels
18 strongly, they wish to do this as rapidly as possible -- that
19 that need for power matter go the week of July 16, as opposed
20 to July 9, if that is possible.

21 Now I understand the Board's desires in this matter
22 and I'm only asking that it be postponed a week.

23 CHAIRMAN LUTON: All right.

24 MR. MEYER: I have not discussed this with the
25 parties.

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mm2 1 CHAIRMAN LUTON: All right.

2 Do the other parties have any reactions? We are
3 only talking about a week's difference.

4 (No response)

5 (Board conferring)

6 CHAIRMAN LUTON: All right, Mr. Meyer, we will
7 adjust that. We will adjust that July 9 starting date to
8 July 16.

9 MR. SMITH: Mr. Chairman?

10 CHAIRMAN LUTON: Yes?

11 MR. SMITH: Mr. Chairman, since we have moved to
12 the 16th of July, would it be appropriate, or could the Board
13 then consider the Staff filing testimony on June 20th along
14 with the Commonwealth?

15 CHAIRMAN LUTON: Yes, I think so.

16 Mr. Lewald, you have already filed your need for
17 power testimony sometime ago?

18 MR. LEWALD: Yes. If we care to file a supplemental
19 testimony, we will file it by the 29th.

20 CHAIRMAN LUTON: All right.

21 Mr. Lewald, you don't have any difficulty with that
22 adjustment, do you, on the hearing date?

23 MR. LEWALD: No, I can accommodate that schedule

24 CHAIRMAN LUTON: All right.

25 Is there anything else of a preliminary nature?

mm3 1 (No response.)

2 Then, let's continue with the cross-examination of
3 the Staff's panel by the Commonwealth.

4 Whereupon,

5 DINO SCALETTI

6 TERRY JOHNSON

7 JOHN LEHR

8 MICHAEL MASNIK

9 JOSEPH LEVINE

10 FALK KANTOR

11 LEONARD SOFFER

12 GERMAIN LaROCHE

13 LOUIS BYKOSKI

14 and

15 RICHARD B. McMULLEN

16 resumed the stand as witnesses on behalf of the Regulatory
17 Staff, and having been previously duly sworn, were further
18 examined and testified as follows:

19 CROSS-EXAMINATION (Continued)

20 BY MS. BURT:

21 Q Mr. Lehr, turning for a moment to page 4-6 of
22 the Final Environmental Statement, description of sites 1,
23 2 and 2-A on the Merrimack River.

24 On that page you describe the water quality of the
25 Merrimack River as being very poor, do you not?

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nr 4
1 A (Witness Lehr) Yes, I do.

2 Q Now, from your description of the presence of
3 floating solids and some nutrient levels which are in excess
4 of Federal and State Water Quality Standards, is it fair to
5 say that the major source of pollution on the Merrimack
6 River immediately upstream from sites 1, 2 and 2-A was
7 primarily municipal sewage?

8 A Isn't that correct?

9 A As I read the reference material, they indicate
10 both municipal sewage and industrial waste coming from areas
11 upstream of Nashua, New Hampshire, and also sources on the
12 Nashua River.

13 Q On the Nashua River.

14 Where, exactly, are sites 1, 2 and 2-A in relation-
15 ship to Nashua? How far are they?

16 A I believe there are -- I don't have the figure off
17 the top of my head, how far down they are. They are downstream
18 of Nashua, New Hampshire.

19 Q Well, site 1 is located in Dunstable, is that not
20 correct?

21 A Yes, that's indicated in Figure 3.

22 Q And sites 2 and 2-A are located in the towns of
23 Tyngsborough for 2, and both Dunstable and Tyngsborough for 2-A,
24 is that not correct?

25 A That would appear correct from Figure 4.

lmm5 1 Q And you do not know how far those towns are from
2 Nashua, New Hampshire?

3 A I don't know an exact number. We can look on the
4 map and determine it.

5 Q Do you have a map with you?

6 A Yes, I do.

7 Q Would you please bring that map out.

8 DR. CALLIHAN: Ms. Burt, may I take advantage of the
9 interruption.

10 Did you say, how far it is from a town, was your
11 question related to the distance of some site from a town?

12 MS. BURT: No.

13 My question was whether or not -- how far the sites
14 1, 2 and 2-A are from Nashua, New Hampshire.

15 DR. CALLIHAN: From where?

16 MS. BURT: Nashua, New Hampshire.

17 MR. LEWALD: That's a city.

18 DR. CALLIHAN: Villages?

19 MS. BURT: A village. Yes. Excuse me.

20 MR. LEWALD: It's a city in New Hampshire, Nashua.

21 WITNESS LEHR: As a help, if you will also notice
22 on page 4-6, that a sampling location which is located at
23 the bridge between Nashua and Hudson, New Hampshire, which
24 is located in the town of Nashua, we indicate is
25 approximately 5 kilometers upstream of the area proposed for

mm6 1 water withdrawal and discharge for these three sites.

2 BY MS. BURT:

3 Q Thank you, Mr. Lehr. That's getting close.

4 Now where, exactly -- how close are sites -- are
5 these sites on the river, from the towns of -- the major
6 city of Nashua?

7 A (Witness Lehr) Are you talking about direct
8 distance, straight-line distance?

9 Q Approximately.

10 A I believe the town of Nashua is approximately
11 four miles northeast of site 1, approximately three miles
12 north-northwest of site 2, and approximately five miles north
13 from site 2-A.

14 MR. LEWALD: Excuse me. Are we talking about the
15 town of Nashua, Massachusetts, or the city of Nashua,
16 New Hampshire?

17 MS. BURT: No. I had specified to Dr. Callihan that
18 I was speaking of Nashua, New Hampshire.

19 MR. LEWALD: You described it as a village.

20 MS. BURT: I did?

21 DR. CALLIHAN: Your question addressed "town of
22 Nashua," at least recently before our last dialogue.

23 Now, how large is the town of Nashua?

24 BY MS. BURT:

25 Q Mr. Lehr, do you know the population?

mm7 1 DR. CALLIHAN: No, I want linear -- aerial dimen-
2 sions, or two linear dimensions of the town of Nashua, having
3 defined town yesterday.

4 WITNESS LEHR: I believe I just gave those figures.

5 DR. CALLIHAN: I beg your pardon?

6 WITNESS LEHR: I believe I just gave those figures.

7 BY MS. BURT:

8 Q Mr. Lehr, I believe Dr. Callihan's question was,
9 how big, is that correct, in area --

10 DR. CALLIHAN: No, I don't want area, I want linear
11 dimensions. Two linear dimensions of the town of Nashua.

12 I'm trying to establish if these two or three miles
13 that you speak of are significant. We went to effort yesterday
14 morning to define a town in Massachusetts. Are we speaking of
15 Massachusetts?

16 MR. SMITH: No, it's New Hampshire.

17 MS. BURT: It is my understanding, Dr. Callihan, and
18 I think the Board can take official notice of it from a USGS
19 map, that these sites are located very close to the border
20 of Massachusetts and New Hampshire on the Merrimack River,
21 and the Merrimack River runs in a north-south direction at
22 that point, and Nashua, New Hampshire is north of the sites
23 in Massachusetts.

24 DR. CALLIHAN: I apologize. I thought we were still
25 in Massachusetts.

1 So, your question has to do with the town of
2 Nashua?

3 MS. BURT: Or city of Nashua, I believe it is.

4 DR. CALLIHAN: Not a town in Massachusetts?

5 MS. BURT: Correct.

6 DR. CALLIHAN: I apologize, gentlemen.

7 WITNESS LEHR: The figure for the rough size of
8 the urban area known as Nashua is approximately five miles
9 by six miles.

10 DR. CALLIHAN: Thank you. But that question is now
11 moot, since we crossed the state lines somewhere unbeknownst
12 to some of us.

13 (Laughter)

14 BY MS. BURT:

15 Q Do you know where the state boundary -- how far
16 the state boundary is from sites 1, 2 and 2-A, approximately?

17 A (Witness Lehr) It is indicated on Figure 3, and
18 also on Figure 4. You can see the relationship. We need a
19 moment to scale the distance, if you need a closer figure.

20 Q Now you state on page 4-6 of the FES on alternative
21 sites, that a recent report of the New England --

22 MR. SMITH: Mr. Chairman, we are trying to get
23 you an answer.

24 WITNESS LEHR: Are you interested in closer
25 figures?

run9 1 MS. BURT: No, that was fine.

2 BY MS. BURT:

3 Q On page 4-6, you refer to a recent report of the
4 New England River Basins Commission, which indicates that
5 180 kilometers, the river in the basin will not meet class B
6 water quality standards by 1983.

7 Is that primarily because of the delay in the
8 cleanup efforts on the river?

9 A (Witness Lehr) The report did indicate a delay
10 in implementation of pollution abatement measures.

11 Q Now 1983 is a federally mandated deadline, is it
12 not?

13 A Yes, sir.

14 Q Do you recognize the 1983 as the date under the
15 Federal Water Pollution Control Act, which requires attainment
16 of class A water quality standards for all rivers in the
17 United States?

18 MR. SMITH: Object.

19 Asking for legal conclusion.

20 CHAIRMAN LUTON: All right.

21 Let the witness answer if he can.

22 WITNESS LEHR: I understand that date to mean the
23 attainment of a goal of fishable, swimmable waters, which is
24 a term commonly associated with what is known as class B
25 standards in many states.

1 BY MS. BURT:

2 Q And 1983 is the current goal under the Federal
3 Water Pollution and Control Act, correct?

4 A (Witness Lehr) That's my understanding.

5 Q And the delay in the "cleanup efforts" referred to
6 on page 4-6, referred to delay in construction of major
7 municipal wastewater treatment plants, or industrial treatment
8 plants.

9 Isn't that correct?

10 A The report did not go into great detail. It
11 indicated a delay in implementation of pollution abatement
12 measures for both municipal and industrial supplies, or --
13 excuse me, sources of pollution in the Merrimack basin.

14 Q Now, Mr. Lehr, that's interesting the delays in
15 report specifically refer, don't they, to slippages in
16 construction schedules for new treatment plants at Lowell,
17 Nashua and Ayer?

18 A I don't recall.

19 Q You don't recall?

20 A No.

21 Q Are you aware of treatment plants for treatment
22 facilities at those cities?

23 A Would you repeat the question, please?

24 Q Let me just rephrase the question.

25 Are you aware -- where is Lowell?

mm.11 1 Is the city of Lowell located on the Merrimack
2 River?

3 A Yes, it is.

4 Q And where is that located in reference to sites
5 1, 2 and 2-A?

6 A It is located downstream from these sites.

7 Q Downstream.

8 And Nashua, New Hampshire, we have established
9 is located upstream, correct?

10 A Yes.

11 Q And the City of Ayer, is that Massachusetts, or
12 New Hampshire?

13 MR. LEWALD: I'm going to object. There isn't any
14 city of Ayer, and this description or misstatement of the
15 political entities we are talking about is going to be
16 awfully confusing to the record.

17 CHAIRMAN LUTON: Let's go ahead with it.

18 BY MS. BURT:

19 Q Mr. Lehr, are you aware, of your own knowledge,
20 where the municipality of Ayer is?

21 A (Witness Lehr) Yes, I am.

22 Q And where is that.

23 A It is located in the State of Massachusetts in
24 the approximate southwest direction of the sites 1, 2 and 2-A.

25 Q It's located southwest.

mm12

1 Is this municipality located on the Merrimack River?

2 A No, it is not.

3 Q What river is it on?

4 A Looking at this map I would say it is on the
5 Nashua River.

6 Q And from your description of the pollution problem
7 on the Merrimack upstream of sites 1, 2 and 2-A, are you
8 referring primarily to potential pollution sources from
9 Nashua, New Hampshire industrial and municipal?

10 A No.

11 I would refer to just the upstream area.

12 Q Does the New England River Basins Commission
13 consider the Merrimack River in discrete segments?

14 A The report -- as I recall, the report treated the
15 Merrimack River Basin as a whole. I don't think the term
16 "resource area" is quite correct, but they did consider it as
17 a separate entity or a grouping for their own purposes. They
18 divided New England up into several areas.

19 Q And what is the area in which sites 1, 2 and 2-A
20 are located?

21 Does that have some kind of pseudonym; upper river,
22 lower river? Are you aware of what is referred to?

23 A You mean in the New England River Basin
24 Commission's Report?

25 Q Yes.

mm13 1 A It was located within the Merrimack River area or
2 basin.

3 Q And how long is the Merrimack River?

4 A I don't know.

5 Q You don't know?

6 MR. SMITH: The witness answered the question.

7 BY MS. BURT:

8 Q Do you consider that Nashua's municipal waste and
9 associated industrial waste are a principal source of pollution
10 for -- on the Merrimack River which passed by sites 1, 2 and
11 2-A?

12 MR. SMITH: Mr. Chairman, that question has been
13 asked and answered.

14 CHAIRMAN LUTON: I think so, but let's have it
15 answered again.

16 WITNESS LEHR: Yes.

17 BY MS. BURT:

18 Q Does Nashua presently have secondary treatment?

19 A (Witness Lehr) I do not believe so, based on my
20 recollection of the information obtained in the reports.

21 Q Do you know if it has any treatment?

22 A I believe that they now have a primary treatment
23 facility available.

24 Q Are you aware of plans pursuant to the Federal
25 Water Pollution Control Act, to install a new waste treatment

mm14

1 facility at Nashua?

2 A I'm not aware of the details of the plans.

3 I would tend to think that yes, they are under a
4 mandate to achieve at least secondary treatment for their
5 industrial and municipal waste.

6 Q You are aware of plans for the upgrading or
7 installation of a new treatment plant at Nashua, is that
8 correct?

9 A No, I didn't say that.

10 I said that from my knowledge of the requirements
11 of the Federal Water Pollution Control Act, that such plans --
12 I would expect such plans to be in existence. I have not
13 studied such plans and I am not aware of the fact that a
14 particular plan is scheduled to go in at a particular time.

15 I do know that advanced water treatment facilities
16 are not planned for the lower portion of the Merrimack River
17 Basin in the State of New Hampshire. I say this based on my
18 analysis in the Seabrook case.

19 Q From the Seabrook Case.

20 And that was in connection with the Litchfield
21 facility -- the Litchfield site?

22 A That was a site that was located on the -- proposed
23 on the Merrimack River.

24 Q And there were no -- where is Litchfield located?
25 How far above the Massachusetts border is Litchfield located?

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mm15 1 A I don't know exactly.

2 I'm told it is 17 miles.

3 Q 17 miles.

4 So you are not aware -- strike that.

5 On page 4-6 of the FES, however, you refer to
6 delays in cleanup efforts.

7 You are not aware of a completion date for a new
8 facility at Nashua?

9 A No, I am not.

10 Q You did not contact any state officials in New
11 Hampshire to inquire of that matter?

12 A Not specifically for that matter, no.

13 Q Or EPA Region 1?

14 A No.

15 Q Mr. Masnik, turning for a moment to page 4-11, you
16 state at the top of the page, first full paragraph, you state
17 that the anticipated impact of the intake, on fish intake
18 at sites 1, 2 and 2-A due to impingement and entrainment, is
19 judged to be insignificant.

20 Is that not correct?

21 A (Witness Masnik) Could you tell me where you are
22 again, please?

23 Q First paragraph -- or it might look like the
24 second paragraph on page 4-11. I'll read you the sentence:

25 "The anticipated impact to the fish population

mm16 1 presently inhabiting the Merrimack River due to
2 impingement and entrainment is judged to be
3 insignificant primarily because of the present poor
4 quality of the fishery."

5 Do you see that sentence?

6 A Yes, I do.

7 Q Now, the intake and discharge for sites 1, 2 and 3-A
8 excuse me, the intake only, would those all be located at the
9 same point of the river for any one of those sites?

10 A Based on what was supplied to us by the Applicant,
11 the intake structure would be at approximately the same
12 location on all three sites.

13 Q And that location on the river possesses a gravel
14 bar which you describe on page 4-11?

15 A Based on my examination of the document prepared
16 by the state which included a bottom survey, they measured a
17 gravel bar in the vicinity of where the intake structure was
18 proposed.

19 It happened to be the only gravel bar for some
20 distance downstream, and since it was a state report there
21 was no information upstream which would have been in New
22 Hampshire.

23 So, my assumption was that the gravel bar was
24 a unique characteristic of that area.

25 Q Unique in what sense?

am17 1 A The fact that there just was not -- did not have
2 any gravel bottom type areas in the area for some distance
3 downstream.

4 Q And the significance of a gravel bar in terms of
5 aquatics, is a potential spawning area, is that correct?

6 A Potentially, depending on the fish species that
7 inhabit the area, a gravel bar is often a preferred habitat
8 for spawning.

9 Q Now you are aware that Massachusetts has plans to
10 reestablish an anadromous fishery on the Merrimack River?

11 A I'm aware of that.

12 But I think I was also corrected in the comment
13 in that there are several other agencies in addition to the
14 State of Massachusetts, that are involved in this restoration
15 project.

16 Q Your reference didn't bother the Commonwealth of
17 Massachusetts.

18 What species are planned to be reestablished in
19 the Merrimack under this program?

20 A Atlantic salmon and American shad.

21 Q Do those species tend to like gravel locations on
22 rivers for spawning?

23 A The Atlantic salmon might. However, the river is
24 quite large there, and it is questionable as to whether or
25 not the salmon may use this gravel bar, if it indeed still

13 1 exists. Gravel bars in rivers have a tendency to appear
2 and disappear.

3 Q Now you give a reference 34 as the source of
4 information that a gravel bar exists on that stretch of the
5 river.

6 34 is an Annual Progress Report, is it not, on
7 the Anadromous Fish Project of the Merrimack River,
8 Anadromous Fish Restoration Study?

9 A Yes.

10 Q Are you looking at the references on page 6-27

11 A I am.

12 Q What is the date of that publication?

13 It is not indicated in the reference.

14 A There are two dates. One, 1 June '78, and the
15 second one, 31 May '69.

16 Q It appears to me to be in error, Mr. Masnik. It's
17 a little hard to go chronologically from June 1st, 1978
18 to May 31st, 1969.

19 Is that an error?

20 A I would agree that there is probably an error in
21 this case.

22 Q So June 1st, 1978 should be June 1st, 1968?

23 A Let me check to see if I have a correct reference
24 before I say anything further.

25 Q Perhaps I can help you. I think I may have the

mm19 1 document.

2 (Handing document to witness.)

3 Is this the proper document reference 34.

4 Could you identify the title on the cover?

5 MR. SMITH: Ms. Burt, could I see that?

6 MS. BURT: I'm sorry.

7 (Handing document to counsel)

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BY MS. BURT:

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Q Mr. Masnik, that that appear to be the proper reference 34, that document?

David 1 3

(Pause.)

ake 2 4

A I would say that it appears that way, although I'm not convinced. I was under the understanding that the one I had was a little more recent, but this could very well be the document that I reviewed.

5

6

7

8

9

Q And would you please identify the document for the record.

10

11

12

A This is the Annual Progress Report of the Anadromous Fish Fish Restoration Study, Massachusetts AFS 7 for the period June 1, 1968 to May 31, 1969.

13

14

Q Does the title page indicate that that document was prepared by Peter H. Oatis and Colton H. Bridges?

15

16

17

Q And are those the same authors of the study to which you refer in reference number 34?

18

19

20

Q Mr. Masnik, how long has the anadromous fish program for the Merrimack River been in existence?

21

22

23

A I don't know the precise date, but I would imagine since at least 1969.

24

25

Q You don't know when it was begun?

A No, I do not.

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Q And what state agencies are associated with that

1 program?

2 A The Fish and Wildlife Agencies of Massachusetts
3 and New Hampshire, the National Marine Fisheries Service,
4 and the Fish and Wildlife Service.

5 Q And from what document are you reading right now?

6 A The final environmental statement.

7 Q What page?

8 A A31.

9 I'd like to correct that. That was the final
10 supplement to the final environmental statement.

11 Q And page A-31 contains the comments to the
12 draft supplement of the Department -- the U. S. Department
13 of Interior; is that not correct?

14 A That is correct.

15 Q When you prepared a draft supplement, were you
16 aware of the agencies involved in this anadromous fish
17 restoration program?

18 A I was aware that the National Marine Fisheries
19 Service and the State of Massachusetts were involved in it.

20 Q Now, this program -- you said an objective of
21 this program is to reestablish and salmon and shad run
22 on the Merrimack River, is that not correct?

23 A That's correct.

24 Q What barriers exist between sites 1-A -- 1, 2, and
25 2-A to the migration of those species to the proximity of
the site?

Do you know that of your own knowledge, Mr. Masnik?

1 Without consulting the other members --

2 A I do know that there is a dam at Lowell.

3 Q There is a dam at Lowell; what's the name of
4 that dam?

5 A I think it's the Lowell dam, and there is also
6 a dam, I believe, at Lawrence.

7 Q Lawrence. Do you recognize the Lowell -- you're
8 not certain what the name of the dam is at Lowell?

9 A I was told it was Pawtucket Falls.

10 CHAIRMAN LUTON: That doesn't do any good; there's
11 too much whispering going back and forth.

12 MS. BURT: Yes, would you please stop coaching
13 the witness.

14 CHAIRMAN LUTON: That was not the witness's
15 answer. Who told him? We have no way of knowing.

16 MR. SMITH: Mr. Chairman --

17 CHAIRMAN LUTON: It's really difficult.

18 MR. SMITH: I know, but if Ms. Burt is interested
19 in information, if she sees that other parties have that
20 information, it's only fair that the information be brought
21 out by the person who has the knowledge, particularly
22 when they're asking names of dams and things like that.

23 CHAIRMAN LUTON: This isn't quite a round robin,
24 however. Ms. Burt ought to have some ability to cross
25 examine in the manner which she likes; it's not inconceivable
that she might want to do something with a particular

1 witness. It isn't simply a matter of getting the information.
2 Cross examination sometimes proceeds on the basis of
3 information that's known to the examiner for various reasons.

4 MR. SMITH: But the Commonwealth --

5 CHAIRMAN LUTON: I don't know; that's why I've
6 got to let the Commonwealth do it the way that it wants to
7 do it. If Ms. Burt wants to put questions to any member
8 of the panel in particular, she ought to be able to do that;
9 if she just wants the information from any member of the
10 panel who might have the information, she can put her question
11 in that form.

12 But apparently she too is troubled by the
13 whispering that's going back and forth and she doesn't
14 intend to conduct her examination that way.

15 MS. BURT: Thank you, Mr. Chairman. Mr. Lehr,
16 would you stop coaching Mr. Masnik.

17 I would make it clear for the record that it
18 is not the intent of the Commonwealth to obscure the truth
19 in this matter, but rather to probe Mr. Masnik's
20 knowledge of the anadromous fish program.

21 CHAIRMAN LUTON: That's all right, Ms. Burt.
22 go ahead with your cross examination. And direct your
23 questions to one witness at a time if you want to and
24 let's get a response from that witness.

25 MR. SMITH: Mr. Chairman, you're ruling that
the panel cannot confer?

1 CHAIRMAN LUTON: I'm ruling that -- that that
2 ought not be -- when questions are put to a particular
3 witnesses and answers are sought from that witness, that
4 ought to be the witness who answers. That's what I'm
5 ruling.

6 MR. SMITH: It seems that ruling is that they
7 cannot confer, then?

8 CHAIRMAN LUTON: If you understand it that way,
9 I suppose it will have to be that way.

10 BY MS. BURT:

11 Q Mr. Masnik, from your knowledge of this
12 anadromous fish program -- excuse me. Strike that.

13 From your consultation with the document
14 identified as reference 34, did you read this study?

15 A Document 34?

16 Q Yes, the one that you -- the reference that you
17 identified as document 34, the reference?

18 A Yes, I did read it.

19 Q This document contained a study of attempts to
20 reestablish -- I mean -- strike that.

21 Did this study evaluate the angler -- and by that
22 I mean fishery potential of the Merrimack River in
23 Massachusetts?

24 A I -- my recollection of the document was a
25 series of surveys done on the river which indicated what the

avid6 1 fishery at that time was in the river in part. I believe
2 other sections of the document included the bottom survey
3 as well.

4 Q You mentioned that there were two dams
5 on the Merrimack River downstream of this site -- of sites
6 1, 2 and 2-A, Lowell and Lawrence; Lowell would be the
7 closer dam to the sites is that correct?

8 A I said I was aware of two dams.

9 Q Which dam is closer to the site?

10 A The Lowell dam.

11 Q Then how far away is the Lowell dam from sites
12 1, 2, and 2-A?

13 (Pause.)

14 A About between 5 and 10 miles, I would say.

15 Q Between 5 and 10?

16 A Approximately.

17 Q Could you give me a finer figure than that?

18 A No, I cannot by that measurement.

19 Q What were the conclusions of this study identified
20 as reference 34 with respect to the potential as a fishery
21 resource of the segment immediately above the Lowell
22 dam?

23 A My recollection was that the potential was there;
24 however, there was a poor present quality of fish in that
25 stretch of river.

1 Q In comparison to the other stretches of the
2 River analyzed in the study, wasn't it the conclusion that
3 this segment had the highest potential for recovery?

4 A I did not review the other segments of the river.

5 Q You reviewed only this segment of the river?

6 A I reviewed this segment of the river.

7 Q Did you read the summary and conclusions of the
8 various studies reprinted in that document?

9 A I believe I did.

10 Q And the summaries and conclusions refer to the
11 whole river?

12 A I have no recollection of whether or not it referred
13 to the whole river or -- other than the part I was interested
14 in.

15 Q Wouldn't an objective of this study that was
16 trying to establish the recovery potential of the river
17 want to know what the comparative quality of the segments
18 were?

19 A I don't know if I feel qualified to answer what
20 the potential -- someone else's potential in a study is.

21 Q Mr. Masnik, with respect to restoration of
22 the shad fishery on the Merrimack river, what are the extent --
23 what is the extent of the fishery present to date? What's
24 being done?

25 A The major effort is in the construction and
operation of fish passage facilities at the dams. This is

1 coupled with efforts to reduce or improve the water
2 quality at these locations -- well, at -- on the river itself
3 to potentially support the shad population.

4 Q Are shad eggs now being put in the upper reaches
5 of the river?

6 (Pause.)

7 A I'm not sure.

8 Q You do not know whether or not the shad eggs are
9 being put in in Massachusetts at any point in the river?

10 A I can't specifically site a reference to where
11 these are being put in off the top of my head. It would --
12 it would be a logical assumption that to restore fish you would
13 have to stock eggs in areas where they might become
14 established.

15 Q And the reason for that is so that the shad will be
16 imprinted -- I believe the word is -- to return to that
17 river from which they were spawned; is that not correct?

18 A That's correct. If the species is extirpated from
19 the body of water, the only way you can reintroduce them
20 is by stocking with eggs, in this case, eggs.

21 Q But you do not know whether or not shad eggs are
22 presently being put into the Merrimack?

23 A I think I answered that already.

24 Q Thank you.

25 DR. CALLIHAN: MS. Burt, a point of information,

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david9 1 please.

2 MS. BURT: Pardon?

3 DR. CALLIHAN: Has your recent question or series
4 of questions referred to sites 1, 2-A and 2?

5 MS. BURT: Yes.

6 DR. CALLIHAN: I would like to ask the staff
7 therefore to locate the Merrimack with respect to site 1.
8 Now, all I have found in the testimony is figure 3 on page
9 4-7; now, is there in the testimony a composite map that
10 locates the site 1 with respect to the other and have I
11 missed it?

12 WITNESS LA ROCHE: Site 1 is directly west of
13 the Merrimack River.

14 DR. CALLIHAN: I would much rather -- would
15 you go to figure 3 on page 4-7, because that we can carry home
16 with us; the other we cannot.

17 WITNESS LA ROCHE: It would be on the right; if
18 you hold the booklet in order to read the map correctly, then
19 it would be on the right side, about five miles --

20 DR. CALLIHAN: That's east? East of the imprint?

21 WITNESS LA ROCHE: Yes.

22 DR. CALLIHAN: East of the river; is that true?

23 WITNESS LA ROCHE: Correct.

24 DR. CALLIHAN: East -- how far?

25 WITNESS LA ROCHE: About five miles, five.

DR. CALLIHAN: At that point, what's the direction

David 10 1 of the flow of the Merrimack?

2 WITNESS LA ROCHE: North and south, from north
3 to south, I guess it is.

4 DR. CALLIHAN: So it's about five miles from the
5 margin of the -- the eastern margin or the top margin.

6 WITNESS LA ROCHE: Approximately.

7 DR. CALLIHAN: Five miles from the margin of that.

8 WITNESS LA ROCHE: Approximately.

9 DR. CALLIHAN: Thank you.

10 BY MS. BURF:

11 Q You said in your earlier testimony, Mr. Masnik, that
12 two of the objectives of the fishery program were to establish
13 fish ladders concurrently with attempts to improve the
14 water quality of the river. Is that not correct?

15 A (Witness Masnik) That's correct.

16 Q To your knowledge, have the cities of Lowell and
17 Lawrence been major sources of municipal sewage pollution of
18 the Merrimack River downstream of the sites 1, 2 and 2-A?

19 A I think that question could be better answered by
20 the water quality expert.

21 Q I'll ask Mr. Lehr.

22 A (Witness Lehr) You refer to Lawrence and Lowell
23 as being major sources of Municipal waste to the Merrimack
24 River; is that correct?

25 Q In connection with the establishment --
reestablishment of the anadromous fish program;

avidll 1 Mr. Masrik has said that that program is to both ensure
2 improvement of water quality and the establishment of
3 fish ladders on dams on the Merrimack River.

4 My question is: in the past, to your knowledge
5 of this river, have the cities of Lawrence-- municipalities
6 of Lawrence and Lowell, Massachusetts been major sources of
7 pollution for the river?

8 A I believe that to be a true statement, yes.

9 Q Is it your testimony that these -- these are still
10 major sources of pollution to the Merrimack River?

11 A I cannot say for certain; I have no current water
12 quality data taken from point sources in either of those
13 cities.

14 Q Are you aware of whether or not these two
15 cities have new secondary municipal waste water treatment
16 plants installed?

17 A I believe they're under construction; I'm not
18 aware of their status, though.

19 Q You're not aware of whether either one or both
20 are in operation at this time?

21 A That's correct.

22 Q Did you ever call the division -- Massachusetts
23 Division of Water Pollution Control to ascertain the fact?

24 A I spoke with the Massachusetts Division of Water
25 Pollution Control concerning the quality of the waters in the

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1 Merrimack River.

2 Q But you did not ask them with respect to
3 treatment facilities at Lowell and Lawrence?

4 A No, I did not.

5 Q Are you aware -- strike that.

6 Mr. Masnik has identified that there are two
7 dams as potential present barriers to the restoration of
8 the anadromous fish program.

9 He identified one as the Lawrence dam -- excuse me.
10 This is Mr. Masnik; I would like to ask him a question.

11 You identified one as the Lawrence dam.

12 A (Witness Masnik) No, I identified the fact
13 that there were dams in the towns of Lawrence and Lowell; I
14 believe the name of the dam is the Lawrence dam.

15 Q Are you aware of the new hydro -- low head hydro
16 project plan for the Lawrence dam?

17 A No, I am not aware of it.

18 Q What is the current schedule of the anadromous
19 fish program's installation of fish ladders at Lawrence?

20 (Pause.)

21 A I had discussions with someone at the state
22 concerning sturgeon in the Merrimack, and it was my understanding
23 that the fish ladder was not completed; however, the
24 indication I got was that it was going to be soon. I
25 don't have a precise date as to when it would be

wid13 1 completed.

2 Q Perhaps to be completed in the early 1990s? Is
3 that what he said?

4 A I would imagine that's reasonable.

5 Q Who did you speak to?

6 A Just a minute.

7 (Pause.)

8 Mr. Russell Iwanowicz.

9 Q Is that communication referenced in the
10 references at the end of the MES?

11 A I believe they are. I believe it is.

12 Q Can you identify that for us?

13 (Pause.)

14 The only communication, if it would be --

15 (Pause.)

16 A That's reference 30.

17 Q Is the spelling of the name that you gave me
18 before -- you returned to that reference -- different than
19 that presented in reference 30? There's an R. Pernazi.
20 Did you have someone else that you had identified previously?

21 A I believe there were several phonecalls, initially
22 to Rusty Iwanowicz who referred me to Joe Pernazi.

23 Q And you spoke to Mr. Pernazi with respect to
24 the shortness of sturgeon.

25 A I spoke to both individuals, but Mr. Pernazi had

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1 the most information or had the detailed information that
2 we needed at the time.

3 Q On the shortness of scurgeon?

4 A That's correct.

5 Q When are the fish ladders scheduled for
6 completion at the Lowell dam?

7 A I'm not sure; I -- I don't know.

8 Q Any estimates? Five years before operation of
9 the potential Pilgrim 2 at these sites, from 19 -- the
10 predicted 1986 --

11 A Again, I don't know the status of the situation.

12 Q Mr. Johnson, I'd like to ask you a question.
13 Turning for a moment to page 417 of the FES; I'm referring to
14 the second portion, top of the page, which is a continuation
15 of section 4.4.5 on hydrology.

16 You conclude that with respect adequate water
17 for a unit, a nuclear unit at any one of the three sites
18 in question -- sites 1, 2, or 2-A -- that an augmentation
19 reservoir would be required; is that not correct?

20 A (Witness Johnson) Yes. Either an augmentation
21 reservoir or some other means of flow elementation in
22 addition to the reservoir.

23 Q And what would "some other means" be?

24 A Well, as an example, on on-site storage pond
25 which is some sort of an augmentation reservoir. It isn't
exactly, but say some kind of self-contained site structure

avid15 1 which would pond enough water so that the water could be
2 released when necessary.

3 Also, another means of augmentation -- and I
4 believe that the applicant thinks that this may be possible
5 is that the reservoirs which are upstream could be regulated
6 such that the flow past the site would not impact any of
7 the downstream users.

8 That's also another possibility, and some other
9 means would be -- another means would be an augmentation
10 reservoir constructed on the main stream of the river -- well,
11 the Merrimack River or one of the tributaries to the
12 Merrimack upstream for -- from the site -- sites.

13 Q Now, your original conclusion, then, augmentation
14 reservoir would be the preferable means for providing water
15 for flow is because of competing water needs in the Merrimack
16 River; is that not true?

17 A That is one of the reasons why the augmentation
18 would be required, yes.

19 Q No, my question was not why it would be required,
20 but why you chose to suggest that an augmentation reservoir
21 would be the preferable means of providing adequate flow.

22 A Well, I'm not aware of any other type of
23 structure or system which could provide -- which could
24 provide sufficient water that could do something like this,
25 augment river flows. We're talking about quite a bit of

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1 water, not a small amount.

2 Q A large amount of water would have to be
impounded?

3 A Probably, yes: if it were found -- if a detailed
4 analysis were done and it was found that upstream reservoirs
5 could not be rerouted.

6 Q Is the Merrimack river presently a regulated
7 river?

8 A Very regulated, yes.
9 There are about 350 dams --

10 Q Are regulated --

11 A No, no, most -- well, I won't say "most." Many
12 of the dams are what are called run of the river dams. The
13 water -- well, the outflow essentially corresponds to the
14 inflow with very little time delay is essentially :
15 what that means. But most of them are low head power
16 dams which -- which store the water during the night and
17 release it during the day.

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1 Q Are the dams immediately upstream from sites 1,
2 2 and 2A presently operational?

3 A There are several dams on the Merrimack River
4 upstream of sites 1, 2 and 2A which are operational, yes.
5 One example would be Amstead Dam which is, I believe, in
6 Manchester.

7 Q And Manchester where, where is Manchester?

8 A That's in New Hampshire.

9 Q And is Manchester north or south of Nashua?

10 A Manchester is north.

11 Q Is that the closest -- the first dam that one
12 encounters going north of sites 1, 2 and 2A?

13 A I don't think so. I believe that there are others.
14 I think there's a dam at Nashua, I'm not 100 percent sure.

15 Q In order for a river to provide -- strike that.
16 When we speak of an alternative means such as
17 low flow obligation, are you talking about the concept of a
18 continuous release from dams during low flow periods of the
19 river?

20 A What I'm talking about, what I'm referring to
21 is essentially an impoundment which could replace the water
22 that would be consumptively used by a nuclear power plant
23 such that the plant itself would not impact -- or that the
24 water use of the plant would not impact any downstream use,
25 such as fisheries, such as water supply, and also recreation.

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1 Q What about competition of water supplies to up-
2 stream users, upstream of an augmentation reservoir?

3 A I don't believe that any augmentation reservoir
4 would have a serious effect on any upstream water users. The
5 reason for this is because any augmentation reservoir that
6 would be constructed would store water which was available
7 during high flow periods. The water would be -- for example,
8 during the spring the water would be stored from spring run-
9 off and then released in the summertime during the low flow
10 months when it is most critically needed.

11 Q Now you have said that such a reservoir would have
12 to be quite big, you said.

13 A Well --

14 Q How big?

15 A First of all, there are several uncertainties in
16 trying to predict the size of the augmentation reservoir, and
17 it does require a very detailed analysis in order to do this.
18 Some of the uncertainties that are involved would be first of
19 all, in the Merrimack River basin, I don't think anyone knows
20 exactly how much flow is required to meet all the needs of
21 the basin.

22 The Merrimack River has been studied by many state
23 and federal agencies, and to the best of my knowledge I don't
24 believe that any state or federal agency has ever come up with
25 a number which says that "X" amount of cfs would satisfy the

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1 needs of the basin.

2 Also, another factor which enters into this is the
3 Applicant would have to conduct some sort of cost-benefit
4 analysis such that they would determine which drought or
5 what period of drought or what frequency of drought that the
6 augmentation reservoir would have to be designed for.

7 One other factor that enters into the thing is
8 plant operational modes. It could well be that the most cost
9 beneficial thing to do would be to shut down the plant during
10 periods of low flow. I don't know that that would be the
11 most desirable, but that is an option.

12 And also the location of the reservoir would also
13 affect its size.

14 Now what I can do for you is during the Seabrook
15 review in studying the Litchfield site we did use an example
16 of flow augmentation which was proposed for the Perkins Nuclear
17 Plant which is in South Carolina -- North Carolina, on the
18 Yadkin River, Y-a-d-k-i-n River. And we do have that -- and
19 that was in the Seabrook testimony, and it gives you a rough
20 idea of what size of reservoir would be required based upon
21 three different flow requirements that were proposed for the
22 Yadkin River. And I can get that if you'd like.

23 Q Without referring specifically to the document or
24 getting to that level of detail, do you recall from your
25 testimony in the Seabrook case the range of size of

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1 impoundment that would be required?

2 A Well, off the top of my head, I believe that the
3 impoundments were about 100 feet high on the averages and
4 stores like on the order of 10,000 acre-feet of water. Now
5 I should point out that was for two units, so that this
6 reservoir would not have to be that large. Probably -- if I
7 had to guess, and I suspect that's what you want, is a rough
8 guess?

9 Q Yes.

10 A I'd say about 50 feet high and impound 5- to
11 10,000 acre-feet of water. An acre-foot of water is about
12 -- it's 43,000 cubic feet of water, if that helps you.

13 Q I wonder if you could reduce that to a concept
14 that I can grasp in my simple mind. What's that in square
15 miles?

16 A Okay. 5000 acre-feet would be -- Well, a 50 acre
17 pond 100 feet deep --

18 Q All right. Thank you.

19 A -- as an example.

20 Q Now that impoundment, of course, would have to be
21 upstream of sites 1, 2 and 2A, is that not correct?

22 A It could be downstream -- Well, I think the most
23 preferable place would be to put it upstream, because if
24 you put it downstream it would be a stretch of the river which
25 would have the flow reduced, depending on where you put it.

mpb5 1 So if you put it upstream, if you knew the plant was using
2 30 cfs or so, then you could put that back in from upstream.

3 Q Now such an area of an impoundment could poten-
4 tially conflict with current land uses upstream of sites 1,
5 2 and 2A, is that not correct?

6 A I would think that would be possible, yes.

7 Q Did you investigate the closest area upstream of
8 sites 1, 2 and 2A that might have land area available or that
9 was not densely populated?

10 A No, I did not.

11 Q What town is immediately north of Tyngsboro and
12 Dunstable, Massachusetts?

13 A What town is immediately north of --

14 Q What municipality, either in Massachusetts or
15 New Hampshire?

16 A I would think that would be Nashua, New Hampshire.

17 Q And immediately thereafter, what municipality
18 follows up on the Merrimack River going north?

19 A I believe Manchester, I think. Concord? I'd
20 have to consult a map.

21 (Pause.)

22 A Immediately upstream of Nashua there are several
23 small towns. There's Litchfield, Merrimack, Reeds Ferry on
24 the east side of the river. On the other side of the river --

25 Q What's immediately across the river from those

mpb6

1 towns that you have mentioned?

2 A The interstate highway.

3 Q Is that right along the river?

4 A Yes.

5 Q Now you said that one of the major uncertainties
6 of the Merrimack is that it's not yet -- the needs, the
7 water needs of the Merrimack have not yet been identified in
8 quantity.

9 Is it a fair statement to say that the amount
10 of competing water needs is substantial on the Merrimack
11 River?

12 A I would say that given the fact that the flow does
13 drop to very low levels in the summertime, yes, there are
14 competing uses of the river.

15 Q Can you give me a few examples of those competi-
16 tive uses?

17 A One of the uses is water supply. For example,
18 there is some talk of diverting water from the Merrimack
19 River to Boston as part of the Boston water supply. There
20 are efforts, as we discussed here before, to establish the
21 fisheries in the Merrimack which would require clean water.

22 There is also a recreation potential for the
23 river, swimming, boating, fishing, et cetera.

24 Q What about water supply in New Hampshire?

25 A What do you want to know about it?

mpb7

1 Q Do the cities of Nashua, Manchester or Concord
2 use the Merrimack for water supplies?

3 A I believe -- I'm not 100 percent sure, but I
4 believe they use groundwater as their water supply.

5 Q Do you know if they have plans to use the
6 Merrimack as a drinking water supply?

7 A I don't know that they specifically have plans.
8 But based upon one of the references that I've read, there
9 are plans to use the water upstream of the plants also.
10 There are plans.

11 Q Thank you.

12 Mr. LaRoche, you were responsible for assessing
13 the terrestrial ecology and land use of sites 1, 2 and 2A,
14 is that not correct?

15 A (Witness LaRoche) Yes, that's correct.

16 Q Turning for a moment to page 4-12 of the FES.

17 A Yes.

18 Q Under Section 4.4.2 is a description of sites 1,
19 2, and then on the following page is 2A.

20 You state on that page that sites 1 and 2 would
21 require preemption of a wildlife habitat. What kind of a
22 wildlife habitat is that?

23 A Just the normal wildlife in New England, the
24 rabbits, squirrels and various bird species, amphibians,
25 reptiles.

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Q And how did you determine that?

A Just by knowledge of the general ecology of New England.

Q Now sites 1 and 2 are identify as both having prime farmland of state and local importance on those sites.

A Correct.

Q What is the significance of that designation?

A This is just a way of classifying land for potential use by the soil conservation service of the United States Department of Agriculture.

Q And the designation of "prime" means what in that ranking?

A That is the best farmland available.

Q And how does land acquire the designation of state and local importance?

A This is done on a local level. Within each state the Soil Conservation Service and the local farm agencies establish which soil types will be so designated.

Q Now in the earlier description of the site, beginning on page 4-8, site 2 is identified as having prime farmland in orchards which may be classified as "unique farmland".

What is the meaning of the designation "unique" farmland?

A Unique farmland is land that is capable of

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1 supporting a very specialized crop, such as orchards,
2 cranberry bogs and blueberries.

3 Q Mr. LaRoche, Dr. Callihan had asked you to
4 identify on Figure 3 the location of the Merrimack River,
5 correct?

6 A Yes.

7 Q And you had identified the river as existing
8 approximately five miles to the east of the site?

9 A That's correct.

10 Q And that would be on the top of the page as
11 it appears?

12 A Correct.

13 Q Can you describe for me the topography or the
14 terrestrial significance, or just a description -- Would you
15 please describe for me the land between the eastern boundary
16 of the site on site 1 for five miles until you get to the
17 river?

18 A Rolling hills.

19 Q Now site 1 is proposed for natural draft cooling
20 tower systems, is it not?

21 A That's one of the options.

22 Q In addition to a spray pond?

23 A I'm not sure if it's a spray pond, it's just a
24 reservoir pond.

25 Q A reservoir pond.

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Q If a cooling tower is used on the site, would that require approximately five miles of pipe to reach the Warrinack River from site 17?

A Correct.

Q And that would require substantial encroachment of rights of way or access on those rolling hills?

A Correct.

Q How deep would those pipes have to be buried?

A I don't know.

C Turning for a moment to page 4-13.

MR. SMITH: What page?

MS. BURT: 4-13 of the VES.

BY MS. BURT:

Q You state in the description of -- it's stated in the description under site 2A that the potential impact -- it's looking at the very last paragraph under section 4.4.3.3 -- what will be a potential impact on two onsite areas listed in the State Outdoor Recreation Plan.

What are those plans, Mr. LaRoche?

A This is Dr. Bykoski's area.

A (Witness Bykoski) Would you repeat the question?

Q Dr. Bykoski, would you identify for me what those two areas were in the State Outdoor Recreation Plan?

A In the next sentence the description is a small area located on Pond Street, which is a campground and picnic

mpb11 1 area, and Black Brook is a small area of conservation land.

2 Q And these both exist on site 2A?

3 A Yes.

4 Q Turning for a moment -- I'd like to speak back
5 with Mr. LaRoche, please.

6 Mr. LaRoche, in your assessment of terrestrial
7 impacts and land uses, you did not provide an assessment of
8 the impact of cooling tower pipes to the Connecticut River,
9 did you, from site 1?

10 A (Witness LaRoche) Site 1 is quite a ways from
11 the Connecticut River.

12 Q I mean the Merrimack River, excuse me.

13 A No, I did not.

14 Q Turning for a moment, Mr. LaRoche, to Table 11,
15 which is the very last table appearing in the FES, appearing
16 just following page 4-60.

17 Now this table provides a comparison of the
18 various disciplines and factors of the alternative sites
19 with the Pilgrim Rocky Point site, does it not?

20 A Yes, it does.

21 Q Turning for a moment to the column under site 1,
22 2 and 2A, turning your attention to the left-hand column to
23 number 7 under Terrestrial ecology and land use under
24 transmission lines, and there is a designation of a negative
25 or inferior for site 1, inferior to Pilgrim 2 for site 2,

mpb12 1 and equal for site 2A, is that not correct?

2 A Correct.

3 Q Where in the description of sites 1, 2 and 2A did
4 you provide an assessment of transmission lines?

5 I'd like Mr. LaRoche to answer the question, if
6 you can.

7 A (Witness Scaletti) Could I answer that, because
8 I'm responsible for number seven under this Terrestrial
9 ecology and land use.

10 Q Mr. Scaletti, can you tell me, turning a moment
11 to page 4-12 of the FES -- Will you turn to page 4-12?

12 Under the section under Terrestrial Ecology and
13 Land Use, can you tell me where in that section, which goes
14 from page 4-12 to the top of 4-13, there is a discussion of
15 transmission lines?

16 A There is no discussion of transmission lines.

17 Q Can you tell me where in the section provided
18 from page 4-6 through 4-19 there is a presentation for the
19 assessment of the impact of transmission lines on sites 1,
20 2 and 2A?

21 A There is no discussion of the impact related to
22 transmission lines anyplace in the document --

23 Q Thank you.

24 A -- except under the description of the Pilgrim
25 site, which says there will be no additional transmission

mpbl3

1 lines needed. These evaluations related to number seven in
2 Table 11 come from the fact that the submittal of the
3 Applicant, where they gave us information with regard to the
4 number of acreages that would be required for additional
5 transmission lines at all of the sites considered in the
6 1974 siting study and for Montague, Millstone and Seabrook.

7 Q Thank you, Mr. Scaletti.

8 Now with respect to your assessment of trans-
9 mission lines, are you assessing only the ecological and
10 land use aspects of transmission lines in this particular
11 chart?

12 A I am only assessing that there would be acreages
13 impacted at each of these sites that have a negative rating.
14 The zero ratings would indicate there would be -- that the
15 Applicant believes there would be no impact because trans-
16 mission rights of way go through the site. And this is all
17 based on the fact that Pilgrim requires no additional trans-
18 mission lines.

19 Q Thank you.

20 Mr. Scaletti, would the existence of the Pilgrim 2
21 transmission line create a necessity on the grid system for
22 an additional line?

23 A Anyplace in the grid, the New England grid?

24 Q Yes.

25 A I can't answer that. To the best of my knowledge

npbl4

1 it might require some reinforcement. I couldn't tell you
2 where, I don't know. It does require the inclusion of some
3 circuit breakers. I can't answer that, though.

4 Q Did you study that matter, Mr. Scaletti?

5 A I looked at the submittal, yes, I reviewed the
6 submittal by Boston Edison Company.

7 Q Mr. Scaletti, is your opinion that the necessity
8 of the Walpole-Needham line has no relationship to Pilgrim 2
9 at all?

10 A I can't answer that.

11 CHAIRMAN LUTON: We need to take a recess.

12 MS. BURT: If I could, Mr. Chairman, on this part,
13 if I could ask one more question?

14 CHAIRMAN LUTON: All right.

15 BY MS. BURT:

16 Q Mr. Scaletti, turning your attention to Table 11,
17 for the comparison of factors on Table 11, is there any
18 factor for sites 1, 2 and 2A which offers any environmental
19 advantage, and by that I mean a designation of a plus sign,
20 a superior over the Pilgrim 2 site in any one of the categor-
21 ies listed?

22 MR. SMITH: Mr. Chairman, that's evident from the
23 table.

24 CHAIRMAN LUTON: Yes, it is.

25 The witness can tell us that it's evident from the

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table, I suppose.

WITNESS SCALETTI: Am I supposed to answer that?

It's very obvious from the table that there are no pluses under 1, 2 and 2A.

MS. BURT: Thank you very much, Mr. Scaletti.

CHAIRMAN LUTON: All right.

We'll recess now for 15 minutes.

(Recess.)

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14 MELTZER
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1 CHAIRMAN LUTON: All right, let's go ahead.

2 Ms. Burt?

3 BY MS. BURK:

4 Q I'd like to ask a question of Mr. LaRoche.

5 Mr. LaRoche, if you would please turn to page 4-27,
6 the beginning of the description of sites 19 and 20.

7 Under section 4.7, entitled Description of Sites 19
8 and 20, you describe these sites as located on Buzzards Bay.

9 Where -- how big is Buzzards Bay?

10 A (Witness LaRoche) I can't give you an estimate.

11 Q Where are these sites -- where is Buzzards Bay on
12 the East Coast of Massachusetts?

13 A It's on the Massachusetts East Coast just south of
14 Cape Cod.

15 Q And Buzzards Bay includes approximately how many
16 miles, perhaps in a straight line from Cape Code, south?

17 A About 10 miles.

18 Q About 10 miles.

19 Mr. LaRoche, where -- would you like to correct
20 your answer?

21 A Maybe 15.

22 Q 15 miles.

23 From what point on Cape Cod? Where is your starting
24 point?

25 Maybe identify it by municipality.

mm2

1

A From the town of Wareham to the town of Fairhaven.

2

Q And Wareham would be the northernmost town of

3

Buzzards Bay?

4

A On the west side of Buzzards Bay, yes.

5

Q Turning for a moment to Figure 6.

6

Figure 6 provides a map of site 19. That's

7

page 4-29.

8

A Yes.

9

Q Now the map does not indicate where, on Buzzards

10

Bay, this site is.

11

Can you describe that for me?

12

A It's in the northern portion of the Buzzards Bay.

13

Q How much north?

14

A The very northern portion.

15

Q It's the very northern portion.

16

In what town is site 19 located?

17

A It's in the town of Wareham.

18

Q And Wareham is the northernmost town of Buzzards

19

Bay?

20

A As far as I know, yes.

21

Q That is the last town before the entrance to the

22

Cape Cod Canal?

23

A From what is indicated on this map it is, yes.

24

Q Turning -- from this map here, from Figure 6?

25

A Yes, Figure 6.

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mm3

1 Q And how do you know that from Figure 6?

2 A Well, the canal begins right at the -- approximately
3 right middle of Figure 6. And this is the town of Wareham.

4 Q And the beginning of the Cape Cod Canal is where
5 in relationship to site 19 itself? Can you describe it for us?

6 A It's just east along that dashed line that you
7 see, that divides -- that they have Plymouth County-Barnstable
8 County line, that dashed line is approximately where the canal
9 is.

10 Q Is that a county line or is that the route --

11 A That's a county line. Actually the county line, but
12 that's also where the canal is.

13 Q That is the navigation channel of the Cape Cod
14 Canal?

15 A That's correct.

16 Q Indicated by that dotted line?

17 A That's not the purpose of that dotted line, but that
18 happens to be -- in other words, the purpose of the dotted line
19 is to show the boundary between Plymouth and Barnstable
20 Counties. But it also happens to be the channel of the Cape
21 Cod Canal.

22 Q I see.

23 So if we follow that line down to the bottom of
24 the page, it sort of shoots up to the left at the end of the
25 Stony Point Dike.

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1 Is that not correct?

2 A Correct.

3 Q And is that also the line which goes up to your
4 left from -- I can't read it. Does it say Abiels Ledge, or
5 something at the end. What is that nomenclature right at the
6 end of the Stony Point Dike?

7 A Abiels Ledge, A-b-i-e-l-s.

8 Q Abiels Ledge.

9 The dotted line which proceeds in a northwest
10 direction, also the Canal route of Cape Cod Canal?

11 A No, it is not.

12 Q Where does the Cape Code Canal navigation channel
13 proceed?

14 Is this or is it not the navigation channel?

15 A It is approximately the navigational. It may be
16 a few feet to the right of it. But it continues in a
17 southerly, southwesterly direction, I believe.

18 Q So Cape Cod Canal, the channel goes southwest
19 from Abiels Ledge?

20 Is that your testimony?

21 A Approximately, yes.

22 (Witness Kantor handing document to Witness LaRoche)

23 MS. BURT: Mr. Kantor, would you please let
24 me ask the witness a question.

25 MR. SMITH: Let the record show that a map was

mms5 1 handed to the witness. No conversations.

2 MR. LEWALD: Can I suggest that this inquiry could
3 be better had in relation to Figure 1, which gives an
4 overview, rather than to take a segment figure, which is
5 Figure 5.

6 MS. BURT: What page is Figure 1, Mr. Lewald?

7 MR. LEWALD: Page 3-3.

8 BY MS. BURT:

9 Q Now, Mr. LaRoche, does Figure 1 indicate where the
10 Cape Cod Canal is?

11 A (Witness LaRoche) No, it does not.

12 MS. BURT: I think it maybe is not of much use,
13 Mr. Lewald.

14 MR. LEWALD: It certainly shows the entire Buzzards
15 Bay area.

16 BY MS. BURT:

17 Q And where on that map is the southernmost exten-
18 sion of Buzzards Bay, Mr. LaRoche?

19 A (Witness LaRoche) There is no indication. It is
20 not labeled as such.

21 Q I see.

22 And so I would not be able to tell on this map the
23 town which you identified as the southern portion of Buzzards
24 Bay?

25 A Not from Figure 1, no.

mm6

1 Q Mr. LaRoche, where is site 19 in relationship to
2 site 20?

3 A It's northeast.

4 Q It's northeast?

5 A That's correct.

6 MR. SMITH: For the record, that may be helpful
7 in using Figure 1.

8 BY MS. BURT:

9 Q I see.

10 How far is that from -- how far is site 19 from
11 site 20?

12 A (Witness LaRoche) About 2 to 3 miles.

13 Q Mr. LaRoche, do you have a quadrangle or USGS map
14 with you, where it would be a little bit more easy to
15 identify the proximity of these things?

16 I'm having a very hard time to describe it. It
17 is going to take a very long time, and I would like to
18 understand.

19 A Yes, I have. (Indicating)

20 Q Do you have any extra copies of those, Mr. LaRoche?

21 A Yes.

22 Q Is the map indicated by Figure 6 and 7 Xeroxed
23 from a USGS quadrangle?

24 A I would assume so.

25 Q It might facilitate the questions. I used the

1 document yesterday, and I am really just trying to be able
2 to ask the questions about the environment, to use the map
3 that I used yesterday so everyone could have it and be able
4 to look at it.

5 I am referring to a document entitled Chapter 5,
6 Massachusetts Coastal Region and Atlas of Resources.

7 Mr. LaRoche, have you examined this document before?

8 A I have perused it.

9 Q You have perused it before.

10 Did you look at this in connection with your
11 evaluation of the coastal zone management program for these
12 sites?

13 A I used mostly the written document.

14 Q And by the written document, you refer to what
15 document?

16 (Pause)

17 A The Massachusetts Coastal Zone Management
18 Program Final Environmental Impact Statement, 1978.

19 Q But you have looked at this document before,
20 correct?

21 A Very briefly.

22 Q I show you the page of this document -- and by
23 that I am referring to the Atlas, Resources Massachusetts
24 Coastal Region identified earlier. And I show you Plate
25 No. 40.

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1 MR. SMITH: Ms. Burt, we don't have a copy. I
2 don't think the Board has a copy.

3 MS. BURT: I'm hampered by only having three
4 copies of these, which as I indicated yesterday was as many
5 as I could obtain from the Coastal Zone Management Program.
6 They are out of print. I think it is a fair indication.

7 It is my hope that perhaps, if it would not be
8 objectionable to Mr. Smith and Mr. Lewald, if they might
9 look at a copy at the same time, we would be able to have the
10 Board and the witness and other counsel be able to look.

11 Would that be permissible, Mr. Chairman?

12 CHAIRMAN LUTON: I'm not sure I follow you.

13 You have one for the Board and one for Mr. Lewald
14 and one for the witness?

15 MS. BURT: For the witness to look at, and then
16 I could ask some questions from it, if everyone wants a copy
17 while I'm asking questions.

18 Would that be permissible?

19 CHAIRMAN LUTON: I think so, if that's the best you
20 can do.

21 MR. LEWALD: Unless this is marked for identification,
22 the record is going to be kind of meaningless.

23 MS. BURT: I intend to.

24 MR. LEWALD: Yesterday we had extensive use of this.

25 MS. BURT: I would like to identify that as

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1 Commonwealth Exhibit No. 108 for identification.

2 CHAIRMAN LUTC All right, it will be so marked,
3 Commonwealth's 108 for identification.

4 (The document referred to was
5 marked Commonwealth Exhibit No. 108
6 for identification.)

7 BY MS. BURT:

8 Q Mr. LaRoche, returning to an earlier question
9 that I had, can you tell me where, on Commonwealth's Exhibit
10 for identification 108, Plate 40, can you identify the
11 channel of the Cape Cod Canal?

12 A Yes, I can.

13 Q Is that indicated in the brown line which parallels
14 the Stony Point Dike?

15 A Yes, it is.

16 Q Mr. LaRoche, I wonder if you could hand that
17 document to Mr. Masnik.

18 (Document passed to Witness Masnik)

19 Mr. Masnik, can you describe for me in terms of
20 marine biology in a descriptive manner, the bay indicated on
21 Plate 40 between sites 19 and 20?

22 Or, can you describe --

23 A (Witness Masnik) Can you be a little bit more
24 specific?

25 Q Can you describe for me the coastline which appears

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1 on Plate 40 between site 19 and -- well, first of all, can
2 you identify for me on that plate, where site 19 is located?

3 A Well, where Stony Point Dike joins the land mass.

4 Q And the land mass is site 19?

5 A Well the land mass has been -- is where site 19
6 had been proposed.

7 Q And can you identify for me on Plate 40 where site
8 20 is?

9 A It's approximately west of site 19 in the vicinity
10 of the area labeled Great Hill.

11 Q And Great Hill is a peninsula?

12 A Yes, it is.

13 Q Can you identify for me the river which extends
14 from Buzzards Bay immediately north of site 20?

15 A There are two rivers that empty into Buzzards Bay
16 in the vicinity of site 20 or between site 20 and site 19.
17 Weneic River, and Wareham River.

18 Q Is it fair to characterize the coastline between
19 site 19 and 20 as a bay? Would that be a proper designation?

20 A I guess you could say it's a bay. I would say
21 probably more like the mouth of two rivers into Buzzards Bay.

22 Q Looking a minute on Plate 40, can you identify
23 for me the protruding peninsula just south of site 20?

24 Does that have a generic name?

25 A Sippican Neck is what it is referred to on the map.

ms10 1 Q Now the geographic area between Sippican Neck
2 and Stony Point Dike, would it be fair to characterize that
3 area as a fairly enclosed bay?

4 A That's an awful general term. It is enclosed to
5 some extent. I don't know whether it is fairly enclosed.

6 There is some restriction as it enters Buzzards
7 Bay.

8 Q What would be the distance of the opening between
9 the end of Stony Point Dike and the Sippican Neck?

10 Approximately?

11 MR. SMITH: Mr. Chairman?

12 CHAIRMAN LUTON: Yes?

13 MR. SMITH: Just to get an understanding of the
14 line of cross, and maybe there is a way to get to the end
15 at some point --

16 CHAIRMAN LUTON: I would hope so, because I
17 don't know where it is going either.

18 MR. LEWALD: Could we inquire, Mr. Chairman, it
19 would appear that the Assistant Attorney General has just
20 stepped into the Commonwealth for the first time, and we
21 obviously know that's not so.

22 MS. BURT: Mr. Lewald, I object to that
23 characterization. I intend to pursue a line of questioning
24 to which this is relevant, and I hope that will be readily
25 apparent in my next two questions.

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CHAIRMAN LUTON: All ri ght.

BY MS. BURT:

Q Can you answer the question, Mr. Masnik?

A (Witness Masnik) Can you repeat the question, please?

Q I asked you approximately what the distance was between the water opening between Stony Point Dike and the Sippican Neck.

MR. LEWALD: Perhaps it would be helpful if you advise the witness as to what the scale is on the exhibit for identification you have given him.

MS. BURT: I have just asked him the question generally. He can, for the record, say that the witness is looking at a USGS map presently.

CHAIRMAN LUTON: Can the witness answer the question about the distance? How far, either with reference to the map or without reference to it, if you happen to know it otherwise?

Can you answer?

WITNESS MASNIK: Based on the USGS map I have before me, the distance is approximately 1.2 miles.

MR. SMITH: Mr. Chairman, for clarity of the record --

CHAIRMAN LUTON: That should be marked as well?

MR. SMITH: Either marked, or give the same

uml2 1 distance based on the document that has been marked.

2 BY MS. BURT:

3 Q Would you please identify the map?

4 A (Witness Masnik) This is a USGS 7 1/2 minute
5 quadrangle onset, Massachusetts, dated 1967.

6 CHAIRMAN LUTON: We will mark that Commonwealth
7 109.

8 (The document referred to was
9 marked Commonwealth Exhibit
10 No. 109 for identification.)

11 MS. BURT: That, for the record, has been marked
12 as Commonwealth Exhibit 109. And I would ask that it be
13 moved into evidence.

14 I can provide copies. I don't have them now.

15 CHAIRMAN LUTON: Any objection to the receipt of
16 this particular map?

17 MS. BURT: To be accepted as being provided with
18 copies next week.

19 MR. SMITH: Fine with me.

20 MS. BURT: Do you have any objection to that,
21 with copies being provided next week, Mr. Lewald?

22 MR. LEWALD: You want to introduce it into evidence?

23 MS. BURT: Yes.

24 I wonder if it can be accepted --

25 MR. LEWALD: Certainly.

1 MS. BURT: Would you like to inspect the document,
mm13 2 Mr. Lewald?

3 MR. LEWALD: No, I don't think so.

4 WITNESS MASNIK: I have a correction to make. I
5 misread this scale. It is 2.2 miles, instead of 1.2 miles.

6 CHAIRMAN LUTON: Let me receive that map in evidence
7 as Commonwealth Exhibit 109.

8 (The document heretofore marked
9 Commonwealth Exhibit 109 for
10 identification, was received
11 in evidence.)

12 BY MS. BURT:

13 Q Mr. Masnik, turning for a minute to page 4-31 of
14 the PES --

15 MR. SMITH: For clarification of the record, would
16 you refer to it as the final supplement?

17 MS. BURT: Final supplement.

18 DR. COLE: Or, Staff Exhibit 53.

19 BY MS. BURT:

20 Q -- final supplement, page 4-31.

21 About three-quarters of the way down that page,
22 Mr. Masnik, you characterize Buzzards Bay as being biologically
23 highly productive, and may contribute substantially to the
24 Cape Cod Bay fishery.

25 What specific fish species are found in Buzzards

mml4 1 Bay?

2 A (Witness Masnik) If you turn to page 4-22 --
3 I'm sorry, that's incorrect -- 4923, I provide a brief
4 discussion on some of the species that occur in Buzzards Bay
5 in the second and third paragraph from the top.

6 Q I see.

7 Is that the paragraph in which you refer to
8 studies conducted from 1976 to '78, that paragraph?

9 A And the preceding one as well.

10 Q I see.

11 Did you examine any other marine fishery documents
12 in terms of fishes found in Buzzards Bay other than those
13 that were identified on page 4-28?

14 A Yes, I did.

15 Q And what other species can you identify for us
16 today that are in abundance in Buzzards Bay?

17 A There are quite a few typical bay species that
18 would be found there; things like Atlantic Silverside,
19 different species of top minnows.

20 I'm sure there is striped bass, there is bluefish,
21 white perch, different species of drum.

22 Q And populations of these species are also found
23 in abundance in Buzzards Bay?

24 A Yes, they are.

25

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Q Now, staying for a moment on page 4-28 of the final supplement, you make a reference to reference 53; I believe that is, is it not, a document of the Massachusetts Department of Fisheries entitled "Progress Report, Biologic Investigation in northern Buzzards Bay and the Cape Cod Canal for the Canal Electric Company: Project Report Number 4."

Is that correct?

A That's correct.

Q Now, the Cape Cod Canal Electric Company; where is that located?

MR. LEWALD: Where is the company located?

BY MS. BURT:

Q Where is the Cape Cod Canal -- excuse me. Strike that.

What -- where is -- what is the purpose of this report, to your knowledge -- to your recollection?

A To the best of my recollection, this was a survey that was conducted by the utility or its consultants of the Canal station on the fishes inhabiting -- well, on the fishery resources of the Cape Cod Canal, I would imagine with the ultimate aim -- of preparing for a 316 determination.

Q You would assume that? Do you know if the Canal Electric Company presently maintains an energy generation facility on Cape Cod Canal?

1 A Whether the -- repeat the question, please.

2 Q To your knowledge, the -- does the Canal
3 Electric Company presently maintain an operating energy
4 plant on the Cape Code Canal?

5 A I know that there is a fossile power station
6 on the Cape Cod Canal. I'm not sure that the present owner
7 of the station is the Canal Electric Company, and ownership
8 can change.

9 I have no knowledge --

10 Q You have read reference 53, I presume?

11 A Yes, I have.

12 Q Do you know the purposes for which that study
13 was prepared?

14 A I examined the document with the understanding
15 that I would extract the data that dealt with the
16 possibility of impacts associated with sites 19 and 20. I
17 did not spend a considerable amount of time reviewing the
18 purpose of the document.

19 As I mentioned earlier, I'm -- under the
20 assumption that it may be for a 316 demonstration. That's
21 why normally power companies do these sort of studies.

22 Q Now, a 316 demonstration is what, Mr. Masnik?

23 A A 316 demonstration is a procedure by which a
24 utility gets certification from the Environmental Protection
25 Agency or a permitting state to allow them to continue

david3 1 using once through cooling in the case of a 316 A determination
2 and that they're using the best available technology that's
3 economically feasible as far as the intake structure is
4 concerned for the 316 B determination.

5 Q Now, Mr. Masnik, are you aware that the
6 Massachusetts Department of Fish and Fisheries requires annual
7 monitoring of the Pilgrim 2 facility -- and by that I mean
8 biological or aquatic monitoring.

9 MR. SMITH: Mr. Chairman, I object.

10 MR. LEWALD: I think you said Pilgrim 2, Ms. Burt.
11 I think you meant to say the Canal Plant.

12 MS. BURT: Thank you, Ms. Lewald. I stand
13 corrected on that. It's Pilgrim 1.

14 WITNESS MASNIK: I'm aware that the state does
15 require some monitoring.

16 BY MS. BURT:

17 Q Are you aware that the state requires semi-annual
18 operational monitoring reports for impacts on fisheries on
19 Pilgrim 1?

20 A I'm not aware of the frequency which the state
21 requires the utility to submit monitoring documents.

22 Q Do you recollect if reference 53 is a document
23 performed pursuant to requirements of the Massachusetts
24 Department of Fisheries for continuing operating and
25 monitoring fisheries for the Cape -- for the Canal Electric

1 facility on Cape Cod -- I mean on the Canal, the Cape Cod
2 Canal?

3 A Again, as I mentioned earlier, I reviewed the
4 document for the express purpose of determining whether
5 or not the data that was supplied in that report would
6 shed any light on the impacts associated with sites 19 and
7 20.

8 I did not review the document from the standpoint
9 of the impact that the station had on the fishery or the
10 purpose for which the document was presented.

11 And I -- as I mentioned earlier, felt that
12 possibly the document may have been developed because of the
13 316 determination.

14 Q Do you have that document with you today?

15 A No, I do not.

16 MR. SMITH: Mr. Chairman -- I withdraw it.

17 BY MS. SURT:

18 Q Now, you indicate in the c second paragraph on
19 page 428 that the largest concentration of lobster larvae
20 reported on the east coast of the United States are -- have
21 been -- are believed to be in northern Buzzards Bay; is that
22 not correct?

23 A That's what is stated there, yes.

24 Q And you obtained that information from reference
25 53 to which we were referring previously? Correct?

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1 A Yes.

2 Q Now in the next paragraph you indicate that
3 studies conducted from 1976 to 1978 -- again referring
4 to reference 53 -- have reported various species of ichthyoplankton
5 from Buzzards Bay, Cape Cod Canal and the mouth of the Canal
6 in Cape Cod Bay. Correct?

7 A That's correct.

8 Q Now, what -- that was the same document that you
9 used for obtaining information on lobster larvae; is that
10 not correct?

11 A Yes.

12 Q Do you recall if that document had indicated the
13 location of any sampling stations at the Stony Dyke --
14 right next to Stony Dyke?

15 A As I mentioned there, I believe there was one
16 station located in the vicinity of Stony Point Dyke near --
17 on figure 6 near the Mashnee Island between where it
18 says Stony Point and Mashnee Island; I believe that was the
19 approximate location of the sampling site.

20 Q I see. And you provide in that paragraph various
21 percentages from collection; was this percentage as between
22 a two year period or a three year period -- two year period
23 collection of various species?

24 A Well, based on the pooling of the ichthyoplankton
25 that was collected, the cunner, tautog and yellowtail that
was collected, comprised 79 percent by number of all the

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1 eggs collected, and as the sentence goes on, cunner and
2 tautog comprise 23 percent and 14 percent respectively,
3 again by number of all the larvae collected.

4 Q What was the larvae count for lobster larvae
5 at the Stony Point sampling station?

6 A I don't have the precise number, although it
7 was stated -- as was stated in the previous paragraph -- that
8 they were unusually large numbers.

9 Q When you say "unusually large numbers," are
10 you saying that they were unusually large numbers of lobster
11 larvae located at the station near Stony Point Dyke?

12 A Lobster larvae go through four larval stages.
13 There --

14 Q Excuse me, Mr. Masnik; I'm afraid that's not
15 responsive to the question.

16 A Yes it is, because I have to -- the mere fact
17 that you take a point on the map -- if the larvae tend
18 to flow through the canal, any point on the map will have
19 the same concentration of larvae at some time, since the
20 larvae are moving through the canal.

21 Q I'm interested in knowing if the count at
22 Stony Point Dyke was high for lobster larvae compared to other
23 sampling stations at that site.

24 A That would depend on the time at which that
25 particular station was sampled in relation to the others.

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2 And I, off the top of my head, do not know the
3 precise number of larvae that were collected at the
4 station, but it's really not that critical to the
5 discussion because the lobster larvae would pass by the
6 point at some time during the life cycle anyway, so the
7 fact that they sampled at a period when it was perhaps at
8 a low number really is unimportant.

9 Q I turn your attention, please, to page 4-31 of
10 the final supplement. You stated about three-quarters of
11 they way down that page that even with closed cycle cooling
12 at sites 19 and 20, it would still result in a significant
13 adverse impact to the fisheries; is that not correct?

14 A That it may result, yes.

15 Q Can you please indicate for me on the figure 6, first -
16 that refers to site 19 where the proposed intake and discharge
17 proposed by the applicant are located for site 19.

18 A The figure -- on figure six there was a second
19 parallel dyke that was to be constructed to the left of the
20 Stony Point Dyke; this was going to be a spray pond. The
21 intake structure location would be towards the end, I
22 believe, of the Stony Point Dyke.

23 Q Which end?

24 A The southern end.

25 Q Do you think the intake will be on the southern
end?

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1 A I believe the map that you might have -- the
2 topo map would have the location.

3 Q That would be the discharge pipe or the intake?

4 A I'm -- by the figure that I have before me --
5 this shows the makeup water intake and blowdown, which is
6 the discharge line at the approximate location of the
7 words "Stony Point" on the site 19 map.

8 Q I see. So if the -- can you identify the
9 document from which you're reading?

10 A This is volume C of the 1974 siting study.

11 Q And can you identify the table or figure
12 to which you are referring?

13 A I believe it's figure VI-29.

14 Q That figure indicates site 19 with a proposed
15 spray pond, does it not?

16 A That's correct.

17 Q And you identified the intake and blowdown
18 discharge as appearing right now the words "Stony Point" on
19 the tip of site 19, correct?

20 A The words "Stony Point" that appears closest
21 to the words "Mashnee Island."

22 Q And Mr. Masnik, isn't the site also proposed
23 for closed central cooling towers?

24 (Pause.)

25 On page 431 you identified this as the sentence

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1 I had read to you first: you said that even with closed
2 cycle cooling in this region --

3 A I do not believe that the site was proposed for
4 cooling towers. The spray pond system is a closed
5 cycle system.

6 MR. LEWALD: In an effort to move this along a
7 little, can I refer both of the parties to applicant's exhibit
8 14-C and figures VI and -- 28 and 29, which contains a
9 layout of the prospective of the -- or the plant sites in
10 graphic form that might be easier for the interrogator
11 and the witness to refer to.

12 CHAIRMAN LUTON: Would that be useful to you,
13 Ms. Burt?

14 MS. BURT: Yes, it is. And thank you, Mr. Lewald.
15 I have before me three figures which identify the applicant's
16 proposed location of intake and discharge for sites 19 and
17 20 and I would identify them for the record.

18 They are in evidence.

19 MR. SMITH: Does the witness have the exhibit?

20 MR. SCALETTI: No.

21 MS. BURT: It's applicant's exhibit 14. It's
22 connected to volume C and they are figures VI-29, VI-28 and
23 VI-30.

24 MR. SMITH: I want to see if they have it; if
25 they don't --

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MR. EWALD: And VI-28.

WITNESS MASNIK: VI-28 is a fossile plant design, which was one we did not review.

BY MS. BURT:

Q So, it's your testimony that site 19 is presentl only to your knowledge proposed with a spray pond?

A My testimony is that the rewiw that I conducted based on that supplied to me was for a spray pond site, a nuclear site, site 19.

Q And it would be a cooling tower only for site 20?

A Again, what I reviewed was the cooling tower situation. What is planned, you know, I can't answer that, but my review was performed on a cooling tower.

Q Assumption?

A Assumption.

Q Mr. Masnik, what are the -- you have examined the canal Electric Company study with respect to the northern Buzzards Bay. What are the average temperatures in that section of northern Buzzards Bay in the summertime? How hot doe it get?

MR. SMITH: Are you talking about the ambients there or the water?

MS. BURT: Water, temperature of the water.

WITNESS MASNIK: I can't give you a precise

1 value of the maximum summer temperature.

2 BY MS. BURT:

3 Q Well, is it fairly warm?

4 A I think it probably gets up to fairly --

5 Q Maybe as high as 85 degrees?

6 A I really can't answer that.

7 Q Now, this portion of Buzzards Bay is very
8 shallow, is it not?

9 A That's correct.

10 Q Do you expect warmer waters to exist -- exist
11 when there is very little depth in the summertime?

12 MR. SMITH: I object. There's no definition
13 of "warmer waters"; warmer than what?

14 CHAIRMAN LUTON: Well, it seems like that
15 one can be answered about as generally as it's asked.
16 Could you expect warmer waters?

17 MS. BURT: I can make the question more
18 specific, Mr. Chairman.

19 CHAIRMAN LUTON: Okay.

20 BY MS. BURT:

21 Q Comparatively speaking, are the waters in
22 northern Buzzards Bay considerably warmer than those
23 in other portions of Buzzards Bay?

24 A I can't address that.

25 Q You don't know?

david12 1 A I do not know; I think you're correct.
2 Normally when you have shallow water and high solar
3 insulation, you generally have localized heating of
4 the water in areas of shallow --

5 Q Turning your attention, please to 4-31 of
6 the final supplement, you state under the paragraph,
7 third paragraph from the bottom that the discharge
8 effects that you consider, the impacts associated --
9 the impacts b on aquatic biota associated with thermal
10 loading, cold shock or discharge of biocides and
11 other compounds, et cetera; can you read that sentence?

12 A Do you want me to read it?

13 Q Do you -- no, I say have you located it?

14 A Yes, yes.

15 Q Is it your conclusion on page 4-32 that
16 there is less of a problem in terms of the thermal
17 effects at Pilgrim 2 at Rocky Point than at sites
18 19 and 20?

19 A I think in my view -- well, to point out that
20 if this plant should -- or if this location should be
21 proposed for a plant site and a license request came in,
22 there would be detailed thermal monitoring -- thermal
23 modeling done on the location that would provide us
24 with a fairly good idea of what the thermal plume
25 and the location of the thermal plume would be.

avid13 1 In the absence of that, it's difficult to
2 really critically evaluate the impact of the thermal
3 plume on the local fisheries.

4 That's why I think in conclusion I say
5 that there may be an impact on the overall balance of
6 the plant.

7 Q Mr. Hasnik, I understand that site specific
8 studies would be able to bring this forward with
9 greater precision, but what I'm interested in is your
10 assessment on page 4-31. You are able to include
11 that with respect to the intake, that there be a
12 significant adverse impact to the fisheries now with
13 respect to discharge, I'd like to know what your
14 assessment is of the thermal effects of such discharge.

15 Would the thermal effects be significant?

16 A I think that's impossible to answer in this
17 case because we're getting down to the realm at which
18 thermal impacts may have an effect in some situations;
19 where the volume of water is great and the thermal
20 discharge is small, it's easy to say that there won't
21 be any impacts.

22 When you get to the situation where you
23 have biologically highly productive areas and you
24 have a discharge of a thermal plume directly into the
25 mainstream of reported repopulation of lobster larvae,

1 there may be a significant impact; there is no way
2 that I can say yes or no at this point because we're
3 in the realm where detailed, site-specific information
4 would be required to make that determination.

5 Q But based on that level of reconnaissance
6 data, what would your best prediction be?

7 A My best prediction --

8 MR. SMITH: Mr. Chairman, I object.
9 What data are you referring to?

10 MS. BURT: He's just described a series
11 of reconnaissance level data that he's consulted and
12 not able to come up with a conclusive answer, and I'm
13 saying that based on that data which he has reviewed,
14 what's his best prediction.

15 WITNESS MASNIK: My prediction is I think
16 that would be of some concern and we would have to --
17 we would have to explore later.

18 BY MS. BURT:

19 Q Thank you, Mr. Masnik.

20 Mr. La Roche, you state on page 4-32 of the
21 final supplement in the description of sites 19 and 20 --
22 excuse me; I'm referring you to the wrong page -- 23 --
23 I'm referring to 4-28, the general description of both
24 sites is described completely within the coastal zone;
25 is that not correct?

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- 1 A (Witness LaRoche) That's correct.
- 2 Q Is that the designated coastal zone of the
3 Massachusetts Coast Zone Management Program?
- 4 A That's correct.
- 5 Q And that's part of a federal program? Is
6 that pursuant to a federal program?
- 7 A Yes.
- 8 Q And what is that federal program?
- 9 A Coastal Zone Management Program.
- 10 Q Administered by what agency?
- 11 A I believe it's NOAA; I'm not positive.
- 12 Q You indicated earlier that you have reviewed
13 the final environmental statement for the Massachusetts
14 Coastal zone Management Program, is that right?
- 15 A That's correct.
- 16 Q Turning for a moment to figure 6 on site
17 19, can you tell me what the Massachusetts -- I'm going
18 to refer to it as CZM. That's the way we refer to
19 it in Massachusetts, representing Coastal Zone Management.
- 20 Can you tell me what the Massachusetts CZM
21 intends, if anything, for the Stony Point Dyke.
- 22 MR. SMITH: I object. Are you asking the
23 witness to look at something or to his knowledge?
- 24 MS. BURT: No, based on his review of the
25 final environmental statement of the Massachusetts

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david16 CEM program

2 I'm asking him whether or not he knows of
3 any plans of the Massachusetts program with respect to
4 site 19.

5 WITNESS LA ROCHE: Yes, I do .

6 BY MS. BURT:

7 Q And what are CEM's present plans?

8 A They propose it as a public area.

9 Q The entire site?

10 A No, the point, the entire point.

11 Q As a public area for what purposes?

12 A For recreation.

13 Q Primarily?

14 A Yes.

15 Q Do you know what type of access they would
16 have for that site?

17 A They would have to have some land access to
18 it.

19 Q Across site 19?

20 A Yes.

21 Q Is it fair to assume that if a nuclear
22 power plant were built on site 19 that the dyke would
23 be preempted?

24 A I can't answer that.

25 Q Turning to page 4-23 under the description

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avid17 1 of site 20 in the second paragraph under section 4.7.2
2 you indicate that the site contains two large swamps
3 north of Delano Road and the entire coastal portion
4 of the site has been designated as a wetland protected
5 district of the Marion Conservation Commission.

6 Can you tell me the significance of that
7 designation?

8 A Well, according to the Massachusetts Wetland
9 Act, each town can designate areas as wetland protected
10 areas, and it's -- that's all I can tell you about it,
11 that they can be so designated.

12 Q Does the designation indicate that the
13 land is restricted from --

14 MR. SMITH: I object; it's calling for a
15 legal conclusion.

16 MS. BURT: Pardon?

17 MR. SMITH: It's calling for a legal conclusion.

18 MS. BURT: I'll rephrase the question.

19 BY MS. BURT:

20 Q Does the designation permit major industrial
21 development of that area?

22 MR. SMITH: Same objection.

23 CHAIRMAN LUTON: Overruled. If the witness
24 can answer it, he may, if he knows.

25 WITNESS LA ROCHE: As far as I know, the

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1 purpose of the Act is to identify wetlands in a
2 state and to set these aside, but as far as I
3 know, this does not prohibit their use for other
4 purposes other than just as wetlands.

5 BY MS. BURT:

6 Q Mr. LaRoche, where did you find out about
7 this designation?

8 A I'm sorry. I didn't hear you.

9 Q What was the source of your information
10 that you obtained that this area was designated as
11 a wetlands protected district? What was the source of
12 your information?

13 A From a map of the Marion -- the town of
14 Marion has a map that designates the areas within the
15 town as wetlands.

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1 Q Thank you.

2 I have a question of our socioeconomic analyst,
3 Mr. Bykoski.

4 A (Witness Bykoski) Yes.

5 Q Turning for a moment to page 4-36 of the Final
6 Supplement, and I am referring to Section 4.8.6.1, which is
7 a description of the socioeconomic impacts of site 19.

8 On page 4-36 you indicate that the expected --
9 the second paragraph, you indicate that the natural draft
10 cooling tower and associated plume at site 19 would be
11 visible from various points on that northern Buzzards Bay,
12 isn't that correct?

13 A Yes.

14 Q Now from the area so described and your knowledge
15 of the area, is it fair to say that your judgment is that these
16 will cause a significant aesthetic impact?

17 A They would be visible from a number of the
18 communities surrounding -- the surrounding communities.

19 Q How high would the towers have to be, approximate-
20 ly? How high would you expect them to be?

21 A I believe they're over 500 feet. Someone else
22 might be able to better answer that, if you would like a
23 more precise number. Perhaps around 550.

24 Q I was interested in your assessment since you
25 were the one who came up with the aesthetic judgment, the

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1 judgment of the aesthetic impact.

2 You say approximately 500 feet?

3 A Over 500 feet.

4 Q Now these cooling towers would be saltwater cool-
5 ing towers, obviously, is that not correct?

6 A I assume so.

7 Q Did you assume that they would be saltwater?

8 A Well, I assumed that there would be a natural
9 draft cooling tower.

10 Q I have a question of Mr. LaRoche.

11 Mr. LaRoche, in your assessment of the terrestrial
12 land use impacts, did you assess the potential impacts of salt
13 deposition associated with saltwater cooling towers at sites
14 19 and 20?

15 A (Witness LaRoche) Yes, I did.

16 Q Where is that in the FES?

17 A It's not.

18 Q It's not in the FES.

19 It's true that the saltwater cooling towers can
20 cause considerable icing and fogging, is that not true?

21 A I can't answer that. That's a meteorologist's
22 question.

23 Q Can salt or salt deposition from natural draft
24 cooling towers impact terrestrial areas surrounding sites
25 19 and 20?

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A It could.

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Q Is the effect of salt -- What is the effect of salt on cranberry bogs, the effect of such salt deposition on cranberry bogs?

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A I don't know specifically.

6

Q Mr. LaRoche, are you aware of the Seabrook alternative sites analysis?

7

8

A Yes, I am.

9

Q Are you aware of the detailed cooling tower air dispersion analysis that was performed by the Staff in that study?

10

11

A Yes, I am.

12

13

Q Are you aware that there was an assessment in that study of the saline -- the impact of saline drift on land and land uses?

14

15

A Yes.

16

17

Q Why was such an examination or description not done in this case?

18

MR. SMITH: Object.

19

CHAIRMAN LUTON: It's a question of relevancy?

20

MR. SMITH: Yes.

21

CHAIRMAN LUTON: Well, there ought to be a reason for it. We'll let the witness answer it.

22

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Overruled.

24

Why was not such a study done in this case?

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WITNESS LA ROCHE: I don't know.

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BY MS. BURT:

3

Q Are you aware of the Staff's assessment of spray ponds or spray canals in the Seabrook study?

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5

MR. SMITH: Object, unless she can be more specific.

6

BY MS. BURT:

7

Q I will identify it with respect to an assessment of the environmental impacts of various closed-cycle cooling systems.

8

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Are you familiar with that?

11

A (Witness LaRoche) No, I'm not.

12

Q Is there anyone on the panel who is familiar with that study?

13

14

Mr. Levine?

15

A (Witness Levine) With respect to the impacts of various types of cooling systems, there are many factors involved. Principally the nature of the cooling tower, for instance, the topography which it's affecting, the nature of the wind fields as well as temperature, and things like this. So that a site specific analysis is really required to really get a feel for what potential impact exists, if any.

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Q Mr. Levine, you participated in that aspect of the study at Seabrook, did you not?

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A Yes, I did.

25

Q And it was the Staff's conclusion in that study,

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1 was it not, that spray canals or spray ponds on coastal sites
2 was not a realistic alternative? And I mean by that for all
3 sites considered in the alternate sites study that were coastal.

4 A I believe it was a determination based on the
5 area that would be needed to have an effective and efficient
6 type of cooling system with that type of facility.

7 Q Now there's some generic problems associated with
8 saltwater spray ponds and spray canals, are there not?

9 A My suspicion is there would be problems with
10 salt corrosive nature and that sort of thing.

11 Q I'd like to ask a question of Mr. Kantor, please.
12 Mr. Kantor, could you please refer to Figure 6
13 of the Final Supplement?

14 Now Mr. LaRoche has identified that line on which
15 the Plymouth-Dunstable Counties are divided as the approximate
16 boundary of the navigation route of Cape Cod Canal, is that
17 not correct?

18 A (Witness Kantor) I think it was identified as the
19 approximate center line of the canal.

20 MR. SMITH: It might be easier to -- I believe
21 this is a USGS map, marked as Commonwealth 109.

22 WITNESS KANTOR: Yes, and the USGS topo map
23 marked USGS 109, the Cape Cod Canal is shown in there.

24 BY MS. BURT:

25 Q Now in the assessment of potential construction

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1 impacts it is stated that there may be considerable dredging
2 required.

3 Do you remember that portion in descriptions of
4 site 19?

5 A No, I'm not familiar. I wasn't involved in that
6 portion.

7 Q Oh, I'm sorry.

8 Mr. Masnik.

9 A (Witness Masnik) Yes.

10 Q You were responsible for assessment of the
11 construction impacts?

12 A Normally construction impacts are handled jointly
13 by Mr. Lehr and myself.

14 Q Now I may be asking the wrong person. I'm
15 interested in -- strike that.

16 You indicate on page 431 that there will be
17 substantial dredging for the preparation of piping facilities
18 and construction of intake and discharge structures, is that
19 not correct?

20 A Could you give me a reference?

21 CHAIRMAN LUTON: Where is that?

22 MS. BURT: It's on the top of page 4-31.

23 BY MS. BURT:

24 Q The question is that with respect to the
25 dredging activities for the intake or discharge structure at

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1 site 19, is it reasonable to assume that Cape Cod Canal
2 traffic will have to be rerouted during construction?

3 A (Witness Marik) I don't know how that could be
4 evaluated at this point. It would really depend on the type
5 of intake structure, the location of the intake structure as
6 opposed to shoreline versus offshore, and that would depend
7 on a 316B type of review which would have to take into
8 account a lot of different factors.

9 So I don't think at this time we can say with
10 any degree of certainty where precisely the intake structure
11 would be. And, of course, therefore we cannot say with any
12 degree of precision as to whether or not traffic would have
13 to be rerouted through the Cape Cod Canal.

14 Q May I ask Mr. Scaletti a question?

15 Mr. Scaletti, did you request anyone on your
16 staff to specifically assess whether or not there would have
17 to be rerouting of Cape Cod Canal based on the proximity of
18 the intake at Stoney Point to the Cape Cod navigational
19 route?

20 A (Witness Scaletti) No. I didn't believe that
21 was reconnaissance level information.

22 Q Do you know if there is any alternative route
23 into Cape Cod Canal other than that designated by the line
24 shown?

25 A I don't know. I can't answer that. Perhaps

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1 someone else could.

2 Q Of your knowledge there is no alternative
3 entrance into the Cape Cod Canal at Stony Point?

4 A My knowledge is I'm unaware. I don't know the
5 answer.

6 Q Okay. Thank you very much.

7 Mr. Kantor, I do have a question of you now.

8 CHAIRMAN LUTON: Let's take a recess before we
9 get to another witness.

10 Let's recess for ten minutes.

11 MR. SMITH: Mr. Chairman, at the end of the recess
12 could we possibly discuss scheduling?

13 CHAIRMAN LUTON: Yes.

14 (Recess.)

15 CHAIRMAN LUTON: Okay. Let's resume now.

16 MR. Smith, you indicated that you wanted to talk
17 about scheduling, I guess.

18 MR. SMITH: Yes, I did.

19 If we don't finish today I can bring back all of
20 the witnesses except Mr. Kantor. What I would like to do is
21 even if we don't get to Board questions, if they think there
22 are some witnesses that they just would not have any more
23 questions for -- maybe not even today, but let us know so
24 that we don't have to bring them back --

25 CHAIRMAN LUTON: You mean for Board questions?

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MR. SMITH: Yes.

CHAIRMAN LUTON: All right.

MR. SMITH: The other scheduling item is popula-
tion. I know that we're not going to start cross-examination
today on population.

Our witness is not available the week of June 11th
to 15th. I might have mentioned yesterday he has military
duty, and unless we call the president - don't think we'll
have any chance of getting him here.

And I had also understood that Mr. Wright, who
is going to conduct the cross-examination, will not be
available. And I'll let him speak to that.

CHAIRMAN LUTON: This is for the period of June
11 to June 15?

MR. SMITH: Yes.

So I don't know what we would do during that
week.

MR. WRIGHT: With respect to population, Mr.
Chairman it just seems that it makes all the sense in the
world at this point to defer the one particular screening
the way we do with the evacuation contention which, as I
understand it, you're now thinking about doing some time in
August.

CHAIRMAN LUTON: That's right.

MR. WRIGHT: I think we can all agree that

mpbl0 1 population and evacuation are intimately related. And it
2 might make all the sense in the world to do it at that time.

3 SMITH: We have talked about that and the
4 staff can see that it might not be so out of context that it
5 would prohibit or restrict cross-examination.

6 CHAIRMAN LUTON: How about the Applicant?

7 MR. LEWALD: Well, I think the problem we have,
8 Mr. Chairman, is that we don't have any data for emergency
9 planning aspects. And our concern is that this is now an
10 open-ended matter. And if we add more things to the open-
11 ended matter it just means a delay of the completion of the
12 hearings. And that is our concern.

13 While there possibly may be some overlap in the
14 population end of the alternate site issue and emergency
15 planning, there doesn't really have to be.

16 MR. SMITH: That's true. But I don't have our
17 witness available June 11th.

18 CHAIRMAN LUTON: And Mr. Wright won't be available
19 either.

20 MR. WRIGHT: The only other alternative, of
21 course, is to try to slip it in as we're dealing with need
22 for power in July. I just think that it -- and I could do
23 that. It just seems to me it would make much more sense to
24 do it in August.

25 With respect to Mr. Lewald's problem about

mpbill 1 contentions, I would think that would be one of the very
2 first ones we could do next week when we get our contentions
3 together. I don't expect a big problem with that. We'll
4 get it in the file and we'll be ready to go in August.

5 MR. LEWALD: We had initially scheduled hearings
6 the week of July 9th and I gathered that scheduling of
7 hearings for those dates meant Board availability for those
8 dates.

9 And I think our request would be if it appears
10 that nothing can be done from June 11th to the 15th, that
11 we start hearings on July 9th on what we would have taken up
12 June 11th through the 15th --

13 MR. WRIGHT: Excuse me --

14 MR. LEWALD: -- and then finish that matter and
15 go to need for power the following week, if that is suitable
16 with the Board.

17 MR. WRIGHT: I thought we were beginning --
18 When I said I'd be available in July, I was thinking of that
19 particular week that has now been set aside. That's July
20 16th, I believe.

21 MR. LEWALD: I think, Mr. Chairman, we have
22 accommodated the personal plans of the Assistant Attorney
23 Generals here sufficiently in other respects, and we at
24 least ought to be able to pick something a month ahead.
25 And if Mr. Wright can't be here, we certainly have enough

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Attorney Generals at the table to go ahead.

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MR. SMITH: Mr. Chairman, the Staff would maybe find it reasonable to go that week of July 9th.

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CHAIRMAN LUTON: July 9th and 16th as well.

5

MR. SMITH: Maybe we can have Mr. Herr....

6

We would be amenable to that, Mr. Chairman.

7

MR. WRIGHT: With all due respect, I would just say that it seems to me that it makes sense to deal with population during the time of the evacuation issue. That would be point number one.

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Point number two, and I apologize that it is a personal matter, but nevertheless I would not be available the week of July 9th, and I'm the person who has been assigned the responsibility with respect to population issues.

12

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I said that I could be available during the July hearings, but I was assuming, of course, that we were talking about the week of July 16.

17

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MR. SMITH: Mr. Chairman, I think all would agree that week will be needed for need for power.

20

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MR. WRIGHT: All right. If that is the case, I would suggest we go with that first.

22

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CHAIRMAN LUTON: What were you talking about?

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MR. SMITH: July 16th, the entire week is going to be need for power.

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(The Board conferring.)

CHAIRMAN LUTON: How about June 18 as the time for finishing this and population?

MR. WRIGHT: Once again I'm sorry to say, sir, that starting this coming Tuesday I am going to be gone for six weeks.

CHAIRMAN LUTON: All right. That gives us the dimensions of the problem.

MR. WRIGHT: If Mr. Lewald is worried about dragging this thing on, I don't know what to say other than the fact that we'll be ready to go in August. We'll get the two matters straightened out, that of evacuation and that of population, and that will be the end of it.

We're going to have to go into August anyway because of this evacuation contention. The population issue that I was prepared to work on today is going to take me perhaps three hour's worth of cross-examination, and then we have Mr. Herr for cross-examination, and that will be it. Hopefully we can do that in a day, one day in August for that. And the rest of the time, of course, will be devoted to evacuation.

(The Board conferring.)

DR. CALLIHAN: Mr. Smith, when is your witness not available?

MR. SMITH: The week you set aside, the week

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1 June 11 to June 15.

2 WITNESS KAWTOR: It's June 2nd through 15th.

3 DR. CALLIHAN: Thank you.

4 CHAIRMAN LUTON: I could make a speech about how
5 reluctant we are to do it and all that, but I won't.

6 We will consider the population portion of this
7 alternate sites question in August. And we hope to have some
8 dates in August pretty soon. It's just something that I
9 think we will resolve pretty quickly. We will consider it
10 at the time, or during the same session that we consider
11 the issue of emergency planning.

12 We would ask the parties to work quickly by way
13 of formulating a contention on the emergency planning matter.

14 MR. SMITH: Mr. Chairman --

15 CHAIRMAN LUTON: How soon do the parties think
16 they will have that contention prepared? Have they talked
17 at all yet about it?

18 MR. WRIGHT: No, we haven't.

19 CHAIRMAN LUTON: You may not have had an oppor-
20 tunity.

21 MR. SMITH: We really haven't had a chance. I
22 would give it two weeks. We'll start next week, but I would
23 say within two weeks.

24 CHAIRMAN LUTON: Within two weeks?

25 MR. SMITH: I'll try to have it sooner than that.

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1 CHAIRMAN LUTON: All right.

2 Well, let's have it formulated and submitted to
3 the Board within two weeks from today.

4 MR. SMITH: Fine.

5 Mr. Chairman?

6 CHAIRMAN LUTON: Yes?

7 MR. SMITH. May I suggest in this August hearing --
8 actually two weeks have been set aside. I'm not sure how
9 long it will take, but I think it would be a benefit to all
10 parties that we set aside two weeks, although it may not take
11 that long, in order to finish up all outstanding issues and
12 resolve anything that may come up in the interim.

13 Ms. Burt talked about the unresolved safety
14 questions, and there's a couple of Staff issues on sabotage.
15 And I really think in fairness to all parties that we should
16 have a two week span, which wouldn't have the time constraints,
17 et cetera, that unfortunately we encountered at the session
18 this time.

19 CHAIRMAN LUTON: Two weeks may not be possible.

20 MR. SMITH: Or that two weeks be set aside at
21 some time. It wouldn't have to be consecutive.

22 CHAIRMAN LUTON: I'm sorry, you say they don't
23 have to be consecutive?

24 MR. SMITH: It would be nice to have consecutive,
25 but if it's not I think it would be okay.

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CHAIRMAN LUTON: That relieves some burden.

2 Okay. We'll keep that in mind.

3 (The Board conferring.)

4 CHAIRMAN LUTON: I hope the parties understood
5 me to say that we expect the emergency planning contention
6 to be formulated and submitted to the Board no later than
7 two weeks from today.

8 MR. SMITH: I understood it that way.

9 CHAIRMAN LUTON: All right.

10 Is there anything more we can say about schedules
11 at this time?

12 (No response.)

13 CHAIRMAN LUTON: I didn't think so.

14 You stated yesterday, Mr. Smith, that it would be
15 well if we could finish with Mr. Kantor today.

16 MR. SMITH: It won't be possible, it's population.

17 CHAIRMAN LUTON: Oh, it's population. I see.

18 Well, let's resume the cross-examination.

19 MS. BURT: Thank you, Mr. Chairman.

20 BY MS. BURT:

21 Q I'd like to ask a question of Mr. Masnik.

22 MR. LEWALD: Could I just ask a point of inquiry
23 of how long the non-population cross-examination is going to
24 last?

25 MS. BURT: I intend to try to finish by today.

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CHAIRMAN LUTON: Try to finish by today?

2

MR. LEWALD: In 20 minutes?

3

MS. BURT: I think I can confine my questions to
4 20 minutes.

5

CHAIRMAN LUTON: Fine.

6

MR. LEWALD: Thank you.

7

MS. BURT: If our clocks are synchronized.

8

BY MS. BURT:

9

Q Mr. Masnik, it's true, is it not, that there is
10 a significant winter flounder population which spawns in
11 the Weweantic River next to site 20?

12

A (Witness Masnik) It's my understanding that
13 there is a population of winter flounder that spawns in the
14 vicinity of the Weweantic River.

15

Q Is it a significant winter flounder population?

16

MR. SMITH: Object, unless there's a definition
17 of "significant", how it's being used here.

18

MS. BURT: I withdraw the question.

19

BY MS. BURT:

20

Q Mr. Masnik, it's true, is it not, that for the
21 coastal parameters of site 20, the entire coastline contains
22 considerable shellfish, is that not true?

23

A (Witness Masnik) I am unaware of the shellfish
24 resources in the vicinity along the coastline.

25

Q Thank you, Mr. Masnik.

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Now you said before that you were aware of a fossil unit on Cape Cod Canal. That is correct, is it not?

A Yes, I am.

Q What type of cooling system is employed at this facility?

A Once-through cooling.

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1 Q And where is that located on the Cape Cod Canal,
2 just descriptively.

3 A I believe it is towards the Cape Cod Bay portion
4 of the canal. It's precise location I'm not aware of.

5 Q That would be north?

6 A It would be at the northeastern end of the canal.

7 Q The northeastern canal?

8 A End of the canal.

9 Q Are you aware of any fishery monitoring programs
10 that are required for the operation of that facility?

11 A I believe --

12 MR. LEWALD: I'm going to object. The question
13 was asked and answered before.

14 MR. SMITH: I have the same objection.

15 CHAIRMAN LUTON: I wasn't paying any attention.
16 I'm sorry.

17 MS. BURT: I withdraw the question.

18 CHAIRMAN LUTON: Thank you.

19 BY MS. BURT:

20 Q Mr. McMullen, please?

21 A (Witness McMullen) Yes.

22 Q Mr. McMullen, on page 12 of the Staff Supplemental
23 Testimony relating to alternative sites, under description
24 under your name, you indicate you visited four sites on
25 the Connecticut River in Northern Massachusetts.

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1 What sites were those?

2 A One was the Montague site, and the others were
3 some that were listed in the New England 1 and 2 Environmental
4 Report.

5 There was one several miles south of Montague, and
6 there were several several miles north of Montague.

7 Q Now the one that was identified, you said, in the
8 New England Report, by that do you mean the New England
9 Power Company Report for Charlestown?

10 A Yes. The alternate sites.

11 Q The alternate sites.

12 That would be their Environmental Report on
13 Alternative Sites?

14 A Yes.

15 Q And which site specifically did you examine
16 that is proposed as an alternative to Charlestown in that
17 report?

18 A I believe it was the Gill site and the Erving site,
19 and the Whately site, I believe.

20 Q And the Whately site would be that one which was
21 south of Montague?

22 A Yes.

23 Q And Gill and Erving sites were located north of
24 Montague?

25 A Yes, to the north.

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mm3 1 Q How far north from Montague?

2 A I don't recall. It was on the order of five miles
3 or so.

4 Q And the Whately site was approximately how far
5 south of Montague, do you think? The Montague site?

6 A About the same distance to the south, as I recall.

7 Q Now the Whately unit was considered as an
8 alternative to the Montague unit, is that not correct?

9 Or, was it also considered as an alternative to
10 Charlestown?

11 A I don't remember. I thought it was the New England,
12 but it might have been the Montague Alternate Site Report.

13 Q Now the fourth site that you examined, which you
14 described as several miles north of Montague, would that be a
15 site that is in the 1974 siting study?

16 A The Boston Edison?

17 I don't know.

18 Q Was it in the Montague Final Environmental Statement?

19 A This is the Gill, Erving --

20 Q I apologize, I have identified the Whately, the
21 Gill and Erving sites, and Montague, and I thought that was --
22 is that the four sites that you visited?

23 A No, there were some more.

24 These were areas rather than specific sites, I
25 think.

mm4 1 Q What area did you visit north of the sites which
2 you have identified?

3 A I'm not sure about the sites. I don't want to
4 violate the proprietary nature, and I'm not sure which sites
5 were included in that and in these other environmental
6 reports.

7 Q Well, were the sites to which you visited, which
8 we are seeking to ascertain, those which were identified in a
9 proprietary document of Boston Edison, a proprietary siting
10 study?

11 MR. SMITH: I think the witness answered, he
12 wasn't sure in which documents it existed.

13 MS. BURT: I see.

14 CHAIRMAN LUTON: Is that your answer?

15 WITNESS MC MULLEN: We looked at a number of areas
16 there. The team leader had knowledge of these areas and we
17 looked at it at his request.

18 BY MS. BURT:

19 Q Which team leader was this?

20 A (Witness McMullen) Jan Norris was the team leader
21 at that time.

22 Q I see.

23 Can you describe in miles, how far away from the
24 Montague site you were looking?

25 Were you looking in Massachusetts or Vermont, or

mm5 1 the Connecticut River?

2 A South of the Vermont line, but I don't recall
3 the miles. The number of miles.

4 Q Mr. McMullen, you say that the Gill and Erving
5 site were considered as alternatives to the Charlestown proposal.
6 Is that not correct?

7 A Yes.

8 Q And you have examined the environmental report
9 submitted by New England Power Company in that application?

10 A I examined the description of these sites.

11 Q These two sites you described as five miles north
12 of Montague, are they directly across the river from one
13 another?

14 A Yes.

15 Q Are you aware that New England Power has selected
16 these two sites as qualifying as candidate sites -- candidate
17 site alternatives to the Charlestown facility?

18 A Well, I assumed they were since they were in the
19 report.

20 Q These had reached a candidate site selection
21 status through a screening process, is that correct?

22 A I think so. Yes.

23 Q And in that environmental report, it's true, is it
24 not, that New England Power considered Gill and Erving
25 site nearly equivalent environmental preference to the

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1 Charlestown site?

2 MR. SMITH: Mr. Chairman, I think this is not
3 relevant.

4 CHAIRMAN LUTON: It doesn't seem to me to be
5 relevant. Perhaps it is.

6 MS. BURT: Could I just ask him if he knows?

7 CHAIRMAN LUTON: Well, there's an objection. I
8 can't ignore it.

9 I'll override it in the interests of moving on.
10 Can you answer the question, or do you need to
11 hear it again?

12 WITNESS MC MULLEN: I simply read the descriptions
13 of the sites in their report. I didn't read how they
14 rated them with the Charleston site.

15 BY MS. BURT:

16 Q Thank you, Mr. McMullen.

17 I have a question of Mr. Masnik.

18 Mr. Masnik, would you please turn to page 4-49 of
19 the final statement, final supplement, excuse me.

20 A (Witness Masnik) Yes.

21 Q Referring to the fourth paragraph, last sentence
22 of that paragraph stated:

23 "On November 28, 1979, N.F.C. . . ." --

24 -- which means National Marine Fisheries Service --

25 ". . .replied stating that the threshold examination
'revealed a probable impact' on the species but

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1 the data available were 'insufficient to form a
2 complete biological opinion'."

3 Is that in reference to the probable impacts of
4 the Montague units on the shortnosed sturgeon of the Holyoke
5 Pool?

6 A That's correct.

7 DR. CALLIHAN: Let the record show the reference
8 was dated 1977, not 1979.

9 BY MS. BURT:

10 Q And the shortnosed sturgeon is an endangered
11 species, is it not?

12 A (Witness Masnik) That's correct.

13 Q Now in this sentence that I just referred to you,
14 you make a reference 79, which identified a letter from
15 William E. Gordon, Regional Director, U.S. Department of
16 Commerce, National Oceanic and Atmospheric Administration,
17 National Marine Fisheries Service, Gloucester, Massachusetts,
18 to William H. Regan, USNRC, Subject: Holyoke Pool Fish
19 Community and Water Quality Classification, November 28, 1977.

20 Is that correct?

21 A That's correct.

22 MR. CHAIRMAN: Mr. Chairman, I think the process
23 would move along if things in the record would be just
24 stated as in the record, instead of reading them.

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BY MS. BURT:

Q Mr. Masnik, I show you a letter and ask you whether or not that is the same letter to which you have referred in the record I have just cited?

A (Witness Masnik) That is correct.

(Counsel distributing document to Board and Parties.)

MS. BURT: I ask that this document be identified as Commonwealth's Exhibit 110 for identification.

CHAIRMAN LUTON: All right.

So marked.

(The document referred to was marked Commonwealth Exhibit No. 110 for identification.)

MS. BURT: If there are no objections, I would ask that that be accepted into the record, be moved into the record.

CHAIRMAN LUTON: Is there any objection to our receiving this letter?

MR. LEWALD: I would like some background of this.

Is this some interagency exchange?

BY MS. BURT:

Q Mr. Masnik, is it your understanding that this letter was sent to -- well, can you explain what this letter is in connection with?

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1 MR. LEWALD: Explain what the letter is?

2 We've got the letter in evidence.

3 I have no objection, just to move this along.

4 Move the letter in evidence.

5 CHAIRMAN LUTON: The letter is received,

6 Commonwealth's Exhibit 110.

7 (The document heretofore marked
8 Commonwealth Exhibit No. 110
9 for identification, was received
10 in evidence.)

11 BY MS. BURT:

12 Q On the fifth paragraph of page 4-49, in the
13 final supplement, you make a reference to a response in April
14 of '78 from EPA concerning the shortnosed sturgeon in the
15 second sentence.

16 Can you identify that sentence?

17 A (Witness Masnik) I identify the sentence. Yes, it
18 is my sentence.

19 Q Now that sentence is extracted from an EPA
20 response identified as reference 80?

21 A Yes.

22 Q And that was a letter from a Mr. Landry of the
23 Power Plant Review Group of EPA Region I, to Bernard Fox,
24 Project Manager of Northeast Utilities Service Company.

25 Is that not correct?

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A Yes.

Q Is it your understanding that this correspondence was sent from EPA Region I to Northeast Utilities in connection with its application for a discharge permit for Montague units 1 and 2?

A Yes.

I believe it was a part, or involved a 316 demonstration that was being prepared at the time.

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Q I show you this document and ask whether or not it is the same that you referred to as reference 80?

(Pause.)

A I agree; yes, it is.

Q It is the same letter.

MS. BURT: I ask that the letter be identified as Commonwealth's Exhibit 111.

CHAIRMAN LUTON: So marked.

MS. BURT: If there are no objections, I ask that it be moved into the record.

CHAIRMAN LUTON: Any objections?

The exhibit is received, Commonwealth's Exhibit 111.

(The document referred to was marked Commonwealth's Exhibit 111 for identification, and received in evidence.)

BY MS. BURT:

Q Mr. Johnson, I ask you a question -- and it may be my last.

Mr. Johnson, turning for a moment to page 5-4, this would be of the draft -- I mean the final supplement. This is the comment of the staff identified

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1 as 7.15.

2 A (Witness Johnson) Yes, I see that.

3 Q You see that.

4 Now, you say that the staff has examined the
5 flow rates in the Deerfield River in that paragraph;
6 did you visit the site known as the Bear Swamp site?

7 A No, I did not.

8 Q In the second paragraph you state that it's
9 staff's understanding that the Commonwealth of
10 Massachusetts Energy Facility Siting Council has
11 reservations as to the reliability of the Deerfield
12 River for large scale power production -- production.

13 A I did --

14 MS. BURT: I found a correction. It should
15 say "production." From the water availability perspective,
16 is that in reference to the Bear Swamp site, what is
17 called the Bear Swamp site?

18 WITNESS JOHNSON: I did not author this
19 particular sentence; however, I believe that the
20 sentence is derived from a letter which was written
21 by the Commonwealth, and I'm not sure who it was
22 sent to, but I believe that the letter did state the
23 Commonwealth's reservations about the water availability
24 in the Deerfield.

25 Q Now, is that what you refer to as Appendix D

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to the final supplement?

A Yes, that is correct.

Q And that is the -- that document is just a letter. Was there an attachment to this letter?

A I'm -- I'm personally not sure. Mr. Scaletti says yes.

Q You're not personally sure.

Now, that letter is -- that expresses the opinion of the siting council staff, does it not?

A Yes.

Q And not necessarily the thinking of the siting council itself; is that not true?

A I think that's correct.

Q Now, the context of this letter, was it not, was in response to questions from the NRC staff with respect to the Bear Swamp facility -- I mean the Bear Swamp site?

A I don't understand the question. I really don't understand what the question is. Would you repeat it?

Q Are you aware of your own knowledge what this letter to the NRC to Ronald Bower was in connection to or in response to --

A I'd like Mr. Scaletti to answer that, please.

A (Witness Scaletti) Yes, it was in response

david4 1 to an inquiry of the NRC staff to the energy facility
2 siting council staff on the three sites: Gill,
3 Irving and Co. These sites were in connection with
4 the New England Power application for the Charlestown
5 site.

6 Q Did you write this particular response,
7 Mr. Scaletti?

8 A Which particular response?

9 Q I mean -- excuse me. The staff's comment
10 5.15?

11 A I perhaps put it down with the assistance
12 of Mr. Johnson as to the flow rates on the Deerfield
13 River. As far as the inclusion of this reference
14 Appendix D, yes, I included that-

15 Q Now, you included a letter; was there an
16 attachment to that letter?

17 A Yes, there was.

18 Q And what was that attachment?

19 Can you tell us?

20 A The attachment was a multipage attachment
21 which gave the energy facility siting council's
22 staff conclusions with regard to sites on the Deerfield
23 and also the Connecticut River, and I believe
24 basically it was inland siting of any large facility
25 would be extremely difficult in the Commonwealth of

1 Massachusetts.

2 Q Bear Swamp is being considered by New England
3 Power Company as an alternative to the Charlestown
4 for two units, is that not true?

5 A I believe it is, yes.

6 Q Now, Mr. Scaletti, when the siting council wrote
7 this, this report that is now attached as Appendix
8 D, which appears to be just a cover letter, did the
9 siting council assume that the proposed intake and
10 discharge for a facility of -- at Bear Swamp was to be
11 in the river or in the upper reservoir of the Deerfield
12 River?

13 A I really don't recall.

14 Q Now, the Deerfield is a fully regulated
15 river, is it not?

16 A (Witness Johnson) There are several dams
17 on the Deerfield River, yes.

18 Q And what is the dam immediately above the
19 Bear Swamp site?

20 A The dam above the Bear Swamp site I think
21 is the -- I believe that's the dam that's associated
22 with the Yankee Rowe plant, I think.

23 Q And how far is that from the Bear Swamp
24 site?

25 A I believe it's about five miles, five river

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1 miles, I think. I'm not positive. That's -- that's a
2 guess.

3 Q Now, the flow rates that are presented in
4 the staff's response are collected at Fairmont Station;
5 that is 10 miles downstream of Bear Swamp, is that
6 correct?

7 A That's correct.

8 Q It's true, is it not, that the proposed
9 intake and discharge for the Bear Swamp site proposed by
10 New England Power Company is in the upper reservoir
11 and not the lower river?

12 A I do not know. I did not examine the
13 Bear Swamp.

14 Q And you do not know what the assumptions
15 were of the siting council staff when they wrote the
16 submission identified as Appendix D, do you?

17 A I personally do not know.

18 Q Did you ever call someone on the siting
19 council?

20 A I did not.

21 Q Mr. Scaletti, did you ever call anyone on
22 the siting council staff with respect to this issue?

23 A (Witness Scaletti) No, I did not.

24 Q Mr. Scaletti, would you please turn to
25

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1 page 3-2, comment of the staff, 5.6.

2 You indicate in the staff's response that
3 the -- in the Seabrook review -- and that I assume is
4 the Seabrook alternative site review -- was not
5 carried out -- was carried out without an applicant's
6 siting study and therefore did not follow the standard
7 review plan.

8 Do you see that sentence?

9 A Yes, I do.

10 Q You reviewed the Seabrook alternative site
11 study?

12 A Somewhat, yes.

13 Q And various members of the -- I'm just
14 going to be direct about what I want.

15 I would like at this point for the board
16 to take official notice of the Seabrook alternative
17 site study, and there has been much testimony from
18 various witnesses who have been on the staff, the
19 comparison, and I would like to the board to take
20 official notice of that document, if I've identified
21 it correctly.

22 MS. MULKEY: Would you state for what
23 purpose that they're supposed to take official
24 notice or in what manner?

25 MS. BURT: In what manner?

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1 I'd like to offer it for comparison in
2 terms of the methodology and screening assumptions used
3 in that document.

4 CHAIRMAN LUTON: I'm sorry; comparison of
5 what? Would you say that again?

6 MS. BURT: Comparison of the methodology and
7 screening principles employed in that study.

8 CHAIRMAN LUTON: Comparison with what? What
9 was done here in this case?

10 MS. BURT: The screening principles employed
11 by the staff in this case. Not screening, excuse me.
12 The analytical -- the alternative sites analytical
13 principles employed by the staff in this case.

14 It is a NUREG document.

15 (Board conferring.)

16 CHAIRMAN LUTON: It is a NUREG document?

17 MS. BURT: Yes, it is; it is NUREG 0501.
18 It's entitled "Seabrook Alternative Site Study, NRC
19 staff testimony relating to alternative sites to
20 Seabrook Units 1 and 2, Public Service Company of
21 New Hampshire, December 1978."

22 CHAIRMAN LUTON: Is there any objection to
23 our noticing this NUREG document?

24 MR. LEWALD: I -- it appears that this is
25 attempting to be introduced for impeachment purposes.

1 I'm further advised that the prepared
2 testimony that was filed in that proceeding was
3 supplemented and changed in some respects, altered
4 in some respects by the witnesses who gave the testimony.
5 So it -- under oath.

6 I don't think it represents a final position
7 of the -- the direct testimony represents the final
8 position of the witnesses.

9 But I would further object, again on the
10 ground that this is in some way trying to impeach the
11 supplemental PFS in the testimony that has been presented
12 in this proceeding, and we submit that you don't do it
13 by shoving in the record pieces -- pieces of the
14 record of another proceeding.

15 CHAIRMAN LUTON: Okay. I wonder what
16 really the board would be expected to do with a
17 comparison that it might make.

18 Presumably, your point, Ms. Burt, is that
19 the staff acted differently in two different cases
20 here. But then that raises the question of "So What?"

21 Is there something that compels us to find
22 what was done in that case was the way to do it as
23 opposed to the way that it was done here?

24 I'm not sure of what you -- what use
25 you expect us to make of that information.

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2 MS. BURT: Well, the Commonwealth has a
3 contention here, and it has -- and I've been cross
4 examining a good deal on methodology of the staff
5 in terms of the screening principles that it has
6 employed.

7 I can ask a further foundation question, but
8 I believe that this staff -- thisstaff review group
9 has employed certain analytical principles that were
10 also employed in Seabrook, and I was offering -- was
11 requesting official notice to see how, comparatively,
12 those principles were employed.

13 DR. COLE: Are you putting the Seabrook
14 testimony forward as a model?

15 MS. BURT: I'm saying that -- that there
16 are certain common analytical methods between the
17 present staff's final analysis of thePilgrim case
18 and those principles that were used in the Seabrook
19 case.

20 And I would like official notice to the
21 Seabrook case for the purposes of how well those
22 analytical principles were applied and if they were
23 applied consistently.

24 MR. SMITH: Mr. Chairman.

25 CHAIRMAN LUTON: Yes, Mr. Smith.

MR. SMITH: We have been examining some of

1 the index of case law, and I guess we could not say
2 you could not take official notice of a NUREG document.
3 We agree with Mr. Lewald. Our problem would be also
4 for what purpose.

5 And right in the document it says that
6 this testimony, therefore, represents the staff's
7 specific response to ALAB 471 and subsequent Commission
8 orders. The staff intends to perform further analysis
9 of this approach before it adopts general alternative
10 site review procedures for other proceedings.

11 That statement alone shows -- I don't know what
12 you could use it for in this proceeding.

13 CHAIRMAN LUTON: It's a difficulty I have
14 with it, Ms. Burt. I don't believe it would be
15 helpful to us.

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1 MS. BURT: Mr. Chairman, there is correspondence
2 on the record of this proceeding that the Pilgrim alternative
3 sites review was deferred for a substantial amount of time
4 because of the Seabrook alternative sites study. And one of
5 the reasons that I have been told by the -- Well, I can't
6 make false representations of the intention of the NRC, but
7 there was an attempt to apply some basic analytical methods
8 which are the subject of the, for example, the Draft Standard
9 Review Plan which I understand is now final which are also
10 the same subjects of rulemaking to which Ms. Mulkey referred
11 earlier.

12 And I think it is of significance to this Board in
13 evaluating the adequacy of the Staff's job in this case to
14 be able to see how the same analytical principles were applied
15 in another case.

16 CHAIRMAN LUTON: I'm sure a comparison could be
17 made, but then there would come the question of the standard
18 to be applied, and you haven't given me an answer to that.

19 If we compared the two we'd come away with a
20 comparison, but no basis for concluding, really, that either
21 one was superior to the other or closer to the standard,
22 whatever the standard may be.

23 MR. WRIGHT: Mr. Chairman, I don't know if you
24 want any more comments.

25 CHAIRMAN LUTON: Go ahead.

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1 MR. WRIGHT: It just seems to me that as will
2 become apparent when we submit our proposed findings of
3 fact in this case that our main concern here is the method-
4 ology that was employed by the Staff in arriving at the
5 conclusions it did in the Final Supplement. And I think
6 that any help that this panel can get from other models
7 that have been developed within NRC would facilitate your
8 decisionmaking.

9 CHAIRMAN LUTON: Now you do put the Seabrook -- the
10 NUREG document forth now as a model.

11 MR. WRIGHT: A model in the sense that, as Ms.
12 Burt said earlier, that this particular environmental state-
13 ment, the final supplement was deferred. And presumably,
14 as I understand it, one of the reasons was so that those
15 problems could be worked out in the Seabrook proceeding.
16 And I would only suggest, sir, that -- I mean, we're obviously
17 not going to make people read the whole thing, but that maybe
18 portions of this document will be helpful to us in proposing
19 to you the shortcomings of this particular work that this
20 Staff team has done.

21 We're not holding this thing out as the way it
22 should be done, but I think we would like to be in a position
23 of making argument based on that, that a certain procedure
24 used in Seabrook was not followed here and that that procedure
25 that was employed in Seabrook would be far more effective in

mpb3 1 getting to the bottom of whatever the issue was that was
2 being addressed.

3 CHAIRMAN LUTON: All right.

4 Couldn't you make the same argument without
5 reference to Seabrook? Couldn't you see whatever was done
6 in Seabrook, leave that out, and then describe what was in
7 fact done and assert that it was not done in this case?

8 I don't see that the record for Seabrook adds
9 anything.

10 MR. WRIGHT: I don't think that we proposed that
11 what was done in Seabrook has to be followed here.

12 CHAIRMAN LUTON: No, I understand that. But that
13 wasn't what I suggested to you.

14 MR. WRIGHT: I would think it would be helpful
15 both to us and to the Board as well if comparison could be
16 made to some other proceeding. That's all.

17 CHAIRMAN LUTON: Why does it have to be a proceed-
18 ing, since our determination is going to have to be made in
19 terms of this case and the reasonableness of what was done in
20 this case, really quite without reference to another case.
21 So it's the acts, whatever was done, that's important, not the
22 context of case. It doesn't have to be in a case setting.

23 Consequently if a particular methodology was
24 utilized somewhere else, it seems to me you could put that
25 before us without bothering to tell us that it came from

mpb4 1 someplace else, because the determinant factor is the
2 reasonableness of what was done, not the case in which
3 whatever was done might have been done.

4 MR. WRIGHT: What this represents here -- I
5 agree with you 100 percent.

6 What this represents here is at the very least
7 another way that something could have been done. So rather
8 than the Commonwealth being in a position of having to propose
9 that something be done and the Staff saying No, we couldn't
10 do it that way, at least we will have evidence to the effect
11 that indeed it was done that way in the Seabrook proceeding.

12 CHAIRMAN LUTON: Which will simply show that
13 there is more than one way of doing anything.

14 MR. WRIGHT: And that it's feasible of doing it
15 that particular way.

16 Now in the absence of some evidence that it had
17 already been done that way, we wouldn't be able to make that
18 assertion.

19 CHAIRMAN LUTON: I wonder how much the case we
20 will be helped by showing that it was in fact done another
21 way. It seems to me to argue in this particular case that
22 what was done could have been done another way, even though
23 it had not been done in fact someplace else would be about
24 the same thing. And the fact that it might have been done
25 in another case doesn't really strengthen it at all, I wouldn't

mpb5

1 think.

2 MR. WRIGGS: At least it does establish that it
3 was feasible that it could have been done that way. And for
4 that purpose --

5 CHAIRMAN LUTON: Okay. I think I understand. And
6 thank you.

7 (The Board conferring.)

8 CHAIRMAN LUTON: We decline to take official
9 notice of the document, not because of any doubts about our
10 ability to do so, but because we're not of the belief that it
11 would serve a useful purpose in this proceeding.

12 MS. BURT: I have no further questions of this
13 panel.

14 CHAIRMAN LUTON: All right.

15 That brings us, then, to the end of this -- I'm
16 sorry, Applicant, would you like to cross-examine?

17 MR. LEWALD: We have some cross.

18 I might inquire whether the Staff has redirect,
19 and whether these witnesses are going to have to be brought
20 back at some other time?

21 We have gotten to the one o'clock closing time
22 today. If that be the case, I would further defer the
23 cross until that time.

24 MR. SMITH: Well, I guess if we could determine
25 now from the Board if they believe certain members of the panel

mpb6 1 could be excused at this time, and then see if Mr. Lewald
2 could have cross on the other members, I do have some redirect,
3 but we still have some cross.

4 CHAIRMAN LUTON: Which ones would you like to have
5 excused now?

6 MR. SMITH: Well, I think that at least Mr.
7 McMullen, maybe Mr. Bykoski on the socioeconomic and geologist.
8 I think at least those two.

9 CHAIRMAN LUTON: Would you have anything of them,
10 Mr. Lewald?

11 MR. LEWALD: Well, I guess under these circumstances
12 I would like to ask a general cross-examination question of
13 the entire panel.

14 CHAIRMAN LUTON: All right.

15 BY MR. LEWALD:

16 Q I would ask the panel its collective judgment and
17 individual judgment:

18 Was there anything in the testimony of the panel
19 which was filed in this proceeding or with respect to the
20 answers that the panel individually gave to cross-examination
21 questions this morning and yesterday, would any of th'
22 the panel's judgment foreclose any of the alternate sites
23 encompassed in the final supplement to the FES as potential
24 licenseable sites?

25 A (Witness Scaletti) We're going to have to confer

mpb7

1

a moment.

2

(The panel conferring.)

3

A (Witness Scaletti) I have polled the panel and at least to their disciplines their conclusions remain the same that all of those sites are still potentially licenseable.

5

6

MR. LEWALD: I have no further questions.

7

MR. SMITH: Mr. Lewald, would you mind, I think maybe it would clarify the record if each member did give their statement.

8

9

10

MR. LEWALD: Certainly I don't mind that. But I would accept Mr. Scaletti's speaking for the panel.

11

12

CHAIRMAN LUTON: I think it's been adequately covered. We don't need to poll it and have it said ten times over. We heard it.

13

14

15

MR. SMITH: Thank you.

16

CHAIRMAN LUTON: Does that complete cross-examination, Mr. Lewald.

17

18

MR. LEWALD: Yes, at this point.

19

CHAIRMAN LUTON: This completes your cross for today, I didn't mean for all time.

20

21

MR. LEWALD: Yes, sir.

22

CHAIRMAN LUTON: All right.

23

Mr. Smith, you want to have two gentlemen excused?

24

25

MR. SMITH: Well, I would like to have more, but I don't want to conclude the Board -- in fact, if the Board

mpb8 1 thinks everybody should be back, we'll bring them back.

2 CHAIRMAN LUTON: Okay.

3 DR. COLE: We have a couple of Board questions
4 before you excuse anybody who might be involved in those
5 answers to the questions.

6 EXAMINATION BY THE BOARD

7 BY DR. COLE:

8 Q Mr. Scaletti, you can pass these questions on to
9 whoever in your panel would be appropriate.

10 On page 1 of the supplemental testimony, on line
11 21 -- actually the sentence that begins on line 20, page 1.
12 The sentence reads as follows:

13 "The review started with the BECo service
14 area and expanded along resource areas (water bodies)
15 until a decision was made that a sufficient number
16 of sites could be identified within the area of
17 search."

18 Who made the decision and at what level -- What
19 were some of your considerations there, Mr. Scaletti?

20 A (Witness Scaletti) When you say "who made the
21 decision", is that for Boston Edison or?

22 Q Well, you referred to a decision there:

23 "...a decision was made that a sufficient
24 number of sites could be identified..."

25 Who made that decision?

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1 A That was a decision of the 1974 siting study.
2 It included the decision in that document that they could
3 identify a reasonable number of sites, or enough sites that
4 they did not have to proceed farther until -- or areas within
5 those areas they identified sites with the understanding that
6 if they did not find enough they could again then expand
7 further.

8 Q So that United Engineers and Constructors made it?

9 A Yes.

10 Q Did you probe the rationale for that decision
11 with them?

12 A Yes, we discussed it. We asked questions with
13 regard to the justification of the region of interest. They
14 submitted to us responses, I believe. There were initially
15 two that we asked.

16 Q All right, sir.

17 Do you want to turn to page 2, the first sentence
18 on that page? This is still in the NRC Staff Supplemental
19 Testimony.

20 Mr. Scaletti, in that first sentence there you
21 indicate that the Staff independently reviewed the Applicants'
22 methodology in several areas. And in the next sentence you
23 indicate that:

24 "The Staff supplemented its review where
25 appropriate with data gathered independently."

mpb10 1 With respect to the statement that the Staff
2 independently reviewed the Applicants' methodology, do you
3 mean by that methodology and the data that was collected by
4 their using their methodology, or did you purposely use just the
5 word "methodology"?

6 A No. We reviewed the methodology from the stand-
7 point of the approach that was taken in the type of site
8 search that they employed, from the standpoint of whether we
9 thought it was reasonable that this radial approach--although
10 it is an approach that we do not specifically dictate a
11 type of methodology which an applicant can use in looking for
12 sites. We also took into consideration through the course of
13 the review the type of information that the applicant collect-
14 ed in selecting and screening the sites in the various areas
15 that I have listed.

16 Q So would it be fair to say that you also reviewed
17 not only the Applicants' methodology but also the data they
18 collected?

19 A In some regards we utilized the data that they
20 collected. And, as I said, in some regards we collected data
21 on our own. There were some areas, which Mr. Lehr can address,
22 the areas of water quality, which he felt that they collected
23 data or researched this area and a lot of information from
24 the Applicant is his own.

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1 Q In your testimony you indicated that you visited
2 each of the major alternate sites that you considered.

3 Is that correct, sir?

4 A Yes.

5 Q You, or members of your team?

6 A Yes. Every person on the team. I believe, visited
7 all of the alternatives that were listed in the final
8 supplement.

9 We also visited, as I stated I believe, two sites
10 that were listed in the 1978 proprietary study. We visited
11 Whatley, Gill, Erving which were alternatives to Montague
12 and New England on the Connecticut River.

13 Q Have you made any estimate of the number of man days
14 of effort that was associated with the alternative site study
15 for Pilgrim 2?

16 A It was considerable, but I have not.

17 MR. LEWALD: Is that a matter that could be
18 supplied?

19 BY DR. COLE:

20 Q Mr. Scalletti, is that a number that could be
21 supplied or estimated?

22 A (Witness Scalletti) Well, at the beginning of
23 the Pilgrim review, we had 100 percent effort for as long
24 as we were on the review. And at various times throughout
25 1978 we were -- everybody had 100 percent priority relegated

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1 to Pilgrim.

2 I'm sure that I could develop the number in some
3 regard if I went back and looked through the records.

4 Q Well that might be helpful, if it wouldn't be
5 too inconvenient.

6 MR. SMITH: It will be supplied.

7 BY DR. COLE:

8 Q Mr. Scaletti, Boston Edison Company, Applicants --
9 principally Boston Edison Company did not make any attempt
10 at ranking of sites in the 1978 study.

11 Is that correct?

12 A (Witness Scaletti) In the 1978 -- the proprietary
13 study?

14 Q I believe -- reevaluation of the '74 sites and
15 any additional information. Well, let's say in any information
16 that they supplied to you since January 1978, none of that
17 information gave any indication as to how they ranked sites.

18 Is that correct?

19 A No. We asked specifically -- well, we asked for
20 information. We did not ask them to rerank the sites.

21 The Staff felt that it would individually compare
22 each of the proposed candidate sites listed in the 1974 siting
23 study with Pilgrim, and that would avoid the necessity of
24 having to rank these sites.

25 Also, I do believe though that in previous testimony

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mm3 1 that was filed, they did make a comparison of one of the sites
2 with Pilgrim, back in the earlier alternative site
3 testimony.

4 Q Did the Staff make any attempt at ranking the sites?

5 A In the final supplement?

6 Q In whatever documents --

7 A No, we have not.

8 Q Was cost a consideration in any of your comparisons
9 of alternative sites?

10 A Cost was not a factor in our evaluation of
11 alternative sites in the final supplement. No.

12 Q In a real-world comparison of alternatives, is
13 economics a consideration?

14 A Yes, I believe it is.

15 Q Could you then explain to me how you would justify
16 not having consideration of economics in any comparison of
17 the real world usage of alternative sites?

18 A Well, I believe that it is an important factor. I
19 believe it is an important factor. I believe it is very -- a
20 great deal of importance is placed upon this factor with
21 regard to Applicant's consideration of alternative sites.

22 I believe that the position of the Staff, the
23 Staff presently -- and I think that that probably will change
24 or has changed with regard to the proposed rule, the feelings
25 about the proposed rule.

mm4 1 Q What proposed rule are you talking about?

2 A This is the proposed rule on alternative sites.

3 Economic is a viable consideration. However, this was done
4 strictly -- purely from the environmental standpoint, our
5 review of the alternatives to Pilgrim.

6 A (Witness LaRoche: Could I add to that, please?

7 Q Certainly. Dr. LaRoche, is that right?

8 A Yes.

9 The latest CEQ guidelines suggest that first you
10 evaluate the site from an environmental point of view, and
11 then if one of them shows a superiority from an environmental
12 point of view, then you then consider the cost involved
13 in placing a site on that alternate rather than on the
14 proposed site.

15 This is one of the reasons why we didn't -- we did
16 the environmental review first, and none showed up to be
17 superior to the proposed site, and therefore there was no
18 need to do this cost comparison.

19 Q Does that rationale appear in the documents that
20 are before us?

21 A I don't know if the CEQ guidelines have been
22 submitted.

23 CHAIRMAN LUTON: What are the CE-2 guidelines?

24 DR. COLE: CEQ, Council of Environmental Quality
25 Guidelines.

am5 1 J CHAIRMAN LUTON: Oh, I see.

2 BY DR. COLE:

3 Q So then is it the Staff position that in view of
4 the fact that none of the alternative sites that were considered
5 could be demonstrated to be superior to the Pilgrim 2 site
6 as proposed by the Applicant, then a cost comparison is
7 not required and would not be required under the National
8 Environmental Policy Act?

9 Is that the Staff position?

10 A (Witness LaRoche) That's correct.

11 Q Thank you.

12 DR. COLE: I have no further questions.

13 (Board conferring.)

14 DR. CALLIHAN: I am not a party to this 1:00 o'clock
15 adjournment. But once it having been established, however,
16 I feel that one should honor it because plans, no doubt,
17 were made. I think it is a little unfortunate that the
18 Board is put under some pressure, if it truly was.

19 I have a number of general questions, but I think
20 they would be much too long to go into today. However,
21 Mr. Smith, I do say this, that the questions posed thus
22 far by the Board have been fielded very well by your project
23 manager almost exclusively, and that might be true in the
24 future.

25 So at whatever time this issue is reopened, may I

1 suggest that you consider having the project manager available
2 rather than the whole panel.

3 How you run your case is obviously your own business,
4 but I am somewhat reluctant to be responsible for bringing
5 back a dozen people.

6 MR. SMITH: Well, a lot of time has been spent
7 on this particular project and I think -- and it was the
8 Board's concern. And I think, at least my position now would
9 be that I wouldn't want to restrict the Board in any way in
10 obtaining information. And I think we probably will bring back
11 the panel. And I don't feel the Board is in any way imposing
12 upon the staff by doing it.

13 DR. CALLIHAN: With that I really disagree. My
14 statement is well considered and firmly stated, so I will not
15 be a party also at this time to requesting that the panel
16 be returned.

17 I think your project manager can adequately
18 cover the questions that I have.

19 MR. SMITH: All right.

20 DR. CALLIHAN: Thank you.

21 CHAIRMAN LUTON: Is there anything else to be raised
22 before we adjourn by any of the parties?

23 MR. SMITH: I did have some short redirect. I can
24 do it now --

25 CHAIRMAN LUTON: Okay, we will get to that.

mm7 1 Anything else? Ms. Burt, you were going to say
2 something?

3 MS. BURT: I just feel, I'm slightly on the edge,
4 Mr. Chairman.

5 Is it fait accompli that it cannot be extended
6 today. I have no idea of how much longer -- it would certainly
7 add to the efficiency of this hearing if we could have finished
8 this issue, this part of this issue today -- we will be
9 coming back much later. Is that a -- I don't mean to
10 impose, but is that a firm conflict with the Board?

11 CHAIRMAN LUTON: Well, we set the time with
12 full recognition of what we were doing.

13 It is meaningful to us, of course.

14 MR. LEWALD: Mr. Chairman, could I suggest -- it
15 was prescheduled that we spill over, if you will, from
16 today's session. It was originally intended to be picked up
17 on June 11th to the 15th. We do have -- I think the continuing,
18 I wouldn't call it issue, of bringing in the attorneys who
19 have made opinions, or stated opinions with respect to certain
20 matters that are contained in the FES, and we could bring
21 these forward at that time, June 11th and finish in, I think,
22 a more orderly fashion with this panel, than trying to do
23 everything at the last minute, where everyone is compromising
24 a little bit on what he otherwise might have pursued.

25 Just finish up. And that would be our suggestion.

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CHAIRMAN LUTON: That June 11 be used for the purpose of --

MR. LEWALD: Of finishing with this panel, except for the population witnesses who have already been moved to another date.

(Board conferring.)

CHAIRMAN LUTON: Well, it's the desire of the board to accept Mr. Lewald's suggestion, that we continue with this panel of witnesses on June 11, so we'll do that, except of course for Mr. Kantor. He'll not be able to be with us, but he'll not be needed at that time anyway, I take it. Or will he?

MR. SMITH: I'm sorry. I didn't hear your last sentence.

CHAIRMAN LUTON: Mr. Kantor, he won't be able to be with us at that time.

MR. SMITH: And I don't think I'll need Mr. Soffer. Also on population --

CHAIRMAN LUTON: Well, then, Mr. Smith, complete your redirect, and then we'll adjourn.

BY MR. SMITH:

Q Mr. Masnik, have you reviewed the impingement data from Pilgrim Unit 1?

A (Witness Masnik) Yes, I have.

Q And how does the impingement data found

1 at Pilgrim Unit 1 compare to the predictions found
2 in the 1974 FES for Pilgrim Unit 2?

3 MR. LEWALD: Mr. Chairman, might I interrupt?
4 My suggestion was that we could adjourn now. We're
5 already well past the -- well, redirect could be
6 taken up on June 11 along with whatever other matters.

7 MR. SMITH: That's acceptable to staff,
8 because I'm sure I'll bring Mr. Masnik with me.

9 (Board conferring.)

10 CHAIRMAN LUTON: Are we going to need to have
11 this panel of witnesses back?

12 MR. SMITH: Pardon?

13 CHAIRMAN LUTON: Do any of the parties
14 believe that we'll have to have the entire panel
15 of witnesses back or not? Dr. Callihan has indicated
16 that he can get by with the project manager alone.

17 MR. SMITH: Mr. Chairman, you know I think
18 that I don't want to -- personally, I don't know if
19 we have to bring the whole panel back. I'm not sure
20 if the geologist, the socioeconomic need -- the
21 parameters -- although they're important as the
22 environmental parameters represented by the other
23 disciplines, I don't know what Dr. Callihan's questions
24 are. And I don't want to restrict him on it.

25 Mr. Scaletti is well aware of what went on,

avid3 1 but we do have certain expert witnesses, and I have
2 no objection to bringing them back.

3 CHAIRMAN LUTON: All right. So if matters
4 are left as they currently are, then you intend to
5 bring back the panel.

6 MR. SMITH: Yes.

7 CHAIRMAN LUTON: All right, okay, good
8 enough.

9 Well, then -- and with that perhaps we
10 ought to have you defer your redirect, if you wouldn't
11 mind, until the next time, that next time being June 11.
12 And we'll issue an order setting the time and place.
13 We expect it will be 1:00 o'clock in the afternoon as
14 far as time is concerned, and we also expect that it
15 will be here, but we will let you know by formal
16 order.

17 Thank you all for your participation.

18 We are adjourned.

19 (Whereupon, at 1:38 p.m., the hearing was
20 adjourned, subject to the call of the Chair.)

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