

5-CE-142

Transcript of Proceedings

Volume 11

Technical Session

January 9, 2015

***ORIGINAL***

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BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

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JOINT APPLICATION OF AMERICAN )  
TRANSMISSION COMPANY LLC and NORTHERN )  
STATES POWER COMPANY-WISCONSIN, AS )  
ELECTRIC PUBLIC UTILITIES, FOR ) Docket No.  
AUTHORITY TO CONSTRUCT AND OPERATE A )  
NEW 345 KV TRANSMISSION LINE FROM THE ) 5-CE-142  
LA CROSSE AREA, IN LA CROSSE COUNTY, )  
TO THE GREATER MADISON AREA IN DANE )  
COUNTY, WISCONSIN )  
)

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EXAMINER MICHAEL NEWMARK, PRESIDING

TRANSCRIPT OF PROCEEDINGS

VOLUME 11

TECHNICAL SESSION

**ORIGINAL**

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HEARING HELD:

January 9, 2015

Public Service Commission  
Madison, Wisconsin

9:30 a.m.

TRANSCRIPT PAGES:

1 - 184, Incl.

EXHIBITS:

Halpin 2

Weiss 3

## A P P E A R A N C E S

ON BEHALF OF ATC MANAGEMENT, INC.

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ON BEHALF OF SAVE OUR UNIQUE LANDS OF WISCONSIN (SOUL) and  
CITIZENS ENERGY TASK FORCE (CETF)

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ON BEHALF OF CONCERNED CITIZENS OF HIGHWAY 33

EMINENT DOMAIN SERVICES LLC, by Mr. Erik S. Olsen,  
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1 A P P E A R A N C E S: (Continued)

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4 DANE COUNTY CORPORATION COUNSEL, by Mr. Carlos  
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1 A P P E A R A N C E S: (Continued)

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13 ON BEHALF OF DEPARTMENT OF NATURAL RESOURCES

14 STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES,

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18 ON BEHALF OF CITY OF ONALASKA

19 O'FLAHERTY HEIM EGAN & BIRNBAUM, LTD., by Ms. Amanda

20 Halderson Jackson, 201 Main Street, 10th Floor, La Crosse,

21 WI 54601.

22

23 (Continued)

24

25

1       A P P E A R A N C E S:   (Continued)

2

3       O F   T H E   C O M M I S S I O N   S T A F F

4                       J O H N   L O R E N C E ,   L e g a l   C o u n s e l

5                       A R I E L L E   S I L V E R   K A R S H ,   L e g a l   C o u n s e l

6                       J A M E S   L E P I N S K I

7                       S C O T   C U L L E N

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10                      ( F O R   I N D E X   S E E   B A C K   O F   P U B L I C   T R A N S C R I P T . )

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1 (Transcript of Proceedings, 9:30 a.m.)

2 EXAMINER NEWMARK: Let's get on the record  
3 and deal with any housekeeping matters.

4 MR. POTTS: We would -- we've had some  
5 discussions with staff, and one of the new exhibits  
6 we filed with Mr. Holtz's surrebuttal -- I'm trying  
7 to find the number of it right now.

8 EXAMINER NEWMARK: Okay.

9 MR. POTTS: We think it would be easier  
10 for the Commission and everyone if we added a column  
11 that showed the costs of the different re-routes.  
12 So that exhibit is an exhibit of all the different  
13 re-routes that have been proposed by staff or the  
14 applicants that the applicants are -- have found  
15 acceptable, and we would propose to add a column of  
16 the cost differences and then add on the bottom of  
17 that table the other items that have been raised  
18 that would have cost impacts, like the bird study  
19 and the estimated cost impact, which we would just  
20 use the cost of -- from the Crane Foundation and any  
21 others. Obviously parties could object afterwards.

22 EXAMINER NEWMARK: Right. So that would  
23 be Holtz 1?

24 MR. POTTS: I think it's Holtz 1, yes.

25 EXAMINER NEWMARK: So the Crane Foundation

1 1, that would be just based on the data request  
2 response figures?

3 MR. POTTS: It's actually in the FEIS.

4 EXAMINER NEWMARK: Oh, is it? Okay. But  
5 it's those numbers you're talking about?

6 MR. POTTS: I think it's about 140,000.

7 EXAMINER NEWMARK: Okay.

8 MR. POTTS: So it would just be easier for  
9 the Commission.

10 EXAMINER NEWMARK: Sure.

11 MR. POTTS: And the Commission staff I  
12 think is in agreement with it.

13 EXAMINER NEWMARK: Okay. That works. So  
14 it will just be considered a late exhibit. We can  
15 apply the three day --

16 MR. POTTS: We'll just file a revised  
17 Exhibit 1 for Holtz.

18 EXAMINER NEWMARK: Right. And we'll just  
19 apply three-day filing deadline, three day right to  
20 object.

21 MR. POTTS: It may take a couple days to  
22 pull.

23 EXAMINER NEWMARK: Well, how much time you  
24 need, that's fine. Week?

25 MR. POTTS: Yeah, we'll file it next week.

1 EXAMINER NEWMARK: Okay. That's fine.

2 All right. Let me just note that on my -- anything  
3 else housekeeping related?

4 (No response.)

5 EXAMINER NEWMARK: I think it's agency  
6 witness day, my favorite day. So I'm going to leave  
7 it up to staff to propose or to call the witnesses  
8 in the order they wish. I know we started -- the  
9 other party intervenors went with need and then  
10 routing, so I'm assuming we'll take that tack here  
11 but --

12 So this is Ms. Halpin.

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1 ALICE HALPIN, WDATCP WITNESS, DULY SWORN

2 EXAMINER NEWMARK: Okay.

3 DIRECT EXAMINATION

4 BY MR. LORENCE:

5 Q Could you state your name for the record, please.

6 A Alice Halpin.

7 Q And where do you work?

8 A The Wisconsin Department of Agricultural, Trade &  
9 Consumer Protection.

10 Q And in preparation for today's hearing, did you file  
11 direct testimony and --

12 A And rebuttal.

13 Q -- and rebuttal testimony and one exhibit, correct?

14 A Yes, I did.

15 Q And if I asked you the questions in your direct and  
16 rebuttal testimony today, would your answers be the  
17 same?

18 A Yes, they would.

19 MR. LORENCE: I believe her testimony is  
20 already into evidence, and she's available for  
21 cross.

22 EXAMINER NEWMARK: Okay. That's right.  
23 Yeah. Any questions?

24 MR. WILL: Nothing from ATC.

25 EXAMINER NEWMARK: Okay. Anyone else?

1 MS. KUNZE: Your Honor, I have some  
2 questions.

3 EXAMINER NEWMARK: Okay. Come on up.

4 CROSS-EXAMINATION

5 BY MS. KUNZE:

6 Q Thank you. Good morning, Ms. Halpin.

7 A Good morning.

8 Q I'm Laura Kunze, self-representing.

9 A Okay.

10 Q Ms. Halpin, your direct testimony, page 2, lines 10  
11 through 23, and the AIS refers to land surveys and  
12 charts. I note that input data are not from  
13 responses to survey and comments by farmland owners  
14 and are not totals but do provide an indication of  
15 the degree of impact. Does that mean that the data  
16 provided in the survey responses was not  
17 independently verified?

18 A No. It means that we didn't survey every single  
19 farmland owner who would be affected, we only  
20 surveyed where they might have four acres or more  
21 potentially acquired as easements. So any -- any  
22 acquisition -- or any easement acquisition less than  
23 four acres we didn't survey.

24 Q Okay. And does it mean that the Department of  
25 Agriculture did not gather information and relied

1           only on survey responses? You didn't do outreach?

2       A     We relied on our surveys. We looked at the -- some  
3           of the public comments as they came through. I  
4           didn't read every single public comment that came  
5           through, but I did try to read as many as I could.  
6           We were at the original public meetings that the PSC  
7           held, and we gathered information there.

8       Q     Okay. So the information was voluntary?

9       A     Yes.

10      Q     Your testimony states that it is valuable to  
11           recognize that -- this is page 3, lines 1 through 5.  
12           It is valuable to recognize that these three  
13           responses do not include all landowners who are  
14           concerned about the four impacts along the proposed  
15           route. How were impacts on landowners not surveyed  
16           taken into account?

17      A     Our survey was generally to gather the types of  
18           concerns people had, not to -- not to do a complete  
19           summary of all of them. So it's -- we didn't -- the  
20           concerns that people had from the larger acquisitions  
21           we assumed would also be concerns that smaller --  
22           people having smaller acquisitions would have.

23      Q     So how were -- were the landowners that were not  
24           surveyed taken into account at all?

25      A     They were in the totals of acres affected.

1 Q Even if they had not replied to the survey?

2 A Right.

3 Q So how did you tally that information? How did you  
4 gather that if it wasn't via survey? And I'm  
5 referring also to those parcels under four acres.

6 A The -- ATC, the applicants, provided information to  
7 us about their corridor and their anticipated  
8 impacts, and then we received that in a GIS -- in  
9 several GIS layers, and we had a GIS analyst who also  
10 reviewed that and totaled the summaries for cropland,  
11 pasture, other agricultural lands like oat fields and  
12 specialty crop farmland.

13 Q Would you agree that the AIS is not a complete  
14 analysis of all farmland and farm operations in the  
15 project area?

16 A I would agree.

17 Q And are you aware of the Town of Springfield's  
18 comprehensive land use plan in which an  
19 agricultural -- long-term agricultural preservation  
20 area is listed?

21 A I have not reviewed that.

22 MS. KUNZE: May I please submit an  
23 exhibit, please?

24 EXAMINER NEWMARK: Let's see. Distribute  
25 copies, and I'll need a copy.

1 MS. KUNZE: May I approach?

2 EXAMINER NEWMARK: Yes. Just make sure  
3 everyone has copies.

4 MS. KUNZE: Sorry for the delay.

5 EXAMINER NEWMARK: We can mark this  
6 Halpin 1 (sic).

7 (Exhibit Halpin 2 marked for identification.)

8 EXAMINER NEWMARK: Can you just describe  
9 where this is from?

10 MS. KUNZE: Town of Springfield website.

11 MR. LORENCE: It will be Halpin 2.

12 EXAMINER NEWMARK: You're right, Halpin 2.

13 MR. POTTS: Your Honor, this may already  
14 be in the record, the application, its map.

15 EXAMINER NEWMARK: Well, I guess the  
16 application is big enough. We're going to speak to  
17 it directly --

18 MS. KUNZE: Thank you. Unless you can  
19 point it out where it is in the record already.

20 MR. POTTS: We're trying. It's a big  
21 record.

22 MS. KUNZE: Yes, it is. Thank you.

23 EXAMINER NEWMARK: We'll just put this in.  
24 Well, go ahead with your questions.

25 MS. KUNZE: Thank you.

1 BY MS. KUNZE:

2 Q So how might pole positions, just moving on, and the  
3 120-foot right-of-way affect contour farming?

4 A It could interfere with a farmland owner's pattern of  
5 cropping his field, which in turn would interfere  
6 with the contours.

7 Q And --

8 A It could be an obstacle I guess would be the best way  
9 to say it.

10 Q It could be -- I couldn't hear, I'm sorry.

11 A It could be an obstacle for the person farming.

12 Q Okay.

13 A And so they wouldn't be able to cover their fields in  
14 the same pattern, crop their fields in the same  
15 pattern as they had in the past.

16 Q Thank you. And what is the purpose of contour  
17 farming?

18 A To minimize erosion.

19 Q Uh-huh. How could this detour and obstacle issue be  
20 mitigated?

21 A I believe the applicants have some leeway along the  
22 centerline of their easement for moving poles, and so  
23 it's my understanding that it's their intention to  
24 work with landowners where possible if they needed to  
25 move the poles a few feet. You know, tens of feet,

1 not -- certainly not hundreds of feet. So moving a  
2 pole may help a farmer if they have issues of access  
3 or moving around fields, that sort of thing.

4 Q Would they still have to steer around that pole  
5 within the contour?

6 A If it's in their field.

7 Q Have you read the public comments from farmers from  
8 Segment A?

9 A I've read many of the public comments. I haven't  
10 read all of them. I've read many of them.

11 Q Are you aware of a farmer who has sustained a serious  
12 physical injury that makes excessive steering of farm  
13 equipment difficult?

14 A I'm not.

15 Q Would you agree that placement of transmission poles  
16 on his land could create additional steering issues  
17 and undue hardship?

18 A It could.

19 Q And how could those issues be mitigated?

20 A I'm not an expert in adjusting equipment, but I  
21 assume there may be adjustments to the equipment that  
22 could be made to make it easier to steer or a re --  
23 as I was saying earlier, if the pole could be moved  
24 to a location that is -- causes less steering issues,  
25 that could be a solution.

1 Q In your -- in the AIS, page 58 to 59, reports only  
2 three questionnaires were sent and that there were  
3 two farmland replies. My farm was not included. The  
4 concerns I have regarding my farm operations are not  
5 addressed in the AIS, and I have concerns about  
6 specifically EMF, how that affects the cortisol level  
7 in cattle and how that might affect cattle  
8 insemination and weight gain rates.

9 A Uh-huh.

10 Q And I would also be concerned about  
11 cross-contamination of crops and pesticides from the  
12 neighboring nonorganic farm onto my principally  
13 organic-run farm due to complete removal of a  
14 tree-lined wind break, loss of hay crops from  
15 construction and future losses, potential invasion of  
16 pasture, animal containment areas due to fence loss  
17 on line during construction phase and potential  
18 future loss, minimum number of animals raised due to  
19 pasture and animal containment area reductions  
20 potentially. How would these concerns be addressed  
21 going forward?

22 A It is my understanding that once -- if the project is  
23 approved and route is selected, that it's our  
24 recommendation to the applicants that they contact  
25 each farm operation individually and survey them for

1 potential concerns and then deal with those concerns  
2 individually.

3 Q Were these concerns taken into effect before the  
4 route has been chosen?

5 A That would be the Commissioners who would do that.

6 Q The first page of the AIS states that the AIS offers  
7 applicants practices and techniques to avoid or  
8 mitigate damages to farmland and farm operations, and  
9 that information in an AIS cannot stop a project.  
10 What if impacts cannot be mitigated?

11 A The actual loss of land, the land that's used for the  
12 pole foundation, any -- that's -- any impacts due to  
13 the pole's location, that farm is -- cannot adjust  
14 to, I guess that would be it.

15 Q Well, what if the concerns and issues and impacts  
16 cannot be addressed and mitigated by the applicant or  
17 other agency, what happens to the farmer?

18 A I would assume the compensation for that, any things  
19 that cannot be mitigated for, would be part of the  
20 easement compensation that the landowner receives.

21 Q If the easement compensation plan states that only  
22 compensation is given for land value, would these  
23 other issues that would impact the farmer be  
24 addressed?

25 A That would be a question for ATC. It would be up to

1           them.

2       Q     For the purpose of AIS, how is farm defined?

3       A     I believe it's any operation that can produce \$1,000  
4           worth of produce or income in one year or 3,000 over  
5           three years. 3,000, it's over three years.

6       Q     Most farmers live on their land. How does the AIS  
7           take this inherent impact into account?

8       A     We do through the concerns that they raise. If they  
9           raise concerns about living there, we try to list  
10          those in their comments.

11      Q     So if a farmer were not aware of this project fully  
12           and they had not received a survey, would they know  
13           how to contact you ahead of time to help work through  
14           this issue and mitigate any potential impact?

15      A     They might not.

16      Q     I raise horses and train, and I require a substantial  
17           number of outbuildings, corrals, pastures where  
18           horses are housed, bed, trained and intense human  
19           presence would be in these areas, and for these  
20           reasons my farm is vulnerable to the encroachment of  
21           a transmission line, and I expect to lose pasture and  
22           working area and suffer animal and human health  
23           impacts related to living and working in this area.  
24           Would you -- would this be regarded as a unique  
25           agricultural type in the AIS?

1       A     There are other livestock owners along the routes and  
2             others who use outbuildings and pastures, so I would  
3             think it would be in addition to the existing -- to  
4             any of the land -- farmland owners and farm  
5             operations along the routes.

6       Q     How is the encroachment of transmission addressed in  
7             the AIS?

8       A     I don't understand your question.

9       Q     Is it -- do they address how the impact of these  
10            lines on the land of the farmers at all, limiting  
11            work, operations, et cetera?

12      A     That's the full scope of the Ag Impact Statement is  
13            describing the impacts, yes.

14      Q     Is the scope complete?

15      A     We didn't -- as we discussed before, we didn't survey  
16            every landowner, so every landowner's concerns are  
17            not included, but we feel the -- the breadth of the  
18            impacts are complete.

19      Q     How could this be mitigated? How could we have a  
20            more complete statement and analysis?

21      A     We could survey every single landowner, but that  
22            would increase the cost and the time and would --  
23            we'd have to spend more time processing the surveys  
24            rather than looking into concerns that people had.

25      Q     But would you be aware of the concerns if they had

1 not been contacted?

2 A If someone has concerns that weren't addressed, I  
3 would assume we would then be aware if we contacted  
4 everyone.

5 Q I guess I'm sorry, I didn't quite understand your  
6 reply.

7 A The -- if we had -- the contacts we made were to get  
8 an overall view of the potential impacts. They  
9 weren't to get everybody's concerns. So if -- if we  
10 contacted everyone, they would have that opportunity  
11 to express their concerns.

12 Q If you had contacted everybody, you would know the  
13 concerns, did I understand that correctly?

14 A If they chose to reply.

15 Q If they chose to reply. The AIS states that there  
16 are specific considerations to assess route segment  
17 decisions and degree of impacts. It goes on to  
18 mention total agriculture land across a segment  
19 corridor where a fence, pasture or paddock is  
20 affected. How are the impacts on a larger area  
21 within the fenced area evaluated?

22 A We describe how fencing could be affected. We  
23 describe potential loss of land for cropland, not so  
24 much for pasture because the animals still would have  
25 access, except for the areas of the foundation, so

1           those impacts are.

2       Q     And the new versus existing right-of-way on  
3           agricultural land, where new right-of-way will be  
4           taken to expand an existing easement, how is that  
5           evaluated?

6       A     We compare the numbers.

7       Q     And the right-of-way in comparing, is it listed in a  
8           table?

9       A     I believe so.

10      Q     Would that be page 3? We'll get to that.

11                   The right-of-way, let's see, on AIS  
12           page 66 does not address the new land to be taken  
13           from -- for the easement that is to be added. It's  
14           not clear that that map is done, I guess, is what  
15           I'm saying. So I wonder where that is recorded.  
16           I'm talking about the difference. Do you know what  
17           I'm asking, the difference between the smaller  
18           right-of-way for a lower voltage and then between  
19           the larger right-of-way, is that accounted for in  
20           here?

21      A     You're talking about the new versus existing?

22      Q     Yes. Uh-huh. That difference in acreage between the  
23           right-of-way easements.

24      A     It will take me some time.

25      Q     Is it just a simple math calculation, Ms. Halpin?

1 A It's in our table at the beginning. It's simple math  
2 calculation, yes.

3 Q Okay.

4 A I'm looking at the NSP versus O in the executive  
5 summary.

6 Q Uh-huh.

7 A The tables there, they have right-of-way.

8 Q Yes, on page -- the third page of the summary. So is  
9 the -- there's existing row and there's new row.

10 A Right-of-way.

11 Q Right-of-way, sorry. Thank you. Is there a  
12 differentiation in -- are you accounting for the  
13 difference in the acreage?

14 A Existing right-of-way is where there's any existing  
15 easement along an existing transmission line or  
16 existing road right-of-way. New right-of-way is  
17 where there's no existing easement.

18 Q But where the existing easement is less than the  
19 proposed new easement, is that difference accounted  
20 for?

21 A I don't understand what you mean by accounted for. I  
22 mean, it's there in the table.

23 EXAMINER NEWMARK: It's included in the  
24 new right-of-way acreage, the expansion of an  
25 existing easement?

1 THE WITNESS: Well, there's new and  
2 there's existing.

3 EXAMINER NEWMARK: Okay. So it is part of  
4 the new exist -- part of the new --

5 THE WITNESS: The new plus the existing  
6 would be the total.

7 BY MS. KUNZE:

8 Q So I guess is the expanded portion of the easement on  
9 an existing corridor included in the new right-of-way  
10 number?

11 A If there's acreage that is part of an existing  
12 easement, that would be existing right-of-way. If  
13 there's acreage that is not -- does not have an  
14 existing easement, that would be new right-of-way.

15 Q Okay. The right-of-way extends on -- is on the prime  
16 and other highly productive farmland classes. AIS  
17 page 66 does not address the new land to be taken  
18 with easement that's to be addressed and use what  
19 we're talking about, existing right-of-way, that was  
20 provided. Do we know how many required acres are we  
21 referring to with the new easement?

22 For the sake of time, I'm going to move on.  
23 One moment, please.

24 Did you or another contributing member look  
25 at surveys to determine land divisions and property

1 boundaries?

2 A In the GIS layer, there is owner-owned parcel level  
3 data that identifies owners so, yes.

4 Q Aerial map. So the actual property lines are  
5 visible, not -- or are you relying on visual cues  
6 from the -- from the GIS?

7 A I wasn't the person who did the GIS in that analysis,  
8 but I believe there are property lines visible.

9 Q I can represent to you that my property extends  
10 beyond the fence and tree line. Was that factored  
11 in? Was that considered?

12 A Your individual property?

13 Q Uh-huh.

14 A I did not look at your individual property on its  
15 own, no.

16 Q Then there's the number and type of agricultural  
17 operations impacted. There's dairy, organic,  
18 specialty, row crop, et cetera. Why tally the  
19 different types of ag operation? What does that  
20 accomplish?

21 A To give an idea of what types of farm operations are  
22 being affected. It's just to give another factor  
23 that can be considered when analyzing the project.

24 Q And do some types of agricultural operations have a  
25 greater weight than others?

1 A No.

2 Q Is -- why is prime agriculture and agriculture land  
3 of statewide importance broken out?

4 A Because prime farmland is more productive than other  
5 types of farmland.

6 Q So would you say that prime farmland and farmland of  
7 statewide importance would have a greater weight than  
8 others?

9 A It's just pointing out that they are more productive.  
10 It's not giving them a weight.

11 Q Would a more productive property add more value in  
12 terms of farm productivity?

13 A Presumably.

14 Q The second page of the AIS states that the applicants  
15 and the affected landowners should be aware of and  
16 prepared to mitigate the major potential impacts to  
17 agriculture, including impacts on crop production,  
18 topsoil, and mixing soil compaction, erosion control  
19 during construction and restoration, impacts on  
20 drainage and irrigations system, impacts on  
21 residences, affects on property value, impacts on  
22 farm viability and future farm expansions. For each  
23 of these, how might they be mitigated?

24 A You want to go through the list one by one or --

25 Q Can they all be mitigated? In the interest of time,

1 would you like to detail those that --

2 A I think --

3 MR. LORENCE: Your Honor, I'm going to  
4 interject here and object. Her testimony is to  
5 describe the impact statement, not the mitigation  
6 of. Those are questions better addressed to the  
7 applicants.

8 EXAMINER NEWMARK: Okay.

9 MS. KUNZE: To the applicants?

10 MR. LORENCE: Uh-huh.

11 MS. KUNZE: Thank you, Mr. Lorence.

12 EXAMINER NEWMARK: And were covered to a  
13 large extent in the hearing already.

14 MS. KUNZE: Okay.

15 BY MS. KUNZE:

16 Q So in the AIS there is talk about the potential of  
17 hiring an independent agricultural monitor and  
18 inclusions of this requirement as an order point. Is  
19 this a foregone conclusion, or is this something that  
20 would require further effort?

21 A If it were ordered, then it would have to -- that  
22 person would need to be hired, and I'm not sure what  
23 you mean by further effort. Presuming to be hired  
24 and learn about the project.

25 Q Who would order that?

1 A Commissioners.

2 Q Okay. Let's see. In looking at that same table that  
3 we were looking at earlier, page 3, in looking at the  
4 table, where is farmland of statewide importance  
5 included?

6 A I don't believe it's included in that table.

7 Q Would you agree that due to its shortest length, that  
8 Segment A has the lower total right-of-way area?

9 A Versus B?

10 Q Yeah, versus the two Bs.

11 A Yes.

12 Q Would you agree that despite the shortest distance,  
13 Segment A has the highest number of poles in  
14 agricultural land?

15 A Yes.

16 Q Would you agree that Segment A has the highest  
17 percentage of right-of-way land in agriculture at  
18 61.9 percent versus 38.6 and 35.5 percent in the  
19 others?

20 A Yes.

21 Q Would you agree that Segment A has the highest number  
22 of prime farmland acres in the right-of-way?

23 A Yes.

24 Q Appendix 3 to the AIS is the full Landowners Bill of  
25 Rights, and that's attached to the Ag Impact

1 Statement as Exhibit A. Should the entire 182.017 be  
2 incorporated and not just Subdivision 7?

3 A Incorporated into?

4 Q Into the AIS.

5 A In the future we could do that, yes.

6 Q Is the Landowner Bill of Rights made part of the  
7 utility's permit?

8 A I don't know.

9 Q How does a landowner assure compliance with the  
10 Landowner Bill of Rights?

11 A The Commission monitors the project after it's  
12 ordered, so that would be beyond my expertise.

13 Q Will a drain tile inventory be gathered prior to  
14 construction on the land?

15 A As I've said before, we've -- part of our request is  
16 that the applicants contact each farmland owner  
17 individually if the route -- if the project is  
18 approved and question them about their concerns, and  
19 one of the questions we would ask them to pursue  
20 would be drainage and drain tiles.

21 Q The crop damage compensation takes three forms. Is  
22 damage to crops growing at the time of construction  
23 compensable?

24 A Yes.

25 Q Is damage to crops due to compaction where soils take

1 time to recover from compaction compensable, excuse  
2 me?

3 A I don't know.

4 Q You had mentioned just now that the applicants would  
5 interact with the individual farmers and landowners  
6 to ascertain what their issues are. Would it not be  
7 prudent, would you agree, to weigh in on those  
8 concerns to make a complete analysis prior to  
9 decision of the route?

10 A I believe our analysis is thorough. It may not be --  
11 it may not touch on every single landowner, but it is  
12 thorough.

13 Q The Landowner Bill of Rights states that the  
14 landowner shall not be responsible for injury to  
15 persons or property caused by the design construction  
16 or upkeep of the high voltage lines or the towers.  
17 If the landowner is not, who is?

18 MR. WILL: Your Honor, that's really sort  
19 of a legal hypothetical because it would depend on  
20 the circumstances and all sorts of other things, and  
21 I don't really think that's an appropriate question  
22 for this particular witness.

23 EXAMINER NEWMARK: Okay. Yeah, we're  
24 going to -- we'll have to skip that question.

25 MS. KUNZE: All right. Fair enough.

1 EXAMINER NEWMARK: I think as it relates  
2 to the Landowner Bill of Rights, there is a process  
3 with Commission review of all complaints.

4 MS. KUNZE: Commission review.

5 EXAMINER NEWMARK: So I think it would  
6 probably be a Commission -- Commission would be  
7 involved in that type of matter.

8 BY MS. KUNZE:

9 Q So Exhibit C is a certificate of compensation, and  
10 after a party is compensated for perpetual easement,  
11 where is that filed?

12 A That's beyond my area of expertise.

13 Q Okay. And at the end of the AIS, a mailing list is  
14 included. How was that determined? How would you  
15 determine who's on that mailing list?

16 A There are some statutory requirements about who's on  
17 the mailing list, so that would include the Governor  
18 and the chairs of the Assembly and Senate Ag  
19 Committees. The AIS is also supposed to be available  
20 for public viewing, so we included libraries and  
21 county and town clerks so they could put it out for  
22 public viewing.

23 MS. KUNZE: Thank you, Ms. Halpin. No  
24 further questions, Your Honor.

25 EXAMINER NEWMARK: Okay. I just wanted to

1 make sure the Town of Springfield comprehensive  
2 plan, how were we -- what was the purpose of  
3 introducing that at this point?

4 MS. KUNZE: That there is an agricultural  
5 preservation area within the Town of Springfield  
6 that should be considered within AIS.

7 EXAMINER NEWMARK: Okay.

8 MR. POTTS: Your Honor, and I have found  
9 it. It is in the application. It's in Appendix A,  
10 figure 8-B, page 10 of 12.

11 EXAMINER NEWMARK: Okay.

12 MR. POTTS: But we have no objection if  
13 you want to enter it twice. I just want to note  
14 that for the record.

15 MS. KUNZE: Thank you. I guess it just  
16 reflects back on my cross-exam just now in which I  
17 asked if it was considered, if they were aware of  
18 it.

19 EXAMINER NEWMARK: Okay. We'll leave it  
20 in as Halpin 2. You'll just need to file it on ERF.

21 MS. KUNZE: Thank you.

22 (Exhibit Halpin 2 received.)

23 EXAMINER NEWMARK: Okay. Other questions,  
24 cross questions?

25 MS. WESTERBERG: I have actually one brief

1 question.

2 EXAMINER NEWMARK: Go ahead.

3 CROSS-EXAMINATION

4 BY MS. WESTERBERG:

5 Q Ms. Halpin, Christa Westerberg from Clean Wisconsin.  
6 I see in your prefiled testimony you mentioned that  
7 organic farms can be affected by the project, and you  
8 list some that have been identified by your agency  
9 and you state that the applicants should work with  
10 the certifiers of any organic property that is  
11 crossed so that procedures can be followed that would  
12 ensure the farm would maintain certification. Do you  
13 recall that testimony you filed?

14 A Yes.

15 Q Okay. Would you agree that if herbicide applications  
16 occur on properties adjacent to an organic farm, that  
17 could affect the organic farm certification  
18 potentially?

19 A Yes.

20 Q Do you know if there is a procedure in place for  
21 notification to the organic farmer prior to  
22 herbicides being sprayed in a right-of-way property  
23 adjacent to that farm?

24 A No, I don't know if that is.

25 Q Would you agree that something like that would be

1 appropriate in this case to avoid impacts to organic  
2 farms?

3 A Yes, I would agree.

4 MS. WESTERBERG: Nothing further.

5 EXAMINER NEWMARK: Okay. Other cross?

6 (No response.)

7 EXAMINER NEWMARK: Redirect?

8 MR. LORENCE: Is there anything else you'd  
9 like to add?

10 THE WITNESS: No.

11 MR. LORENCE: No redirect.

12 EXAMINER NEWMARK: Okay. Thanks. You're  
13 excused.

14 (Witness excused.)

15 EXAMINER NEWMARK: All right. Who's next?  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 ROBERT FASICK, WisDOT WITNESS, DULY SWORN

2 EXAMINER NEWMARK: All right.

3 DIRECT EXAMINATION

4 BY MR. LORENCE:

5 Q Can you state your name for the record.

6 A Robert Fasick.

7 Q And where do you work, sir?

8 A Wisconsin Department of Transportation.

9 Q In preparation for today's hearing, did you prepare  
10 direct and rebuttal testimony?

11 A That is correct.

12 Q And did you also file six exhibits?

13 A Yes.

14 Q And if you were asked the same questions as in your  
15 testimony, would your answers be the same today?

16 A Yes, they would.

17 Q And do you have any corrections to your testimony and  
18 exhibits?

19 A I'm sorry, no.

20 Q Okay. Have you listened to any of the testimony this  
21 week?

22 A Yes.

23 Q Is there anything you'd like to add before you're  
24 available for cross?

25 A No. Most of it was on need and other things that

1 weren't pertaining to my part of it, which is  
2 routing.

3 MR. LORENCE: Okay. Mr. Fasick's  
4 available for questions.

5 EXAMINER NEWMARK: Okay.

6 CROSS-EXAMINATION

7 BY MR. WILL:

8 Q Thank you. Good morning, Mr. Fasick. Trevor Will.  
9 I have a couple questions for you.

10 A You said three.

11 Q I know. But I mean three cubed.

12 In your direct testimony, you identified  
13 three locations where the DOT had particular  
14 concerns, one was Segment P-East at U.S. Highway 53,  
15 County Highway MH interchange. A second one was at  
16 the County Highway CS/I-90 interchange between there  
17 and the rest area near the Town of Poynette, and the  
18 third one was the Fairfield Marsh area, correct?

19 A Correct.

20 Q And your rebuttal testimony addresses discussions  
21 that were had and an alternative arrangement that was  
22 made with the applicants in the Fairfield Marsh area  
23 that's now acceptable to the DOT?

24 A Correct.

25 Q Have you also had further discussions with the

1 applicants about the U.S. Highway 53/County Highway  
2 MH interchange on Segment P-East?

3 A Correct.

4 Q And were the applicants able to propose a realignment  
5 there that meets the DOT's concerns?

6 A Correct. Just at the interchange itself.

7 Q Yes. Also with respect to the County Highway CH area  
8 in the Town of Poynette up to the rest area on the  
9 interstates, have you had further discussions with  
10 the applicants about the routing in that area?

11 A Correct. In CS, by the way.

12 Q I'm sorry, I thought --

13 A That's all right.

14 Q Yeah, it is CS.

15 A I think it's the Town of Dekorra.

16 Q Yes. Poynette is on the interchange?

17 A Yes.

18 Q I apologize. It says Poynette on the signs when you  
19 get off the expressway of the interstate at County  
20 Highway CS, yes.

21 All right. In that area, have you had  
22 discussions with the applicants about an alternative  
23 routing that addresses the DOT's concerns as  
24 expressed in your direct testimony?

25 A Correct.

1 Q And has there been an alternative proposed that would  
2 meet the DOT's concerns?

3 A Yes, there has been.

4 MR. WILL: That's all I have for you.  
5 Thanks very much, Mr. Fasick.

6 THE WITNESS: Sure.

7 EXAMINER NEWMARK: Okay. Let's go off the  
8 record a minute.

9 (Discussion held off the record.)

10 EXAMINER NEWMARK: All right. Get back on  
11 the record. More questions?

12 MS. WESTERBERG: I do have some.

13 CROSS-EXAMINATION

14 BY MS. WESTERBERG:

15 Q Good morning, Mr. Fasick. Christa Westerberg  
16 representing Clean Wisconsin. You mentioned you had  
17 been here for some of the prior testimony. Were you  
18 here for any testimony regarding potential bird  
19 collision in the Leopold-Pine Island Important Bird  
20 Area?

21 A I was online watching everything as much as I could.

22 Q Okay.

23 A I heard some of the conversations.

24 Q Okay. And I want to focus our -- my questions on  
25 Segment H adjacent to I-94.

1 A Okay.

2 Q Your understanding is that that segment uses at least  
3 some Department of Transportation right-of-way,  
4 correct?

5 A Yes.

6 Q And would it be your understanding that the Badger  
7 Coulee line, if Segment H is selected, will be  
8 visible from the interstate in that stretch?

9 A Yes.

10 Q And you're aware that this Leopold-Pine Island  
11 Important Bird Area is this large wetland complex to  
12 the north of the interstate there?

13 A Yes.

14 Q Okay. Has there been any discussion among Department  
15 of Transportation personnel about potential  
16 collisions of large bodied birds like cranes with the  
17 Badger Coulee line in that area?

18 A I haven't had anything directly with other staff.

19 Q Okay. Well, as you may have heard over the last few  
20 day, witnesses have testified that that area is  
21 frequently used by migratory birds and large volumes  
22 of migratory birds in the fall when cranes congregate  
23 there, and other witnesses have testified in their  
24 prefiled or live that collisions with the lines are  
25 likely. Would you have any concern that collisions

1           between birds in that area in the power line would  
2           create a distraction for drivers on the interstate?  
3           If those -- if those collisions were to occur, would  
4           you have a concern about there being a distraction  
5           issue?

6       A    There's so many different distractions that could  
7           happen. Car-deer collisions, there could be  
8           collisions between semis and birds. I don't know.  
9           There are people texting when there shouldn't be, so  
10          I really can't say one way or the other. A lot of  
11          things are distractions out there, let's just put it  
12          that way.

13       Q    Okay. Yeah. And I'm not asking you to compare this  
14           as a potential distraction issue to other issues, but  
15           if it occurred do you know whether -- let me  
16           rephrase.

17                   If those distractions occurred, would  
18           they -- if those collisions occurred, would they  
19           create a distraction? You don't know?

20       A    I can't answer that because that's up to every human  
21           being who's out there driving. I could be out there  
22           and doing some driving going straight ahead and not  
23           notice something, and then another day it could  
24           happen and I could notice it. So I think that's  
25           every human being's reaction would either notice it

1 or not notice it.

2 MS. WESTERBERG: Okay. I just wanted to  
3 note whether that had been discussed. Thank you.

4 THE WITNESS: Sure.

5 EXAMINER NEWMARK: That's it. More cross?

6 CROSS-EXAMINATION

7 BY MS. KUNZE:

8 Q Good morning, Mr. Fasick.

9 A Good morning.

10 Q I'm Laura Kunze, self-representing. I just have a  
11 few questions. What is the relationship between DOT  
12 and FAA and jurisdictions in matters of siting  
13 transmission near airports?

14 A I can't answer that. That's not my area of  
15 expertise. I only deal with the highways.

16 Q Only, okay. So --

17 A We do have -- let me just explain. My area is with  
18 Bureau of Highway Maintenance, and I handle the  
19 permitting aspect.

20 Q Okay.

21 A And we have our own Bureau of Aeronautics that  
22 handles matters with FAA.

23 Q And that was the Bureau of --

24 A Aeronautics.

25 Q So is there a situation where you might not be able

1 to -- or it might not be prudent to proceed with  
2 permitting before a situation is resolved?

3 MR. LORENCE: Your Honor, could I ask for  
4 more clarification?

5 THE WITNESS: I was going to ask the same  
6 thing. What's the situation that's resolved?

7 BY MS. KUNZE:

8 Q In your direct, page 4, for example on lines 12  
9 through 14, you state that the DOT will not issue a  
10 permit and that the line is too close to the  
11 northbound structure. Describe a meeting with ATC  
12 where they are working on the realignment with this  
13 one.

14 A I'm sorry, which page again?

15 Q Page 4.

16 A Okay. Let me get there. 12 to 14?

17 Q Uh-huh.

18 A Right. That particular issue was just discussed.  
19 That particular issue involved -- we have the CapX  
20 line that is already on Highway 53 southbound, and  
21 the proposal was to put P-East real close to the  
22 northbound structure, which would prevent us from  
23 getting a crane in there to rebuild the bridge,  
24 re-deck it, things of that nature. So we work with  
25 the applicants to try to get them to realign that

1 particular segment such that we could get a -- park a  
2 crane in a spot. And I would have to then, which I  
3 did, go to our bridge maintenance folks and our  
4 bridge design folks and say is this acceptable  
5 alignment. So those are the types of issues that  
6 come up in these types of transmission line  
7 proceedings.

8 Q Have you reviewed FAA comment and/or review of the  
9 project in relation to the airports in the protected  
10 area?

11 A FAA is not my area.

12 Q Okay, okay. Is there potential for the Department of  
13 Transportation denial of permits for structures based  
14 on department jurisdiction over airspace?

15 A Possibly. Again, that's not my area.

16 Q Possibly, okay. And that would also be the Bureau of  
17 Aeronautics, sir?

18 A Correct.

19 Q And how would those issues then be discussed or  
20 analyzed within the Environmental Impact Statement  
21 and other issues?

22 A I only comment on what affects the highways. And  
23 with regards to airports, I'm sure there's -- there's  
24 federal and other -- and ATC also probably works with  
25 the -- our own Bureau of Aeronautics, and I thought

1           there was some discussion about our Bureau of  
2           Aeronautics being involved. But again, my area is  
3           pretty segmented as far as relationship to the  
4           highways.

5                   MS. KUNZE: Okay. Thank you for your  
6           time, sir.

7                   THE WITNESS: Sure.

8                   MS. KUNZE: No further questions, Your  
9           Honor.

10                  EXAMINER NEWMARK: Okay. Other questions?

11                           (No response.)

12                  EXAMINER NEWMARK: No. Just something  
13           that came up during the course of the hearing  
14           regarding Fort McCoy. I just wanted to make sure we  
15           clear up for the record on that. Do you know if  
16           Route 90 as it goes through Fort McCoy, is that  
17           Department of Transportation easement, or is there  
18           some portion that's a permit from the Department of  
19           Defense?

20                  THE WITNESS: I actually was paying  
21           attention during that part.

22                  EXAMINER NEWMARK: Wow. Okay. Someone's  
23           paying attention.

24                  THE WITNESS: I e-mailed our bureau -- our  
25           real estate person in our Southwest Region La Crosse

1 office. He has yet to respond. When I do get an  
2 answer -- he's going to check on it.

3 EXAMINER NEWMARK: Okay.

4 THE WITNESS: But that is a good question  
5 because sometimes we're only there by permit, and  
6 that's the case in some Indian territories as well.

7 EXAMINER NEWMARK: Uh-huh. So just inform  
8 staff of that.

9 THE WITNESS: Sure.

10 EXAMINER NEWMARK: And if -- well, I'll  
11 leave it up to staff if they want to supplement the  
12 record with that.

13 THE WITNESS: Do you want me to send  
14 something to Mr. Lorence?

15 EXAMINER NEWMARK: Yeah. Mr. Lorence or  
16 Ms. Silver Karsh.

17 MR. LORENCE: Send it to her.

18 EXAMINER NEWMARK: I don't know where your  
19 e-mails will go, John.

20 MR. WILL: Could I have a follow-up on  
21 that?

22 EXAMINER NEWMARK: Yeah.

23 CROSS-EXAMINATION

24 BY MR. WILL:

25 Q Mr. Fasick, are you aware whether the applicants

1 studied whether the transmission line could fit  
2 within the highway right-of-way through Fort McCoy?

3 A Yes.

4 Q And then that route was considered and then  
5 ultimately not put forward?

6 A Yes.

7 MR. WILL: Thank you.

8 EXAMINER NEWMARK: Uh-huh. All right.  
9 Any redirect?

10 MR. LORENCE: I don't believe, unless you  
11 want to add anything.

12 THE WITNESS: The one thing that's in my  
13 testimony that the department is still -- has  
14 heartburn with is the segments of P-East coming out  
15 of the Briggs Substation heading towards MH. If we  
16 get hemmed in on both sides, it prevents a big  
17 conflict for us if we have to expand 53 in that  
18 area. So the interchange issue has been resolved,  
19 but, you know, having transmission lines on both  
20 sides is really a tough bind for us. We can handle  
21 it on one side. It's very -- you know, we can  
22 expand to the other side if necessary.

23 So that's the only thing that is still of  
24 concern for us, but if we had to go with it, we  
25 would work with it as much as we could.

1 MR. LORENCE: Okay. Thank you.

2 EXAMINER NEWMARK: All right. Thanks.

3 You're excused.

4 (Witness excused.)

5 MR. WILL: Excuse me, Your Honor. Could I  
6 have just a second off the record.

7 (Brief break taken.)

8 MR. POTTS: I think we're finished with  
9 you.

10 EXAMINER NEWMARK: All right. Thank you  
11 very much.

12 MR. WILL: Your Honor, we have a witness  
13 or two witnesses that can elaborate on your question  
14 about the Fort and the analysis of the interstate  
15 right-of-way if you want that information on the  
16 record. We can put them up on the stand and --

17 EXAMINER NEWMARK: Well, let's go off the  
18 record.

19 (Discussion held off the record.)  
20  
21  
22  
23  
24  
25

1           TERENCE HENN, APPLICANT WITNESS, DULY SWORN

2                   EXAMINER NEWMARK: All right.

3                           DIRECT EXAMINATION

4       BY MR. WILL:

5       Q     Mr. Henn, you've been asked to come to the stand to  
6             address one specific issue. Did the applicants study  
7             the possibility of routing the Badger Coulee line  
8             along the Interstate 90 right-of-way through Fort  
9             McCoy?

10      A     Yes. On both sides in fact.

11      Q     And what did that analysis show?

12      A     The analysis showed that the existing right-of-way  
13             where we would need to put the locations of the  
14             structures relative to the edge of the pavement,  
15             there are rules that we have to follow with the DOT,  
16             it's referred to as a clear zone, safety of traffic  
17             on the interstate, where the poles would need to be  
18             located, the distance away, then the extent of the  
19             right-of-way would exceed the available right-of-way  
20             that is either owned by easement or permit by the  
21             Department of Transportation. So regardless, we  
22             would -- we would need rights from the Fort as well.

23      Q     So regardless of whether the DOT owns or is there by  
24             permit, the right-of-way is too narrow to locate the  
25             transmission line there?

1 A Completely within the DOT right-of-way, correct.

2 MR. WILL: Thank you.

3 MS. WESTERBERG: I do have one follow-up  
4 on that then. Thanks, Judge.

5 CROSS-EXAMINATION

6 BY MS. WESTERBERG:

7 Q Are you talking about, Mr. Henn -- Christa  
8 Westerberg, Clean Wisconsin -- a specific portion of  
9 the right-of-way around Fort McCoy just -- are you  
10 talking about just on the portion of the property  
11 that is actually owned by Fort McCoy where that would  
12 need to happen?

13 A Primarily for the duration of I-90. Typically  
14 unless -- unless the highway right-of-way is  
15 extremely wide because there was some anticipated  
16 expansion plans in the future, just the extents of  
17 the DOT right-of-way is insufficient to contain the  
18 required easement for the structures. Especially on  
19 an interstate highway because of the speeds of the  
20 highway, the clear zone is wider, therefore the poles  
21 have to be further from the edge of the pavement, and  
22 the right-of-way that we need would extend onto --  
23 onto private property.

24 Q And you in fact ran into this issue also at the Camp  
25 Douglas Airport; is that true?

1 A Volk Field?

2 Q Yes.

3 A Yes.

4 Q Okay. And in that case, isn't it true that the  
5 applicants departed from existing right-of-way to  
6 route around the airport and the clear zones?

7 A The -- the principle reason for departing the  
8 interstate in the vicinity of Volk Field was the  
9 accident potential zone associated with the airfields  
10 at Volk Field as well and our interactions with air  
11 operations representatives at various open houses  
12 from Volk Field indicating the presence of the  
13 accident potential zone and that there would be no  
14 overhead lines permitable within the accident  
15 potential zone.

16 Q Right. So if you had wanted to route in the area of  
17 Fort McCoy along the interstate, you would  
18 essentially need to have done what you did at Volk  
19 Field to route around the clear zones there, correct?

20 A Meaning the accident potential zone?

21 Q Yes.

22 A But to route around the accident potential zone at  
23 Fort McCoy would involve still going on Fort McCoy  
24 property in another location.

25 Q And you stay on -- did you stay off Volk Field

1 property on that routing?

2 A We are not on Volk Field property at all to the best  
3 of my knowledge.

4 MS. WESTERBERG: Okay. Thank you.

5 EXAMINER NEWMARK: All right.

6 MR. LORENCE: I have just one follow-up  
7 question.

8 CROSS-EXAMINATION

9 BY MR. LORENCE:

10 Q You just discussed about the problems of using the  
11 DOT right-of-way along the interstate and the  
12 distance that you would have to keep away from the  
13 interstate and that there wasn't enough easement,  
14 correct?

15 A Yes, sir.

16 Q And so you would have to go partially into -- extend  
17 the transmission easement into the private property  
18 next to the highway, correct?

19 A That is correct.

20 Q And that would be the same whether it was Fort McCoy  
21 or an individual landowner, correct?

22 A That's correct.

23 MR. LORENCE: Thank you.

24 EXAMINER NEWMARK: Okay. Great. Any  
25 redirect I guess?

1 MR. WILL: No.

2 EXAMINER NEWMARK: Okay. Thanks. You're  
3 excused.

4 (Witness excused.)

5 EXAMINER NEWMARK: Okay. Who's next?

6 MS. CORRELL: I think we agree that the  
7 Department of Natural Resources would proceed next.

8 EXAMINER NEWMARK: All right.

9 MS. CORRELL: I'm used to the microphones  
10 that don't amplify but record very well. So I'll  
11 try to not shout.

12 EXAMINER NEWMARK: I don't think we'll  
13 have a problem with your voice.

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1 MS. CORRELL: Ben Callan.

2 BENJAMIN CALLAN, WDNR WITNESS, DULY SWORN

3 EXAMINER NEWMARK: Go ahead.

4 DIRECT EXAMINATION

5 BY MS. CORRELL:

6 Q Good morning, Mr. Callan.

7 A Good morning.

8 Q Sorry. Just a second here. You provided direct  
9 testimony and sur-surrebuttal, prefiled written  
10 testimony in this proceeding; is that correct?

11 A No. I provided direct testimony and surrebuttal.

12 Q Oh, excuse me. Thank you for the clarification.

13 And if you provided the testimony that you  
14 submitted in writing here today, would your testimony  
15 be any different?

16 A To my direct, there would be a couple of changes. To  
17 my surrebuttal, I would not change anything.

18 Q Could you clarify what -- what additions you might  
19 like to have on the record here today?

20 A Sure. On page 10 of my direct testimony, lines 9 and  
21 10, I indicate in my direct that the in-lieu fee  
22 program is currently not an option for mitigation,  
23 and that is no longer the case. In other words, it  
24 is an option for mitigation.

25 And then there are three similar questions

1 and answers regarding the process to grant the  
2 utility easement across state property. The first  
3 one on page 11. The answer is lines 19 through 22.  
4 I would change that answer to read, Since federal  
5 money through the National Park Services Land and  
6 Water Conservation Fund was used in acquiring Mirror  
7 Lake State Park, the DNR works directly with the  
8 National Park Service and the applicants to ensure  
9 that the project will minimize and mitigate any  
10 conversion of recreational use on Mirror Lake State  
11 Park.

12 A similar response would be provided on  
13 page 12, lines 13 through 16: Since federal money  
14 through the National Park Service Land and Water  
15 Conservation Fund was used in acquiring these  
16 trails, the DNR works directly with the National  
17 Park Service and applicants to ensure that the  
18 project minimizes and mitigates any conversion of  
19 recreational use.

20 And then the similar response, page 13,  
21 lines 10 through 13: Since federal money through the  
22 National Park Service Land and Water Conservation  
23 Fund was used in acquiring Black River State Forest,  
24 the DNR works directly with the National Park  
25 Service and the applicants to ensure that the

1 project minimizes and mitigates any conversion of  
2 recreational use on the Black River State Forest.

3 Q Do you have anything else you want to add at this  
4 time on direct?

5 A No.

6 MS. CORRELL: I tender the witness for  
7 cross-examination.

8 EXAMINER NEWMARK: Okay. Questions?

9 CROSS-EXAMINATION

10 BY MR. POTTS:

11 Q Mr. Callan, my name is Brian Potts. I represent  
12 American Transmission Company. I just have one line  
13 of questioning. Are you -- I believe in your  
14 testimony you referenced the Mirror Lake State Park  
15 re-route that was -- was entered into the record by  
16 the applicants?

17 A Yes.

18 Q And does the DNR support that re-route?

19 A In my discussions with the superintendent for Mirror  
20 Lake State Park, they've indicated a preference to  
21 locate the line such that it would maintain buffer  
22 between the transmission line and the interstate.

23 Q And so does the DNR have any opinion on that  
24 specifically?

25 A As you'll note, there's some criteria or conditions

1 associated with that, including the potential  
2 relocation of the state trail or a trail that's on  
3 the state park property. If those criteria are met  
4 and the applicant -- the project's approved and  
5 the -- that route is selected, then -- and the  
6 applicants are willing to accommodate those other  
7 provisions regarding that relocation, then yes.

8 MR. POTTS: Okay. Thanks.

9 THE WITNESS: You're welcome.

10 CROSS-EXAMINATION

11 BY MS. WESTERBERG:

12 Q Good morning, Mr. Callan. Christa Westerberg, Clean  
13 Wisconsin. Have you reviewed the testimony of  
14 Mr. Henn on behalf of the applicants?

15 A Yes.

16 Q Okay. And do you recall the portion on page 7 of his  
17 rebuttal testimony where he stated that the  
18 applicants are -- would like the Commission to order  
19 that they only need to obtain permits for the portion  
20 of the line that they're working on rather than  
21 ordering that all permits be obtained before  
22 construction can commence? Does that ring a bell?

23 A It sounds familiar. I can't say it's very clear in  
24 my head, but yeah.

25 Q Yeah, okay. And Mr. Henn testified on Tuesday that

1 by portion of the line they're working on, he meant  
2 construction segment, the segments the applicants  
3 have designated for construction, grouping portions  
4 of the existing routes within those segments. I can  
5 show you. It's been marked as Exhibit 5 for  
6 Mr. Henn.

7 May I, Judge?

8 EXAMINER NEWMARK: Yes.

9 BY MS. WESTERBERG:

10 Q So you should be looking at the chart on Exhibit 5 of  
11 mister -- of Henn Exhibit 5 indicating the  
12 construction segments. Have you seen those before?

13 A Yes.

14 Q Okay. And have the applicants discussed with you the  
15 possibility of getting permits segment by segment  
16 rather than in advance of construction of the entire  
17 line?

18 A No, I wouldn't say permits.

19 Q Can you explain your answer?

20 A When -- if the Commission orders a route, and the  
21 Department is responsible for issuing a permit by law  
22 within 30 days of that order, that's our permit  
23 decision. There may be additional requirements of  
24 that permit for information to be submitted and  
25 approved by the Department at a later date, and that

1 would be my understanding of those construction and  
2 mitigation plan approvals being segmented after a  
3 permit decision is made.

4 Q Okay. So to the extent we're talking about a  
5 Chapter 30 permit or a wetland permit, it should be  
6 addressed within 30 days of the order anyway; is that  
7 your testimony?

8 A That's a requirement.

9 Q Yeah. And then to the extent there are other  
10 approvals or reviews required by the DNR, they would  
11 be done at the time of the construction segment; is  
12 that your understanding?

13 A When -- when the project is ordered, it's my  
14 understanding that the applicants then spend their  
15 time and effort going through final design and  
16 construction planning, including erosion control  
17 planning, potentially addressing any other sensitive  
18 species habitat issues. What I deal with is issuance  
19 of the waterway and wetland permit, and the permit  
20 that I issue comes out 30 days after the order is  
21 issued, and those other decision-making documents may  
22 come at a later date and then supplement --  
23 supplemental to the Chapter 30 and wetland permit  
24 would be the submittal of construction and mitigation  
25 plans, which would also require approval from the

1 Department.

2 Q Does the Department have any position on whether all  
3 of those approvals should be issued prior to  
4 construction commencing on any portion of the line  
5 versus by construction segment, or can you say that  
6 sitting here today?

7 A I -- I don't know if -- I don't have an opinion  
8 specifically on that question. I mean, I'm very  
9 familiar with the waterway and wetland component of  
10 it. Areas beyond that, other DNR staff can -- can  
11 help later in today's proceedings. But regarding  
12 what you've handed me and the schedule that's laid  
13 out there, I don't know if there are other concerns  
14 or issues with approvals beyond what I'm directly  
15 involved in.

16 Q I want to direct your attention to your prefiled  
17 testimony on page 2 where you state on line 9 that  
18 you participated in pre-application meetings.

19 MS. CORRELL: You're looking at the direct  
20 testimony I assume?

21 MS. WESTERBERG: Yes. Thank you.

22 BY MS. WESTERBERG:

23 Q And can you just describe for me at the time you  
24 participated in those pre-application meetings, were  
25 the proposed routes that we see now, the northern and

1 southern routes, more or less identified by the  
2 applicants?

3 A And it depends on when we talk about the  
4 pre-application. I believe at some point the study  
5 area for the project expanded, so I would say that  
6 the northern segments of N and P may not have been on  
7 those earlier pre-application meetings, but at some  
8 point those corridors were refined to routes, yes.

9 Q Okay. And was the Department consulted on  
10 essentially the best ways to get from Point A, being  
11 La Crosse, to Point B, being Middleton?

12 A I wouldn't characterize the inquiries in that way. I  
13 would say that corridors were identified that were  
14 being presented by the applicants for feedback from  
15 the Department, but generally those are on a higher  
16 level. You don't get down to a lot of detail. There  
17 was no inquiry, to the best of my knowledge, about,  
18 you know, how would you get from Point A to Point B  
19 or B-1, B-2, B-3.

20 Q Okay. Was a routing option presented to you that  
21 traveled more directly from essentially the Onalaska  
22 area to Tomah like we see in Mr. Mosca's Exhibit 8?

23 A I would have to look at some of those earlier maps,  
24 but I believe that there were corridors identified in  
25 those areas.

1 Q Did the Department at that time present an opinion  
2 about whether that would be a good route option as  
3 opposed to something that goes as far south as  
4 Segment O?

5 A I don't specifically recall providing feedback like  
6 that.

7 Q Okay. Ms. Parrett I believe mentioned in her  
8 sur-surrebuttal testimony that in NR 216, the  
9 applicants will follow NR 216 for storm water  
10 purposes. Do you recall that testimony?

11 A Yes.

12 Q Okay. And under NR 216, can you briefly describe  
13 what the reseeding requirements are for disturbed  
14 areas?

15 A It's a little beyond my area of expertise since I do  
16 waterway and wetland permitting, and there is a  
17 separate erosion control permitting process for a  
18 project like this, but I believe there are technical  
19 standards, best management practices, for  
20 re-vegetation that could be applied. And in general,  
21 when an area has the potential to affect the waterway  
22 or wetland, we include specific conditions in our  
23 waterway and wetland permit to address those erosion  
24 concerns.

25 Q Okay. We're in an area that is not a wetland, a more

1 upland area. Do you know under NR 216 how long the  
2 area is required to be monitored for an erosion  
3 control permit?

4 A I believe it's until it's re-vegetated to a density  
5 of 70 percent.

6 Q And that could happen in a matter of months in  
7 certain areas, correct?

8 A Potentially.

9 Q Yeah. Once the 70 percent cover is obtained, does  
10 the DNR have any continuing oversight over  
11 re-vegetation efforts in those upland areas?

12 A There's a number of factors in upland areas that  
13 could come into play in a scenario like that. If  
14 it's on state property, yes. If there's a state  
15 easement in an area, yes. If there's some other,  
16 maybe. And there will be additional DNR staff that  
17 may address this. If there's a requirement under an  
18 incidental take authorization, then there may be  
19 additional requirements beyond just meeting that  
20 70 percent threshold.

21 Q So other than those three situations you just  
22 identified, DNR would not have any continuing  
23 oversight over reseeding efforts in upland areas?

24 A I can't say that.

25 Q Okay. You just don't know one way or the other?

1       A     I mean, I imagine that there's other factors that  
2             could come into play that just aren't coming to mind  
3             right now.

4       Q     Okay. So suffice it to say, there will be areas  
5             where the DNR does not have continuing oversight over  
6             reseeding areas once that 70 percent cover is  
7             obtained, fair?

8                     MR. POTTS: I guess I'll object. He just  
9             testified that he doesn't really know. I mean, he's  
10            not -- he's the wetland and waterway permitting guy,  
11            and she's asking about reseeding.

12                    EXAMINER NEWMARK: He seems to know a lot  
13            anyway, so let's let him answer.

14                    MS. CORRELL: And I think you also, just  
15            for clarification, on the record misspoke because  
16            you said he wasn't the wetland --

17                    MR. POTTS: He is the wetland and waterway  
18            permitting, he's not the storm water expert. Thank  
19            you.

20                    EXAMINER NEWMARK: To the extent you know.

21                    THE WITNESS: I'd just agree with what the  
22            judge said, I know a lot.

23                    EXAMINER NEWMARK: Okay.

24                    THE WITNESS: Could you please repeat the  
25            question?

1 MS. WESTERBERG: Yes. Could you read it  
2 back, please.

3 (RECORD READ.)

4 THE WITNESS: Yes.

5 BY MS. WESTERBERG:

6 Q Does the DNR require native seeding as part of storm  
7 water -- as part of the storm water permit  
8 re-vegetation?

9 A That's beyond my permitting authority.

10 Q Okay. Did the DNR assign a permit -- a storm water  
11 permit specialist to this case?

12 A Yes.

13 Q And have they been in -- well, strike that.

14 What have they done so far?

15 A They've received a preliminary application, which is  
16 essentially on hold until a route decision is made by  
17 the Commission. And if it's approved, then the route  
18 is selected, and then once the final erosion control  
19 plans are developed, they would provide their  
20 feedback on that before issuing a decision.

21 Q All right. Have you been here for the discussions --  
22 you reviewed the prefiled testimony of Mr. Mosca and  
23 Dr. Howe for Clean Wisconsin?

24 A Yes.

25 Q Okay. Do you recall, I think Dr. Howe in particular

1 is concerned that there will be a high risk of  
2 sediment runoff into streams in the Coulee area where  
3 there is ground disturbance. Does that ring a bell?

4 A Yes.

5 Q Okay. Will -- and that primary concern there being  
6 the topography being so steep and the presence of a  
7 lot of streams at the -- in the valleys between the  
8 hills. Do you recall that?

9 A Yes.

10 Q Okay. And you would agree that it would be a concern  
11 if sediment did make its way into those waterways?

12 A Absolutely.

13 Q Okay. Is the primary regulatory tool that the DNR  
14 has to deal with that issue the storm water permit?

15 A Yes.

16 Q Okay. And will the primary means to address that  
17 issue -- the primary way the storm water permit will  
18 address that issue, will that be through the use of  
19 best management practices?

20 A That would be the main mechanism. That's not the  
21 only mechanism. Part of that process does require  
22 the submission of or development of an erosion  
23 control plan, and a plan is required to meet the  
24 minimum standards but they often exceed those minimum  
25 standards.

1 Q Would you foresee the need for the plan to exceed the  
2 minimum standards in this case given the topography?

3 A I think that's beyond my area of authority.

4 Q As the storm water management specialist assigned to  
5 this case, have you determined what BMPs are  
6 appropriate for this area yet?

7 A I haven't discussed that with them directly.

8 Q So you couldn't say right now whether the DNR will  
9 require any specific measures to address construction  
10 water or storm water runoff into the streams in the  
11 Coulee area?

12 A Well, in the waterway and wetland permit where we  
13 have authority, if the line is approved and so that  
14 route is selected, then we would have conditions in  
15 that permit, and then there would also be  
16 requirements in the erosion control permit, but I  
17 don't know what those necessarily standards would be  
18 because I haven't seen their final erosion control  
19 plan.

20 Q The first permit you mentioned would essentially  
21 address disturbance that occurs right next to the  
22 stream, correct?

23 A For the most part, correct.

24 Q I'm going to show you just briefly Howe Exhibit 18.  
25 Sorry, not 18, 11.

1 EXAMINER NEWMARK: Let's go off the  
2 record.

3 (Discussion held off the record.)

4 BY MS. WESTERBERG:

5 Q And I'll represent this is a photo that Dr. Howe took  
6 near an existing -- new and existing right-of-way  
7 near the proposed Segment N. Would you have any  
8 concern that -- that this is basically denuded  
9 hillside is not covered in any way?

10 A Potentially. It's a snapshot so, you know, there are  
11 even built into the erosion control standard limits  
12 on amount of time an area can be exposed and what the  
13 appropriate response is. So depending on factors  
14 that you can't tell from the picture, it could be a  
15 concern or it might be just one step in the process.

16 Q Okay. So you would agree that a condition like this  
17 would generally need to be addressed under the storm  
18 water permit?

19 A Yeah.

20 Q I'm going to ask a different question about springs.  
21 The final EIS discusses potential impact to springs,  
22 primarily around Segment O. Do you recall that  
23 discussion?

24 A Somewhat, yes.

25 Q Okay. So on page 32. And it mentions that the area

1 of Wisconsin with the highest concentration of  
2 springs is the driftless area, and there are many  
3 known springs between the Town of Leon and Elroy in  
4 Segment O. Are you geographically with me?

5 A So far.

6 Q Okay. Would you agree that springs in this area are  
7 the source for a lot of trout streams, do you know?

8 A In combination with other groundwater discharge,  
9 sure.

10 Q Uh-huh. Okay. And would you agree that construction  
11 of, let's say, a large pole for a transmission line  
12 could potentially disrupt the streams -- the springs'  
13 hydrology?

14 A I haven't experienced that in my time working with  
15 utility projects.

16 Q Would you agree there's a possibility that  
17 construction of any large project could divert or  
18 change direction of a water course that feeds a  
19 spring?

20 A Depending on location, that's possible.

21 Q Would the change to spring hydrogeology require any  
22 sort of permit from the DNR?

23 A Normally if there's a proposal to place either  
24 temporary or permanent fill in a wetland area, which  
25 more than likely would apply for an area that has a

1 spring or groundwater discharge, then there are  
2 conditions that we implement in our permit decision  
3 to minimize the long-term deleterious effects from  
4 that project.

5 Q So in that -- in that -- so you can think of one  
6 situation where it would require a permit and that  
7 being the wetland fill situation?

8 A Yes.

9 Q Okay. Otherwise does the DNR have any oversight over  
10 that issue that you're aware of?

11 A It's possible. Off the top of my head I can't give  
12 you an answer to that.

13 Q Okay. Mr. Mosca in his testimony discussed the use  
14 of CECs. Are you familiar with that term?

15 A I recall reading it in his testimony.

16 Q Are you familiar with the use of CECs in the CapX  
17 case?

18 A I was --

19 EXAMINER NEWMARK: Can you just explain  
20 what that is for the record.

21 MS. WESTERBERG: Oh, acronym.  
22 Construction Erosion Compliance Plan, I believe.  
23 Let me double-check that. I had a note, and I can't  
24 find it. Construction Environmental Compliance  
25 Plans.

1 BY MS. WESTERBERG:

2 Q Is that your understanding of the acronym?

3 A Yes.

4 Q Okay. And did -- do you recall whether those  
5 Construction Environmental Compliance Plans were used  
6 for -- to ensure compliance with regulatory  
7 requirements for wetlands in the CapX case?

8 A I wasn't directly involved with the CapX project from  
9 the Department's perspective.

10 Q Okay. Do you understand that the applicants will be  
11 submitting some form of detailed assessment plan --  
12 detailed assessment and plan for construction for  
13 each wetland involved in this case once a route is  
14 chosen?

15 A I would say for each wetland that's affected by the  
16 project, those plans would be compiled into, you  
17 know, a certain number of distinct documents, and we  
18 anticipate that for this project should it get  
19 approved.

20 Q Okay. One second. So even if it's not called a  
21 CECP, the DNR will require preparation of some  
22 similar document for Badger Coulee?

23 A Absolutely.

24 Q Okay. In portions of wetlands that are not directly  
25 impacted by, say, placement of a pole but are used

1 for construction access, will the DNR require  
2 restoration of those areas, for example if there's  
3 rutting or some other impact?

4 A Once an order is made and permit is issued, we would  
5 have authority over all of the wetlands that are  
6 affected by the project. So whether it's primary  
7 impact of fill or secondary impact of driving through  
8 it to access a location, and if there's disturbance  
9 associated with the construction in those areas, then  
10 it would -- there would be some requirement to ensure  
11 that it's restored to the previous locations.

12 Q Is that considered a temporary or permanent impact or  
13 neither?

14 A What impact?

15 Q The construction access.

16 A It -- it in general is considered a temporary impact  
17 unless we're talking about forested wetlands. Then  
18 we consider that a conversion, more of a permanent  
19 impact.

20 MS. WESTERBERG: Okay. Thank you.

21 Nothing else, Judge.

22 EXAMINER NEWMARK: All right. Other  
23 questions?

24 (No response.)

25 EXAMINER NEWMARK: Redirect?

1 MS. CORRELL: Yeah, I just have a couple  
2 questions on redirect.

3 REDIRECT EXAMINATION

4 BY MS. CORRELL:

5 Q You were asked a few questions by counsel from Clean  
6 Wisconsin regarding, you know, for lack of a better  
7 term, a more direct route or a more central route to  
8 the northern and southern routes in this proceeding,  
9 something -- maybe not specifically the modified  
10 Route O provided by Mosca, but loosely something in  
11 that general vicinity. I just wanted to clarify a  
12 little bit further what your personal knowledge and  
13 experience was in regards to preliminary routing  
14 plans. So if you could, just explain what your  
15 involvement was in terms of plans that included  
16 routes in the areas that we've been discussing.

17 A From the pre-application perspective?

18 Q Correct.

19 A In those situations, the applicant or applicants  
20 could bring information to a meeting with state  
21 agencies generally describing some of the areas that  
22 we're looking at. I believe they referred to them as  
23 corridors at that point, fairly high-level overview,  
24 and there -- it's my understanding they're taking  
25 into account many of the factors that go beyond the

1 environmental issues associated with siting  
2 transmission lines and putting those corridors  
3 together and either determining whether or not  
4 they're viable routes for an application.

5 So during those pre-application meetings,  
6 they're fairly broad view, high-level maps and  
7 information. There aren't a lot of details regarding  
8 specific locations or routes in regard to many of the  
9 issues beyond just environmental. So we take that  
10 opportunity to provide what information we can as an  
11 agency to help try and guide the applicants to  
12 presenting something that would be permitable in  
13 their application.

14 Q Are you provided the maps prior to the  
15 pre-application meetings typically?

16 A Generally not.

17 Q In this particular case were you provided maps prior  
18 to the meeting?

19 A I don't recall seeing maps before we actually sat  
20 down at meetings.

21 Q Did you have information -- I guess just to be a  
22 little more specific on what you mean by not  
23 detailed, did you have sufficient information to  
24 analyze whether or not routes would either raise  
25 concerns -- raise DNR concerns or permitability

1 issues?

2 A I wouldn't say we had the level of detail we need to  
3 make those decisions. During the pre-application  
4 process, it's not quite that detailed. The  
5 discussions, it's bigger-picture items, large  
6 environmental -- environmentally sensitive areas,  
7 large complex state parks, state trails, those kinds  
8 of things.

9 Q And then following the type of pre-application  
10 meeting that you've described, would the Department  
11 then have additional time to review those maps and  
12 provide feedback?

13 A I -- my recollection is that we don't keep the  
14 information at that point because it's all  
15 preliminary draft, and I think that it's just a  
16 matter of waiting until the next opportunity to see  
17 how things change or how corridors get refined.

18 MS. CORRELL: Okay. Thank you.

19 THE WITNESS: Sure.

20 MS. CORRELL: I have nothing further.

21 EXAMINER NEWMARK: Okay. Now let's go off  
22 the record.

23 (Discussion held off the record.)

24 EXAMINER NEWMARK: So let's get back on  
25 the record. Let me make sure we're all on the same

1 page in terms of the corrections Mr. Callan offered  
2 to his direct testimony. Are there any objections?

3 (No response.)

4 EXAMINER NEWMARK: No, okay. We'll expect  
5 those corrections in as a new version of his direct.  
6 Okay.

7 MR. POTTS: Your Honor, we did have just a  
8 little bit of cross in response.

9 EXAMINER NEWMARK: Okay. Go ahead.

10 RECROSS-EXAMINATION

11 BY MR. POTTS:

12 Q Mr. Callan, I'm Brian Potts. I represent American  
13 Transmission Company. You just had a discussion with  
14 your counsel about the pre-application meetings, and  
15 I think you were also asked by Clean Wisconsin's  
16 counsel. Do you remember those discussions?

17 A I do.

18 Q There were multiple meetings, pre-application  
19 meetings with the applicants; isn't that right?

20 A Absolutely.

21 Q And there were also discussions with the applicants  
22 about the routing that were outside of the meetings  
23 as well?

24 A Correct.

25 Q And the applicants in fact changed their routing

1 based on some of the DNR's comments, correct?

2 A Pre-application?

3 Q Yes.

4 A It's possible. I -- I don't recall the extent of all  
5 of the discussions that took place and all of the  
6 different variations of corridors and routes.

7 Q Well, let me give you an example. For example, in  
8 the area around the Elroy-Sparta Trail, do you know  
9 which area I'm referring to?

10 A Yes, I do.

11 Q And did the DNR have concerns with routing in that  
12 area?

13 A Yes, we did.

14 Q And did the applicants remove those corridors from  
15 consideration after those discussions with the DNR?

16 A Yes. Those -- those segments were dropped. I don't  
17 recall when, if that was -- you know, what point  
18 during the process that the applicants dropped those  
19 proposals.

20 MR. POTTS: Okay. We have nothing  
21 further.

22 EXAMINER NEWMARK: Okay.

23 MS. WESTERBERG: Can I have one  
24 clarification also?

25 EXAMINER NEWMARK: Sure, why not.

1 MS. WESTERBERG: I'm sorry.

2 RECROSS-EXAMINATION

3 BY MS. WESTERBERG:

4 Q Mr. Callan, I just want to make sure I understand  
5 your testimony. So you're saying that the  
6 pre-application process, DNR staff are invited to a  
7 meeting and presented with some maps for the first  
8 time showing potential routes; is that essentially  
9 the first step?

10 A It's part of the pre-application process. I don't  
11 know if it's the first step.

12 Q Okay. And so at those meetings you're then asked  
13 essentially for your opinion on the routes that have  
14 been presented?

15 A It's a little more than that. It's an explanation of  
16 why these segments or corridors are on the map and  
17 why some are not, and a whole group of reasoning to  
18 support that, and kind of an update or a narrative  
19 process of where we are in that -- in their planning  
20 process.

21 Q Okay. But you were not -- as I understand it, you  
22 were not asked your opinion -- you were not asked for  
23 your opinion on possible other routes such as a more  
24 direct route between the Sparta and Tomah areas?

25 A I wouldn't say I'm not asked my opinion. I think

1           there's an opportunity to provide feedback. Whether  
2           or not there's a specific question of what's your  
3           opinion of how to get here, I don't know that that's  
4           true.

5                       MS. WESTERBERG: Okay. That's all I have.

6                       EXAMINER NEWMARK: All right. Anything  
7           else?

8                       MS. CORRELL: No.

9                       EXAMINER NEWMARK: Thanks. You're  
10          excused.

11                      (Witness excused.)

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1 MS. CORRELL: Stacy Howe -- Stacy Rowe.

2 STACY ROWE, WDNR WITNESS, DULY SWORN

3 DIRECT EXAMINATION

4 BY MS. CORRELL:

5 Q You provided written testimony in this proceeding. I  
6 believe you only provided direct?

7 A Correct.

8 Q Is that correct?

9 A Yes.

10 Q And would your testimony be the same here today if  
11 you were to present oral testimony?

12 A Yes.

13 Q Do you have any corrections to that testimony that  
14 you'd like to --

15 A No, I do not.

16 Q Were you present yesterday for the testimony of  
17 Dr. Howe?

18 A Yes, I was.

19 Q And would you concur with his statement that the  
20 Commission should provide an order point to -- for  
21 the applicants to conduct additional rare species  
22 surveys?

23 A Yes, I would agree with that, especially where we do  
24 not have rare species data currently.

25 MS. CORRELL: I would tender the witness

1 for cross-examination.

2 EXAMINER NEWMARK: Okay. I just want to  
3 make sure, you're Stacy Howe?

4 THE WITNESS: Rowe.

5 EXAMINER NEWMARK: Rowe, okay.

6 THE WITNESS: R-O-W-E.

7 EXAMINER NEWMARK: Now I'm confused.

8 R-O-W-E, okay.

9 Questions?

10 MS. WESTERBERG: I have a couple. Do  
11 you --

12 MR. POTTS: I don't have any.

13 EXAMINER NEWMARK: Go ahead.

14 CROSS-EXAMINATION

15 BY MS. WESTERBERG:

16 Q Good morning, Ms. Rowe. I am Christa Westerberg with  
17 Clean Wisconsin.

18 A Hi.

19 Q I was wondering, on page 14 of your direct testimony  
20 you indicate that surveys will likely be needed for  
21 the Northern Long-Eared Bat, Eastern Massasauga  
22 Rattlesnake, and Bullhead?

23 A Correct.

24 Q And the Eastern Massasauga is state-endangered?

25 A Currently, yes.

1 Q And you mentioned it's about to be federally listed  
2 this year?

3 A Correct.

4 Q You said a federal Incidental Take Permit would be  
5 required for construction of the line that the  
6 species is found as part of the surveys, right?

7 A That would be dependent on what Fish and Wildlife  
8 Service says.

9 Q Sure. Not your call, understood.

10 A Yep.

11 Q Can the state issue its own Incidental Take Permit if  
12 it's found?

13 A Not if it's a federal-listed species. We would go to  
14 the Fish and Wildlife Service for that.

15 Q Okay. So basically once the -- is it your testimony  
16 that once it's federally listed, the U.S. Fish and  
17 Wildlife Service takes over?

18 A Yes.

19 Q Okay. Assuming it is not listed by the federal  
20 government and it is -- remains a state endangered  
21 species, could the state issue its own Incidental  
22 Take Permit for that species?

23 A Yes.

24 Q Okay. That -- I had a question about that. Isn't it  
25 true under the state's protocol for the Eastern

1 Massasauga that the species is so endangered that an  
2 Incidental Take Permit can't be granted?

3 A It could be granted assuming that the entire -- or  
4 the population of the Eastern Massasauga is not going  
5 to be threatened because of the current project  
6 that's being proposed.

7 MS. WESTERBERG: Okay. May I approach,  
8 Judge?

9 EXAMINER NEWMARK: Yep.

10 MS. WESTERBERG: I unfortunately don't  
11 have these stapled.

12 BY MS. WESTERBERG:

13 Q Okay. I've just handed you what's titled Protocol  
14 For Incidental Take Authorization, Eastern Massasauga  
15 Rattlesnake, dated June of 2011.

16 A Uh-huh.

17 Q Do you recognize this document?

18 A Yes. And I should clarify that this protocol is  
19 for -- is the grassland/savanna protocols, and it's  
20 only specific for certain grassland/savanna  
21 management activities.

22 Q Okay. And are any of those environments present on  
23 the Badger Coulee route?

24 A The habitats you mean?

25 Q Yes.

1 A Yes.

2 Q Okay. And at the top on the third page of this  
3 document, the -- it states, since there are no  
4 apparently stable Massasauga populations in Wisconsin  
5 and each individual is deemed critically important to  
6 species survival, no incidental take is allowed. Do  
7 you see that?

8 A No, I do not. At the top of the document?

9 Q Page 3.

10 A Oh.

11 Q My apologies.

12 A That would be for incidental take. They would allow  
13 for an incidental take, in this case an  
14 authorization, not a permit, because it's being  
15 authorized by a state agency. So my understanding --  
16 I'm not the incidental take coordinator for the  
17 Department, but my understanding is that we would  
18 allow for an install take authorization for the  
19 species.

20 Q Can you explain why that -- I'm not understanding  
21 your answer. Why that would be in light of what the  
22 guidance says?

23 A I guess I wouldn't have that information because I'm  
24 not the incidental take coordinator.

25 Q Okay. So sitting here today, you can't tell me

1           whether incidental take would be allowed for the  
2           Eastern Massasauga in this situation?

3       A     I could say I've had discussions with both the  
4           species expert and the incidental take coordinator  
5           for the Department, and I have no reason to believe  
6           why an incidental take authorization would not be  
7           allowed.

8       Q     Okay. Did you specifically discuss this language  
9           with them in the protocols?

10      A     No. We did not look at the grass and savanna  
11           protocols because the activities that are being  
12           proposed do not fall under these protocols.

13      Q     And why is that?

14      A     For the construct, because they're -- it's specific  
15           to grasslands/savanna management, and my  
16           understanding is it's for the -- a construction of a  
17           utility line.

18      Q     Okay. And do you know whether similar protocols  
19           would occur for -- well, let me back up.

20                   Do you know whether similar protocols would  
21           apply for this line?

22      A     We don't have any standard protocols for  
23           construction. It all is very project specific.

24      Q     Okay. And regardless of what kind of project we're  
25           discussing, I mean, the fact is still that there are

1 no apparently stable Massasauga populations in  
2 Wisconsin, and each individual is deemed critically  
3 important. I mean, that's true whether that's  
4 grassland/savanna management or a power line?

5 A Yes, that's correct.

6 Q The -- so in light of that fact, you think an install  
7 take permit would still be granted for this power  
8 line?

9 A It would really depend on the activities where the  
10 poles are being placed, the specific habitat on the  
11 ground, time of year. It would really depend. It  
12 would be very site specific.

13 Q Okay. And does that further re-enforce the need for  
14 survey of that species?

15 A Correct. Yes.

16 Q I'm going to show you Henn Exhibit 5. I'll represent  
17 that these are the construction segments proposed by  
18 the applicant, essentially the month and year the  
19 applicants intend to construct the routes depending  
20 on which route is selected. Are you with me on that?

21 A Yes.

22 Q Okay. Have the applicants discussed those  
23 construction segments with you or with anyone in the  
24 natural resources department?

25 A I am aware of that timeline, yes.

1 Q Okay. Have you discussed with the applicants whether  
2 these -- the time periods planned for construction  
3 conflict with avoidance periods for any endangered  
4 resources along the route?

5 A We have not had those discussions until the project  
6 has been approved and a route has been selected.

7 Q Okay. So it could be that the time periods for  
8 construction will in fact conflict with the avoidance  
9 periods for some species?

10 A There's potential, yes.

11 MS. WESTERBERG: Okay. That's all I've  
12 got. Thanks, Judge.

13 EXAMINER NEWMARK: Okay. Nothing? Anyone  
14 else with cross?

15 (No response.)

16 EXAMINER NEWMARK: Redirect.

17 REDIRECT EXAMINATION

18 BY MS. CORRELL:

19 Q I guess I'd just like to clarify with regard to the  
20 Incidental Take Permits. To the best of your  
21 ability, since as you've already testified you're not  
22 the permitter for Incidental Take Permits, when would  
23 those permits be issued?

24 A We would want them issued probably the same year that  
25 the project's going to start.

1 Q Okay. And as you were just asked, if you can answer  
2 this question, if there were a conflict regarding  
3 avoidance, are there mechanisms in the Incidental  
4 Take Permit to address conflicts with construction  
5 schedule and seasonal concerns for specific species,  
6 be it the Eastern Massasauga or other rare species?

7 A Yes. There are mechanisms within the permit and  
8 authorization to do it, whether it's time of day  
9 restrictions or if we need to mitigate for the  
10 species. There's a variety of mechanisms to do that.

11 Q So it's fair to say then it's possible that, if  
12 necessary, slight deviations from the construction  
13 schedule would be required by the Department?

14 A Correct.

15 MS. CORRELL: Okay. That's all I have on  
16 redirect. Thank you.

17 EXAMINER NEWMARK: All right. You're  
18 excused.

19 (Witness excused.)

20 EXAMINER NEWMARK: Let's go off the  
21 record.

22 (Discussion held off the record.)

23

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1 EXAMINER NEWMARK: All right. Let's take  
2 Ms. Steele.

3 YOYI STEELE, WDNR WITNESS, DULY SWORN

4 EXAMINER NEWMARK: Have a seat.

5 DIRECT EXAMINATION

6 BY MS. CORRELL:

7 Q Good morning, Ms. Steele.

8 A Good morning.

9 Q You've provided both direct and surrebuttal prefiled  
10 written testimony in this proceeding?

11 A That's correct.

12 Q And with respect to that testimony, would you provide  
13 the same testimony here today?

14 A Yes, I would.

15 Q Do you have any other clarifications that you'd like  
16 to add to your testimony?

17 A I do have one clarification to surrebuttal. This  
18 would be on page 3 of my surrebuttal, lines 6 through  
19 14 regarding use of H-frame structures on the portion  
20 of subSegment H5 that is directly west of where  
21 Leopold-Pine Island Important Bird Area begins.

22 So in this -- when I answered this  
23 question in surrebuttal, I said that we would  
24 recommend the use of H-frame structures along that  
25 portion, and I just want to clarify that we would

1           like those structures to begin where the interstate  
2           crosses County Highway A, so just to be clear.

3       Q     And those structures then would -- strike that.

4                        Would it be your recommendation for those  
5           structures to continue for additional segments of H?

6       A     Just from -- so from the subsegment of H5 that begins  
7           where the interstate crosses Highway A then to  
8           proceed as has already been -- where the applicants  
9           have already expressed a willingness to employ them  
10          throughout where the route would fall adjacent to the  
11          Leopold IBA.

12      Q     And to clarify that section for the record, could I  
13          have you refer to what's been marked PSC reference  
14          number 201149, please?

15      A     Yes.

16      Q     Is this what -- I'm referring to what's been marked  
17          201149.

18                       EXAMINER NEWMARK: Let me just interrupt a  
19          second. Is there an exhibit number for that?

20                       MS. CORRELL: It is an attachment to a  
21          response, data response, which is --

22                       THE WITNESS: That's 201143?

23                       MS. CORRELL: Yes. PSC Reference No.  
24          201143.

25                       EXAMINER NEWMARK: Let's go off the

1 record.

2 (Discussion held off the record.)

3 EXAMINER NEWMARK: Let's get on the  
4 record. We'll refer to it as Henn 2 and then the  
5 response number, which is?

6 MR. POTTS: 01.52.

7 THE WITNESS: 1.52.

8 EXAMINER NEWMARK: Okay.

9 MS. CORRELL: I'm sorry. So are we  
10 referring to the response as Henn 2 or the maps that  
11 are attached as Henn 2?

12 MR. POTTS: Henn 2 incorporates all the  
13 data request responses, so any time you cite a data  
14 request response, you would say Henn 2 and then  
15 number of data request response and attachments.

16 MS. CORRELL: Oh, okay.

17 EXAMINER NEWMARK: Thanks. Go ahead.

18 BY MS. CORRELL:

19 Q Okay. So to clarify for the record, referred you to  
20 a map that's already been marked in the record as  
21 Exhibit Henn 2, response to data request 1.52.

22 A That's right.

23 Q Do you have that in front of you?

24 A I do.

25 MS. WESTERBERG: Counsel, I'm sorry. Just

1 for clarification, at the top of the map it should  
2 say which -- it's 01.52 dash --

3 MR. POTTS: 01.520.

4 THE WITNESS: Dash 5 in this case.

5 MS. WESTERBERG: Thank you. It's in tiny  
6 letters at the very top of the image.

7 EXAMINER NEWMARK: Okay. So let's give  
8 the entire citation at least once in one place in  
9 the record.

10 THE WITNESS: So it would be Henn 2,  
11 Response 01.52, attachment -5. Is that --

12 MS. WESTERBERG: I'm with you. Thank you.

13 MS. CORRELL: I'll trust you. I can't  
14 read that right now. It's too small.

15 MR. POTTS: Could I ask a clarifying  
16 question? Is the portion we're talking about all  
17 within H5?

18 MS. CORRELL: It's not. The map that is  
19 provided -- that's what I'm going to clarify on the  
20 record.

21 MR. POTTS: Okay.

22 BY MS. CORRELL:

23 Q So could you elaborate as to your understanding of  
24 what this map provides?

25 A What this map provides?

1 Q Right. In terms of the discussion we were having  
2 regarding the location of H-frame structures.

3 A Sure. My understanding is that that map represents  
4 what the applicants indicated would be feasible bird  
5 collision mitigation strategies for the Leopold-Pine  
6 Island Important Bird Area. So the map contains some  
7 color coding along the different segments to  
8 represent the different strategies, and along the  
9 portion of subSegment H5 that is west of where the  
10 IBA begins, they indicated a willingness and  
11 feasibility for line marking devices. A little bit  
12 to the east where the IBA actually begins they  
13 indicated a willingness to employ line marking and  
14 avian mitigation structures, so --

15 Q Just to clarify --

16 A -- that's what the map represents.

17 Q When you refer to avian mitigation structures, are  
18 those the same as the H-frame structures that you  
19 said before?

20 A That is my understanding, yes.

21 Q Okay.

22 A So the clarification to my surrebuttal where I said  
23 that they should -- that it's my recommendation that  
24 the avian mitigation structures be employed west of  
25 where the IBA begins, we would like those to begin

1           where County Highway A crosses the interstate, or  
2           where the interstate crosses County Highway A, from  
3           that point to the east.

4       Q     And to the east, what segments does that include?

5       A     So that would include the rest of H5 and then through  
6           Segment H7, so to the end of H7.

7       Q     Referring to what's been marked Exhibit Henn 2,  
8           Attachment 1.52-9 now, it should be a diagram that's  
9           titled Avian Impact Alternatives General Drawings,  
10          Badger Coulee, Exhibit 3?

11      A     Too many papers. You said 9?

12      Q     Yes. 1.52-9.

13      A     Okay, okay.

14      Q     Is that -- is this -- strike that.

15                   What is your understanding of the H-frame  
16           structure that's provided on M2, Attachment 1.52-9?

17      A     My understanding is that this is a depiction of a  
18           typical H-frame structure.

19      Q     Were you present yesterday in the hearing room to  
20           have the opportunity to hear the testimony of  
21           Ms. Parrett?

22      A     Yes, I was.

23      Q     And so you heard the dialogue regarding structure  
24           height where H-frame structures would be included?

25      A     Was that yesterday or was it the day before? It

1           seems like it was maybe the day before, in which case  
2           I was watching through the live broadcast but I was  
3           not present in the hearing room.

4       Q    Yes, I think you're right. Okay. But you did have  
5           the opportunity to hear the entirety of her  
6           testimony?

7       A    I did.

8       Q    And you do -- you are familiar with the discussion  
9           that was had regarding the height of structures?

10      A    Yes.

11      Q    Specifically the H-frame structures adjacent or near  
12           the Leopold-Pine Island IBA?

13      A    Yes.

14      Q    Do you have an opinion regarding the height of the  
15           structures in addition to or to further elaborate  
16           upon your testimony you already submitted in writing?

17      A    I guess what I can say is that it's my understanding  
18           that 85 feet is the typical height of an H-frame  
19           structure. For the purposes of avian mitigation or  
20           for collisions, we would -- our preference is that  
21           the structures be as short as they possibly can with  
22           the understanding that 85 feet is the typical height,  
23           but that there may be modifications. I would say  
24           that our request is that they be as short as  
25           possible.

1 Q And do you have any recommendations for the  
2 Commission regarding the extent of use of H-frame  
3 structures adjacent to this particular IBA?

4 A Our recommendation to the Commission would be to  
5 include in the order that H-frames be employed from  
6 the points that I've just described, subSegment H5  
7 that's west of the IBA start on County Highway A to  
8 end of H7.

9 Q And do you have any recommendation to the Commission  
10 regarding the height of the structure that should be  
11 in play?

12 A That they be as short as possible is my  
13 recommendation.

14 Q And you're not an engineer, right?

15 A I am not an engineer.

16 Q So you understand that there are feasibility issues?

17 A I understand that. I understand that I don't  
18 understand everything that goes into tower design and  
19 things that may influence tower structure, so it  
20 would not be possible for me to say -- to give a  
21 specific height, but merely to say that I understand  
22 that 85 feet is a typical height, and that to  
23 maximize the mitigation of avian collision, that the  
24 structures should be as short as possible.

25 Q Did you have the opportunity to review the

1 sur-surrebuttal submitted by ATC Witness Lorenz?

2 A Yes, I did.

3 Q Give you a minute to find that.

4 A I have it.

5 Q I'll refer you to page 1 at line 15 and to the end of  
6 the page, line 24.

7 A Okay.

8 Q Did you review this testimony?

9 A I did.

10 Q What's your understanding of -- or could you  
11 summarize your understanding of the testimony that's  
12 provided?

13 A By Mr. Lorenz?

14 MS. CORRELL: Yeah.

15 EXAMINER NEWMARK: Could you what?

16 MS. CORRELL: Could you summarize.

17 EXAMINER NEWMARK: No, no. We don't need  
18 to summarize.

19 MS. CORRELL: Okay.

20 THE WITNESS: I did review the testimony,  
21 yes.

22 BY MS. CORRELL:

23 Q Okay. And it's your understanding that not only has  
24 ATC provided information that an 85-foot structure is  
25 a typical structure, but it is feasible to be built

1 in the areas that we've had ongoing conversations  
2 about utilizing that mitigation method?

3 A Yes, that is my understanding.

4 Q Have you had an opportunity to review a letter  
5 submitted by the Leopold-Pine Island Important Bird  
6 Area dated January 5, 2015 and PSC Reference  
7 No. 229099?

8 EXAMINER NEWMARK: Okay. Let's go off the  
9 record.

10 THE WITNESS: Yes, I have.

11 (Discussion held off the record.)

12 EXAMINER NEWMARK: That will be eventually  
13 made part of Weiss 3. It's probably a good idea  
14 just -- we'll reference it with the PSC number at  
15 this point, so that was fine.

16 Go ahead.

17 BY MS. CORRELL:

18 Q So you have had the opportunity to review what is now  
19 going to be referenced as PSC Reference No. 229099?

20 A Yes, I have.

21 Q Do you have an opinion in your role -- in DNR's  
22 regulatory role regarding the requests made in the  
23 comment letter?

24 A It's my opinion that -- that what the Leopold-Pine  
25 Island IBA partnership is requesting to be included

1 and eliminated, and the order should be included or  
2 eliminated.

3 Q Do you have any recommendations regarding whether or  
4 not the Department should be involved in developing  
5 an avian mitigation plan?

6 A Yes, I do. It's my opinion that the Department  
7 should be consulted on the avian mitigation plan,  
8 that the Leopold-Pine Island IBA partnership should  
9 be consulted on the mitigation plan, and that they  
10 also approve the mitigation plan.

11 Q When you say they should approve?

12 A The Leopold-Pine Island IBA partnership and the DNR  
13 as part of that partnership.

14 Q And what about the DNR as a separate regulatory  
15 entity rather than simply a partner within the  
16 Leopold-Pine Island Important Bird Area partnership?

17 A Yes.

18 Q Could you speak to specific concerns that you think  
19 should be addressed in the avian management plan?

20 A The avian mitigation plan.

21 Q I'm sorry, avian mitigation plan.

22 A Yes. The avian mitigation plan should address  
23 strategy -- multiple strategies to mitigate collision  
24 risk, including structure height, line height, line  
25 configuration, and line visibility.

1 Q Are there specific areas that you have the most  
2 concern regarding a mitigation plan going forward?

3 A My concerns as I've identified in my testimony would  
4 be regarding the Important Bird Areas that are along  
5 the proposed routes.

6 Q Is there anything in the Pine Island -- Leopold-Pine  
7 Island letter that's inconsistent with your opinion?

8 A No.

9 MS. CORRELL: Just a moment. I think I'm  
10 done.

11 BY MS. CORRELL:

12 Q I guess one more. The small issue is it sounds like  
13 there was agreement from Ms. Parrett as an expert in  
14 the field of ornithology as you are that standard  
15 guidelines provided by the APLIC are considered best  
16 practice in the field of mitigation of avian  
17 collisions?

18 A Yes.

19 Q Is that correct?

20 A You're referring to APLIC guidelines?

21 Q Correct.

22 EXAMINER NEWMARK: Let's go off the record  
23 for a minute.

24 (Discussion held off the record.)

25 EXAMINER NEWMARK: Go ahead.

1 BY MS. CORRELL:

2 Q And do you have any recommendations for the  
3 Commission regarding which publication of the APLIC  
4 guidelines should be utilized --

5 A Yes, I do.

6 Q -- or in this proceeding?

7 A Regarding mitigation of avian collision, the most  
8 recent guidelines were published in 2012, and those  
9 should be the ones referred to and utilized. And  
10 regarding electrocution mitigation for birds, the  
11 2006 are the most recent and are the ones that should  
12 be referred to.

13 MS. CORRELL: I would tender the witness  
14 for cross-examination.

15 EXAMINER NEWMARK: Okay. Let's go off the  
16 record for a minute.

17 (Discussion held off the record.)

18 EXAMINER NEWMARK: All right. More  
19 questions?

20 CROSS-EXAMINATION

21 BY MR. POTTS:

22 Q Ms. Steele, my name is a Brian Potts. I represent  
23 American Transmission Company in this case. You  
24 understand that the Public Service Commission of  
25 Wisconsin determines the alignment, structure type,

1 and location of structures --

2 A Yes.

3 Q -- for the route?

4 And so when you -- a minute ago when your  
5 attorney asked you about Segment H and the avian  
6 mitigation plan and whether or not the Department and  
7 Leopold-Pine Island IBA should have approval  
8 authority over that mitigation plan, you were not  
9 suggesting that the Department or Leopold-Pine Island  
10 would be able to disapprove of the alignment,  
11 structure type, or location of the structures,  
12 correct?

13 A I don't -- I don't think I was saying that. I was  
14 saying where -- where it regards mitigation of avian  
15 collision and a plan to -- to do that, that they be  
16 consulted and -- and that they approve what is  
17 included as part of that plan.

18 Q Okay. But --

19 A And they have recommendations of what should be  
20 included. If -- if you're asking should they approve  
21 engineering specifications, I don't think I've  
22 represented that.

23 Q Okay. Well, in this proceeding it's been suggested  
24 that the avian mitigation plan should include the  
25 mitigation measures that are actually being decided

1           upon in this case such as the use of H-frame  
2           structures, the height of those H-frame structures,  
3           the location of those H-frame structures, and the  
4           alignment. If the Department were to have approval  
5           authority of the avian mitigation plan, I just want  
6           to make sure that the Department does not have any  
7           intention to disapprove of -- of the -- any of those  
8           items in the plan.

9       A    I'm not really sure what you're asking.

10      Q    Okay. What -- so specifically what kinds of  
11           mitigation measures in the plan are you asking the  
12           Public Service Commission to let the DNR and  
13           Leopold-Pine Island IBA to have approval authority  
14           over?

15      A    The inclusion of strategies that address those  
16           characteristics of structures and placement that  
17           influence avian collision risk. So if the plan can  
18           include the multiple strategies that I've described,  
19           I think that is -- that is where the approval comes  
20           in that -- that it not -- that the AMP include  
21           multiple strategies to mitigate collision risk.

22      Q    So if the Public Service Commission decides to use  
23           H-frame structures on -- as you proposed at 85 feet  
24           in the areas you've proposed on the alignment that is  
25           currently Segment H, is it your testimony that the

1 Department could still disapprove of that and then  
2 the Public Service Commission would no longer -- or  
3 the applicants could no longer build the route?

4 A No.

5 MS. WESTERBERG: I'm going to object to  
6 the characterization of the prior testimony because  
7 I don't think there has been a representation that  
8 the PSC will approve 85 feet specifically because  
9 prior -- or final engineering has yet to be  
10 conducted.

11 EXAMINER NEWMARK: I think we're speaking  
12 hypothetically.

13 MR. POTTS: Yeah.

14 BY MR. POTTS:

15 Q What I'm trying to get at is can the Department  
16 overrule the Public Service Commission's decisions on  
17 structure height, location, and type of structure.  
18 Is that what you're asking for?

19 A That is not my understanding of what I'm asking for.

20 MR. POTTS: Okay.

21 EXAMINER NEWMARK: Okay. I mean, if this  
22 is still an open issue, I think -- I guess what  
23 we're really talking about is how to word a  
24 condition of the order, and if that comes up in  
25 briefs, I guess it's a viable question. But, yeah,

1           you know, we'll leave it at that.

2                   MR. POTTS:   Okay.   We have -- yeah, we  
3           have nothing further.

4                   EXAMINER NEWMARK:   Uh-huh.   Okay.   Yeah,  
5           go ahead.

6                   MS. WESTERBERG:   Ms. Kunze, go ahead.

7                   MS. KUNZE:   Your Honor, you choose.

8                   EXAMINER NEWMARK:   Come on up.

9                           CROSS-EXAMINATION

10          BY MS. KUNZE:

11          Q       Good afternoon.

12          A       Good afternoon.

13          Q       I just have a few very general questions about birds  
14           and habitat if you don't mind.

15          A       Sure.

16          Q       Would you agree that residential communities that  
17           have shrubs and trees provide habitat for birds?

18          A       That's reasonable.

19          Q       And would you agree that agricultural areas with  
20           fence rows, wind breaks, and trees provide habitats  
21           for birds?

22          A       Yes, some.

23          Q       And would you agree that this residential community  
24           and agricultural habitat can be a significantly  
25           beneficial source of habitat that encourages local

1 bird populations?

2 A It can.

3 Q And would you agree that if the PSC permitted a route  
4 through a residential and agricultural community and  
5 construction and operation of this transmission line  
6 eliminated shrubs and trees through right-of-way  
7 clearing, that that bird habitat would be lost?

8 A In general I would say that is reasonable. I would  
9 qualify it by saying that there are birds that use  
10 many different types of habitats. All habitats are  
11 used by some birds. So when a habitat conversion  
12 takes place, in general some birds benefit and other  
13 birds experience loss of habitat. So that's how I  
14 would qualify my answer, but in general what you  
15 stated is correct.

16 Q Okay. And would you agree then that if a habitat  
17 would be limited or eliminated, that those -- you  
18 just kind of confirmed that really, and I won't worry  
19 about that.

20 If a habitat were removed from an area,  
21 where would the birds seek food and shelter?

22 A Well, it would depend on what kind of species we're  
23 talking about, what habitats they require, and where  
24 those habitats were available elsewhere on the  
25 landscape, and the birds' abilities to reach those

1 other areas if they were present.

2 Q So in other words, if that habitat were removed, they  
3 would need to seek other areas --

4 A That would be reasonable.

5 Q -- within the area?

6 MS. KUNZE: Thank you. No further  
7 questions.

8 EXAMINER NEWMARK: All right. Clean?

9 CROSS-EXAMINATION

10 BY MS. WESTERBERG:

11 Q Thank you. Ms. Steele, I'm Christa Westerberg with  
12 Clean Wisconsin. You've emphasized a few times the  
13 need for the avian mitigation plan to include  
14 multiple strategies to reduce collision risk?

15 A Yes.

16 Q And is that -- one particular mitigation measure  
17 we've heard a lot about is line marking devices?

18 A Yes.

19 Q And as I read your testimony, line marking devices  
20 are only somewhat -- they're effective to a point?

21 A Yes, that's correct.

22 Q So if I thought it was about 10 to 80 percent  
23 effective depending on multiple conditions?

24 A That really depends on the species.

25 Q Yeah.

1 A So, yes, they have very -- a wide range of  
2 effectiveness depending on the situation and the  
3 species.

4 Q And so is it your opinion that the avian mitigation  
5 plan should emphasize not only bird-marking devices,  
6 but other mitigation measures for reducing  
7 collisions?

8 A Absolutely.

9 Q Okay. And those aren't just structure design and  
10 location like we've heard, but also ongoing measures  
11 such as vegetation management?

12 A Yes, that's correct.

13 Q Okay. And that would be something like planting  
14 trees that would help obscure the line outside of the  
15 right-of-way?

16 A It could, yes.

17 Q And you mentioned that you had -- aside from the  
18 Leopold-Pine Island IBA, you were concerned about the  
19 other four Important Bird Areas that are along the  
20 proposed routes?

21 A Yes.

22 Q But it's not your testimony that the avian mitigation  
23 plan should be limited just to the IBA, is it?

24 A My understanding is that the avian mitigation plan is  
25 specific to the project. It's not necessarily my

1 understanding that it's only specific to certain  
2 segments of the project, but that it's specific to  
3 the project, to the Badger Coulee project.

4 Q Yes. And that's what I meant. Sorry.

5 A Yeah.

6 Q But to the extent there are other places where there  
7 is a high potential for bird collision such as a  
8 river crossing, you would want those addressed in the  
9 avian mitigation plan as well?

10 A Yes.

11 Q And that's in fact what the applicants have done with  
12 the CapX avian mitigation plan?

13 A That's my understanding.

14 Q You've reviewed that plan?

15 A Yes.

16 Q Okay. And is it also your understanding that the  
17 applicants will assess those areas for potential  
18 collision as part of developing that plan?

19 A That would be reasonable.

20 Q Aside from specific areas for bird collisions, are  
21 you concerned about the cumulative loss of habitat  
22 that will be created by all of the new right-of-way  
23 along the route, whichever one is chosen?

24 A There are some concerns, yes.

25 Q Okay. And do you believe those impacts of loss of

1 habitat should be mitigated if possible, such as  
2 replanting new vegetation?

3 A Yes, to the extent possible.

4 Q Okay. And if the applicants could plant forbs and  
5 shrubs within the right-of-way that might provide  
6 that habitat, you would agree with that mitigation  
7 measure?

8 A I would -- I would agree that planting as appropriate  
9 native species of shrubs and forbs would help to  
10 provide some habitat for birds, for a variety of  
11 birds.

12 MS. WESTERBERG: Okay.

13 EXAMINER NEWMARK: You said forbs. Can  
14 you explain that?

15 THE WITNESS: Sorry.

16 MS. WESTERBERG: I think you said for a  
17 variety of birds?

18 THE WITNESS: Forbs.

19 MS. WESTERBERG: Okay.

20 THE WITNESS: The plant. It's a type  
21 of --

22 EXAMINER NEWMARK: Okay. Can you just  
23 spell that for us?

24 THE WITNESS: F-O-R-B-S.

25 EXAMINER NEWMARK: Okay.

1 THE WITNESS: Sorry. That's a type of  
2 plant.

3 MS. WESTERBERG: Nothing further. Thank  
4 you.

5 EXAMINER NEWMARK: All right. Any more  
6 cross? Assuming someone else is there. Go ahead.

7 MR. POTTS: Sorry. Just a couple  
8 questions.

9 RECROSS-EXAMINATION

10 BY MR. POTTS:

11 Q So is it -- is the Department -- I believe your  
12 testimony earlier was that the Department is seeking  
13 the applicants to consult with the Leopold-Pine  
14 Island IBA and obtain their approval on the portion  
15 of the route that's essentially Segment H; is that  
16 correct?

17 A Yes.

18 Q Okay. But not the rest of the project area?

19 A Regarding the --

20 Q Leopold-Pine Island IBA.

21 A That's correct.

22 Q Okay. And then if the DNR wants the applicants -- or  
23 wants to have the Leopold-Pine Island IBA approve of  
24 an avian mitigation plan, couldn't the DNR just  
25 decide itself not to approve the avian mitigation

1 plan until the DNR can obtain Leopold-Pine Island  
2 IBA's approval?

3 A I suppose that's a possibility.

4 Q So in other words, there would be no real reason for  
5 the Public Service Commission's order to require the  
6 applicants to obtain the Leopold-Pine Island's  
7 approval because the DNR could just do that itself  
8 before the DNR gave its approval?

9 EXAMINER NEWMARK: Well, again, this is  
10 really just how we would draft the order point. I  
11 don't know. It's all just a logical flow, I mean.

12 MR. POTTS: But the DNR is asking  
13 specifically for the applicants to obtain the  
14 Leopold-Pine Island approval, and I'm just asking  
15 her whether --

16 EXAMINER NEWMARK: Why that is or --

17 MR. POTTS: And whether she can just  
18 obtain the order herself or whether the applicants  
19 need --

20 EXAMINER NEWMARK: To say DNR, yeah.

21 THE WITNESS: I suppose that would be one  
22 way to do it.

23 EXAMINER NEWMARK: Okay.

24 MR. POTTS: Okay. We have nothing  
25 further.

1 EXAMINER NEWMARK: All right. Any  
2 redirect?

3 MS. CORRELL: I just have a little bit of  
4 redirect to try to clarify the record.

5 REDIRECT EXAMINATION

6 BY MS. CORRELL:

7 Q The line of question regarding whether or not it's  
8 DNR -- your understanding that DNR could require  
9 certain structures that were not required by the  
10 Public Service Commission --

11 EXAMINER NEWMARK: No, no. That's not the  
12 issue. The issue is how would the Commission direct  
13 DNR's approval authority, so we don't need to go  
14 into that.

15 MS. CORRELL: No. That's the most latest  
16 detail, but earlier he asked her a question, and  
17 maybe it's been sufficiently answered, but I wanted  
18 to make sure the record was clear. Maybe I should  
19 start out with a foundational question.

20 BY MS. CORRELL:

21 Q Is it -- is it your understanding that the avian  
22 mitigation plan has some components that need to be  
23 determined before a Commission order and some  
24 components that may have to be determined after a  
25 Commission order?

1 A Yes, that is my understanding.

2 Q And with regard to H-frame structures and  
3 recommendations about Commission order points, is it  
4 your understanding that those types of avian  
5 mitigation strategies need to be included on the  
6 front end and it's the Commission's authority to make  
7 those decisions?

8 A Yes.

9 EXAMINER NEWMARK: Okay.

10 BY MS. CORRELL:

11 Q However, there may be other issues. For example,  
12 there's been some discussion of bird diverters.

13 A Right.

14 Q And in particular swan-type of diverters?

15 A There are a number of different devices that could be  
16 used.

17 Q Are some of those types of ongoing discussions things  
18 that you anticipate could take place following a DNR  
19 order -- I'm sorry -- following a Commission order --

20 A Yes.

21 Q -- on the CPCN?

22 A Exactly. Definitely.

23 MS. CORRELL: Thank you.

24 EXAMINER NEWMARK: Okay. You're excused,  
25 thanks, before anyone else asks anything.

1 Let's go off the record.

2 (Discussion held off the record.)

3 (Break taken.)

4 (Change of reporters.)

5 EXAMINER NEWMARK: All right. Do we have  
6 who we need? Okay. Great.

7 MR. LORENCE: Of the need witnesses for  
8 the staff, Don Neumeyer is the only witness  
9 testifying. The rest will submit affidavits.

10 EXAMINER NEWMARK: Okay. Great.

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1 DONALD G. NEUMEYER, STAFF WITNESS, DULY SWORN

2 DIRECT EXAMINATION

3 BY MR. LORENCE:

4 Q Can you state your name for the record, please.

5 A Donald G. Neumeyer, N-E-U-M-E-Y-E-R.

6 Q And in preparation for today's hearing, did you  
7 prepare direct testimony?

8 A Yes, I did.

9 Q And you did not have any exhibits, correct?

10 A That is correct.

11 Q And you have no corrections to your testimony?

12 A No, I do not.

13 Q And if I asked you the questions in your prepared  
14 testimony today, would your answers be the same?

15 A Yes, they would.

16 Q Mr. Neumeyer, have you been monitoring the witnesses'  
17 testimony this week?

18 A Yes.

19 Q And have you heard several questions about the  
20 possible increased use of transmission structures  
21 that carry multiple circuits in order to minimize  
22 right-of-way width and environmental impacts?

23 A Yes.

24 Q Specifically there has been discussion about placing  
25 multiple circuits on a single pole in the area of

1 the -- in the area north of the Briggs Road  
2 Substation, correct?

3 A Correct.

4 Q What standards cover the usage of multiple circuit  
5 structures in planning?

6 A The North American Electric Reliability Corporation,  
7 NERC, reliability standards cover this design,  
8 specifically the transmission system planning  
9 performance requirements standard TPL-001-4 covers  
10 the system conditions and contingency analysis. For  
11 the purposes of reliability and performance, multiple  
12 circuits on a single structure does not violate NERC  
13 standards when the cumulative use is one mile or less  
14 for the new bulk electric system element. This has  
15 typically been used for substation exit and entry and  
16 river crossings.

17 Q So under NERC standards, three circuits on a single  
18 pole would be allowable as long as the cumulative  
19 length is less than one mile?

20 A Correct.

21 Q And from an engineering standpoint, you do not have  
22 an objection to such a configuration?

23 A No, I do not.

24 MR. LORENCE: No further questions.

25 Mr. Neumeyer is available.

1 EXAMINER NEWMARK: All right. Questions  
2 for the witness?

3 CROSS-EXAMINATION

4 BY MS. AGRIMONTI:

5 Q Mr. Neumeyer, I just have a question. Would you have  
6 any objection if the proposal was to extend the  
7 length of co-location for more than a mile?

8 A Yes, I would.

9 Q What would be the basis of that objection?

10 A It would violate the planning standard.

11 MS. AGRIMONTI: Thank you. No further  
12 questions.

13 EXAMINER NEWMARK: Okay.

14 MR. JABLONSKI: I have a question.

15 CROSS-EXAMINATION

16 BY MR. JABLONSKI:

17 Q Can you tell me the planning standard that would be  
18 violated?

19 EXAMINER NEWMARK: Introduce yourself.

20 BY MR. JABLONSKI:

21 Q I'm sorry. Frank Jablonski for the Town of Holland.

22 A It is the standard that I just referenced as the NERC  
23 planning standard, that was that TPL standard.

24 Q So is that because it's a category D and creates a  
25 category D contingency?

1       A     It's a little more complex than that. The standards  
2             has been -- some of the older standards have been  
3             reconstituted in a new manner, and they use levels  
4             like P and tables with extreme events. So the --  
5             we're very familiar with the terms. So it doesn't --  
6             isn't classified that way. So it has to do with  
7             circuit conditions, structure conditions, incidental  
8             events, subsequent events, and the situation with the  
9             loss of load or cascading situations.

10       Q     Sure. And has a -- have you done any analysis of the  
11             potential for common source or common source  
12             contingency event to take out the transmission lines  
13             if they are close to each other as opposed to on the  
14             same set of poles?

15       A     My reference was common structure. I was focusing on  
16             common structure. There are corridors used which are  
17             different.

18       Q     Okay. So you haven't done an analysis as to the  
19             relative risk as opposed -- as between a common  
20             structure triple circuited and a common structure  
21             double circuited with another structure single  
22             circuited on the other side of the highway?

23       A     The standards you take into account, the risks, those  
24             are why the standards are there, and the loads you  
25             could lose or not lose, firm/not firm situations.

1 Q So yes, you have done that analysis?

2 A I have reviewed the analysis where contingencies of  
3 multiple circuits on common structures show a  
4 collapse of the system which is unacceptable.

5 Q Okay. If the Commission declines to approve the  
6 Badger Coulee proposal, then the common structure --  
7 there will be a common structure with a 161 kV and a  
8 345 kV; is that correct?

9 A I believe that's correct.

10 Q And the -- if that goes down, you will have the exact  
11 same situation as if you would have taken out the 161  
12 and two 345s?

13 A Not exactly. Because it's a function of the  
14 topology. It's unique to every instance of existing  
15 and new topology designs. So it wouldn't be  
16 equivalent depending on the design.

17 Q Depending on the design of what?

18 A The network.

19 Q Depending on the design of the network. And so the  
20 analysis, the analysis for a commonly caused failure,  
21 that has been submitted into the record? Is that in  
22 any of your exhibits?

23 A I have no exhibits.

24 MR. JABLONSKI: Thank you.

25 EXAMINER NEWMARK: Okay. Other cross?

1 No? Redirect?

2 MR. LORENCE: I can safely say I have no  
3 further questions.

4 EXAMINER NEWMARK: All right. Well, the  
5 witness is excused.

6 (Witness excused.)

7 EXAMINER NEWMARK: Let me take this moment  
8 to congratulate Mr. Lorence --

9 MR. LORENCE: Off the record.

10 EXAMINER NEWMARK: Off the record? Oh,  
11 come on.

12 MR. LORENCE: Thank you.

13 EXAMINER NEWMARK: This is his last  
14 hearing, his last witness, and we'd like to thank  
15 him for his service.

16 (Discussion off the record.)

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1 MS. SILVER KARSH: I'd like to call Paul  
2 Rahn to the stand.

3 PAUL RAHN, STAFF WITNESS, DULY SWORN

4 DIRECT EXAMINATION

5 BY MS. SILVER KARSH:

6 Q Good afternoon. Would you please state your name for  
7 the record.

8 A Paul Rahn.

9 Q And what is your position at the Commission?

10 A I'm the environmental analyst in the energy division.

11 Q And did you submit direct testimony in this docket?

12 A Yes.

13 Q And if I were to ask you the same questions today  
14 that were in your direct testimony, would your  
15 answers be the same?

16 A Yes.

17 MS. SILVER KARSH: Thank you. I have no  
18 further questions. He's available for  
19 cross-examination.

20 EXAMINER NEWMARK: Okay. Who has  
21 questions?

22 MS. SILVER KARSH: I believe Ms. Kunze had  
23 cross of Mr. Rahn.

24 CROSS-EXAMINATION

25 BY MS. KUNZE:

1 Q Thank you. Good afternoon, Mr. Rahn. I'm Laura  
2 Kunze, self-representing. I just have a few  
3 questions. I'd like to refer to Table 11.1-1 of the  
4 EIS. Do you happen to have that?

5 A Do you have a page number?

6 Q I did not write it down. I'm sorry. But 11 is right  
7 around 360-something. So start there.

8 A .364? Yes.

9 Q You do have it?

10 A Yes, I have it.

11 Q Thank you. So in that table, the EIS is a comparison  
12 of right-of-way characteristics of the A, B and  
13 B-north and B and B-south segments. Were comparisons  
14 done of the impact of these three segment  
15 alternatives in the context of the entire route, for  
16 example, north route with B and with A, south route  
17 with B and with A?

18 A B-north is a route using a segment called B-north and  
19 the rest of segment B. B-south is B-south with the  
20 remainder. So it's the entire route.

21 Q Did you interchange them and compare?

22 A They're two different alternatives, and they're  
23 comparable to A which connected the route.

24 Q Well, are you aware down below that B and A can be  
25 interchangeable and intersect later with other --

1 A They come to the same intersection point.

2 Q At G. In the context of the entire 160- to 180-mile  
3 route, would you agree that an additional three miles  
4 is less than a 2 percent difference?

5 A Of route length? Yes.

6 Q Where the easement width for the 138 kilovolt line  
7 would have to be expanded for a 345 kilovolt line,  
8 how many acres per mile would be required?

9 A I would have to calculate that.

10 Q Was that included in the EIS?

11 A It was included in the application of right-of-way  
12 required for higher voltage line, yes.

13 Q Where can that information be found?

14 A It would be in the application data tables.

15 Q Data tables. Why wasn't that included in the EIS?

16 A Those numbers are reflected here.

17 Q Okay. And the same table, how many of the existing  
18 right-of-way shared acres require additional acres of  
19 land to expand the easement and what does that  
20 acreage total?

21 A I think you will find that in the text for the  
22 various segments how much is expanded.

23 Q I'm sorry?

24 A It's in the text.

25 Q Could you find out where that is in the text.

1       A     At page 362, under 11.2.1.1, first paragraph, where  
2             it says agricultural land represents 62.1 percent of  
3             the total required right-of-way. New right-of-way,  
4             not overlapping any existing facility right-of-way  
5             encompasses 29.7 acres of farmland.

6       Q     So that's how you calculated --

7       A     Yes.

8       Q     Thank you for clarifying. So in the EIS Section  
9             11.1.2, it addresses access where there are natural  
10            constraints such as steep hills, large high-quality  
11            natural resources, and other limitations where direct  
12            access is not possible.

13                    Would you agree that all of the Segment A,  
14            B and B3a access roads would follow existing lanes or  
15            paths, the access roads?

16      A     I don't know at this point without consulting other  
17             information.

18      Q     The narrative states that Segment A access road  
19             covers an area of wetland. Why isn't this reflected  
20             in 11.1-2?

21      A     Where are you referring to?

22      Q     11.1-2, wetlands. The narrative states that there is  
23             an area of wetlands, but it's not included.

24      A     I didn't work on that section, so I can't speak to  
25             it.

1 Q Okay. Fine. Regarding the number and length of  
2 distribution lines, did staff independently verify  
3 that data?

4 A I did not work with the distribution line  
5 information.

6 Q Were you present for Ms. Parrett's testimony or have  
7 you read her direct?

8 A I read her direct, yes. And listened to most of her  
9 testimony, I believe. Not all of it, though, at the  
10 end.

11 Q Well, perhaps you can answer, why is the  
12 undergrounding of the distribution line now  
13 under-built on the 138 kV line not discussed in  
14 Section 11.1.3.1?

15 MS. SILVER KARSH: Your Honor, I'd like to  
16 note that these are questions that are more  
17 appropriate for Ms. Weiss who will be coming up for  
18 testimony. Mr. Rahn did not work on that portion.

19 MS. KUNZE: Thank you.

20 Q So if I touch upon something that -- obviously please  
21 tell me if somebody else is working on this to save  
22 us time. For the Environmental Impact Statement in  
23 the section for agriculture, was that something that  
24 you could answer to with regard to -- did you rely on  
25 the AIS for acreage figures?

1 A I used some of their figures and figures from the  
2 application, I used both.

3 Q Would you agree that much of the information in the  
4 AIS is obtained from self-reporting survey  
5 respondents?

6 A I couldn't speak to that because the ag. department  
7 prepared that.

8 Q Have you verified the information from the AIS?

9 A No, I do not verify their information.

10 Q How does the staff weigh agriculture versus forest in  
11 its environmental assessment?

12 A I think we explained impacts to all areas, but we  
13 don't try to emphasize or downgrade --

14 Q Do they weight them differently?

15 A I don't know that we make a judgment as to various  
16 weights.

17 Q Okay.

18 A Judgment is up to the Commissioners when they make  
19 their decision.

20 Q EIS Section 11.2.1.1 in one circumstance says under  
21 applicants' proposal where property would be bound on  
22 three sides by transmission lines.

23 A What section?

24 Q 11.2.1.1.

25 MR. LORENCE: Page 362.

1 MS. KUNZE: Thank you.

2 A What page number?

3 MR. LORENCE: 362.

4 MS. KUNZE: Thank you, Mr. Lorence.

5 A And the question?

6 Q Was there property bound on three sides?

7 A Did we count every situation where that occurred?

8 Q Did it occur?

9 A Are you saying whether there is a property --

10 Q Um-hmm.

11 A -- with transmission line on three sides?

12 Q Yes.

13 A I can't say with certainty.

14 Q If transmission lines would be placed outside of  
15 cultivated fields and would be offset from field  
16 edges, how is that not encroaching on land and  
17 restricting use?

18 A In the sense that field edge is a worked area of the  
19 field, it's outside their -- directly on the property  
20 line may not affect tillage land.

21 Q Would a tractor still need to steer around those  
22 poles?

23 A Possibly.

24 Q And would the area still be disturbed and crops  
25 destroyed?

1 A Depends what is near it.

2 Q Potentially if a pole replaced an area of crops,  
3 would those crops be destroyed?

4 A Yes.

5 Q Regarding bird habitat, would you agree that  
6 residential communities that have shrubs and trees  
7 provide habitat for birds, generally speaking?

8 A I do not deal with that section.

9 Q Did you deal with magnetic fields?

10 A No.

11 Q Were you present for the testimony of Mr. Lorenz?

12 A I heard some of his testimony.

13 Q Are you familiar with Table 81 of Mr. Lorenz?

14 A No.

15 Q Do you deal with the amp loads or anything of that  
16 nature?

17 A The what loads?

18 Q Your amperage loads in your --

19 A No, not normally.

20 Q Do you deal with aesthetic and visual impacts  
21 analysis?

22 A Not for this project.

23 Q I'm sorry?

24 A Not for this project.

25 Q Were you present for the testimony earlier when the

1 self-weathering finish on poles was discussed?

2 A I heard that.

3 Q Would you agree that a self-weathering brown steel  
4 pole has heightened visibility when compared to a  
5 galvanized pole or gray or blue painted pole?

6 A It depends on the surrounding environment.

7 Q The section states that along the route, Segment A is  
8 more densely populated than Segment B. Where in the  
9 chart -- where is the chart that shows the homes  
10 within that area referred to in the EIS?

11 A The section that shows houses?

12 Q Does it go -- does that chart include homes within  
13 the line of sight?

14 A I did not work on that section.

15 Q Is there a map of dots showing the homes and their --  
16 including their varying distances from the lines in  
17 this project?

18 A There was a GIS layer that indicates where homes are  
19 in relation to the lines.

20 Q Does it include the distances?

21 A That can be measured on those maps.

22 Q Were any models or computer [sic] generated before or  
23 after visual prepared for the EIS?

24 A Yes.

25 Q Where are those located?

1 A I did not deal with that section. You should ask  
2 somebody else.

3 Q Who might that be?

4 A Perhaps Ms. Weiss.

5 Q Thank you. If homes are in a wooded area, what is  
6 the impact of trees on visibility of nearby  
7 transmission would you say?

8 A I would say if there are trees between the home and  
9 the transmission line, they often provide screening  
10 of the line.

11 Q And if those screening trees were to be removed for  
12 right-of-way, how would that impact visibility on the  
13 lines?

14 A That may increase it.

15 Q You can move to 11.3.4, public lands and recreation.

16 A I did not work on that.

17 Q You did not. Okay. Did you work at all on  
18 communication facilities?

19 A No.

20 Q And airport and airstrips at all?

21 A No.

22 Q I just want to be clear we're covering what we need  
23 to, so you understand. Well, I guess that's all I  
24 have for you, Mr. Rahn. Thank you so much for your  
25 time.

1 EXAMINER NEWMARK: All right. Other  
2 questions?

3 MR. WILL: No.

4 EXAMINER NEWMARK: All right. Redirect?

5 MS. SILVER KARSH: No.

6 EXAMINER NEWMARK: Nothing? Thanks.

7 You're excused.

8 (Witness excused.)

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1 MS. SILVER KARSH: I'd like to call  
2 Marilyn Weiss to the stand.

3 MARILYN WEISS, STAFF WITNESS, DULY SWORN

4 DIRECT EXAMINATION

5 BY MS. SILVER KARSH:

6 Q Good afternoon. Would you please state your name for  
7 the record.

8 A Marilyn Weiss.

9 Q And what is your position at the Commission?

10 A I'm an environmental analyst.

11 Q And did you submit direct and surrebuttal testimony?

12 A Yes.

13 Q And five exhibits?

14 A Yes.

15 Q And you filed an errata sheet PSC reference number  
16 229437?

17 A Yes.

18 Q On page 4 of your direct testimony, beginning at line  
19 6, you stated that data request 10 and 11 are still  
20 outstanding. Do you have an update to provide?

21 A Yes. At the time of the writing that was true. That  
22 is no longer true. All the data requests have been  
23 responded to by the applicants.

24 Q With this update and the errata sheets, if I were to  
25 ask you the same questions today that are in your

1 direct and surrebuttal testimony, would your answers  
2 be the same?

3 A Yes.

4 Q And is the information in your exhibits true and  
5 correct to the best of your knowledge?

6 A Yes.

7 MS. SILVER KARSH: The witness is  
8 available for cross-examination.

9 EXAMINER NEWMARK: Okay. I just wanted to  
10 double-check with -- you will be filing Weiss 3, the  
11 public comments, right?

12 THE WITNESS: Right. Delayed exhibit.

13 (Exhibit Weiss 3 designated for delayed  
14 receipt.)

15 EXAMINER NEWMARK: That hasn't been filed.  
16 And since you have more data request responses,  
17 we'll need to update Henn 2/Weiss 4.

18 THE WITNESS: Henn 2/Weiss 4 is complete.

19 MR. POTTS: It includes the 10 and 11 that  
20 she --

21 EXAMINER NEWMARK: Oh, okay, great. Oh,  
22 since your testimony. That's fine. Thanks. Well,  
23 any questions?

24 MR. OLIVEIRA: Yes, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. OLIVEIRA:

2 Q Good afternoon, Ms. Weiss. My name is Marcel  
3 Oliveira. I represent CETF and SOUL. I just have a  
4 few questions for you about the EIS. Starting with  
5 the goals of the EIS, would you agree that one of the  
6 goals in preparing the EIS is to avoid, prevent or  
7 mitigate environmental damage? I can repeat the  
8 question.

9 A Please do.

10 Q Would you agree that one of the goals in preparing an  
11 EIS is to avoid, prevent or help mitigate  
12 environmental damage?

13 A Its first order is to enumerate the impacts. It's  
14 the review process that we go through including the  
15 pre-application process that helps minimize or  
16 evaluate the different issues, impacts and mitigation  
17 that's potentially possible on the project.

18 Q And so that review process, would you agree that the  
19 goals you just described also go towards preserving  
20 natural vistas?

21 A It is a portion of many resources that are reviewed  
22 and analyzed.

23 Q Yeah. And I'm asking whether these are parts of the  
24 overall -- I'm sure there's several goals to it. I'm  
25 asking if these are parts --

1 A I wouldn't say it's a goal, but it's one of the  
2 things we review.

3 Q Okay. Is preventing damage to local economies or  
4 the damage to local economies that may result from a  
5 project something else that's reviewed?

6 A Perhaps peripherally, but we don't have the expertise  
7 to do economic analysis.

8 Q And what about protecting public health, is that one  
9 of the aspects that is reviewed?

10 A Once again, it's an assessment of the impacts.

11 Q An impact on public health is included in that  
12 assessment?

13 A Yes.

14 Q Okay. Are you familiar with the term "precautionary  
15 principle"?

16 A No.

17 Q If I represented to you that precautionary principle  
18 stands for caution in deciding whether to recommend a  
19 project or assess the impact of a project on the side  
20 of not recommending that in case there may be  
21 scientific uncertainty over environmental or health  
22 impacts -- I'll ask you this. Do you have any reason  
23 to question that definition of precautionary  
24 principle?

25 A Because I'm not familiar with it, I don't have an

1 opinion whether it's applicable or right or wrong.

2 Q Sure. Would you agree that under that definition,  
3 the precautionary principle is something the  
4 Commission takes into account when preparing an EIS?

5 MR. POTTS: Objection.

6 MS. SILVER KARSH: Objection.

7 MR. POTTS: She just said she isn't even  
8 aware of what that --

9 MR. OLIVEIRA: And that's why I provided  
10 the definition.

11 MR. POTTS: Now you're asking her for her  
12 opinion on whether the Commission --

13 EXAMINER NEWMARK: Just rephrase it using  
14 the terms --

15 MR. OLIVEIRA: I can withdraw the question  
16 and ask a different question.

17 Q Would you agree that -- well, instead of asking you  
18 whether you agree, I'm going to inquire whether the  
19 Commission in preparing an EIS looks into areas where  
20 there's scientific uncertainty, so the causal  
21 relationship between a component of a project and  
22 public health?

23 A Causal uncertainty sounds like it has some very  
24 specific meaning that I'm not familiar with. But I  
25 can say we do look at the current research, we are

1 not experts in everything, and we do make some  
2 evaluation as to the current state of the literature  
3 on some subjects.

4 Q And that was the thrust of my question, whether the  
5 Commission considers if it's brought up to its  
6 attention there is research out there to be reviewed,  
7 the Commission will then make an inquiry into the  
8 existing research?

9 A When you say Commission, are you talking about staff  
10 or the Commissioners?

11 Q Yes, I apologize, staff in preparing the EIS.

12 A We try to be as broad and inclusive as possible.

13 Q Okay. Were you involved in receiving, reviewing or  
14 processing public input into the DEIS from the  
15 scoping process through the conclusion of the final  
16 EIS?

17 A Yes.

18 Q And do you recall receiving public comments, concerns  
19 or research citations in the area of EMF?

20 A Yes.

21 Q Do you recall receiving the same in the area of  
22 corona-based emissions?

23 A Yes.

24 Q Do you recall receiving the same in the area of UV  
25 emissions? Ultraviolet radiation?

1 A Yes. Yes.

2 Q Do you recall receiving public comments, questions or  
3 concerns regarding physical or cyber security of  
4 transmission lines?

5 A Yes.

6 Q During the comment process on the draft EIS all the  
7 way up to the final EIS being put together, was there  
8 additional inquiry by Commission staff of the current  
9 research in any of those areas listed?

10 A Some.

11 Q And what areas were inquired into?

12 A We looked at the citations that were contained in the  
13 comments. We discussed things with the engineers and  
14 experts on staff where it touched on things that were  
15 of scientific engineering issues. We consulted with  
16 those people in the Commission that had knowledge,  
17 spoke to some other departments of the State of  
18 Wisconsin to get better insight. And some USGS,  
19 talked to some of them for some things.

20 Q And during that process of inquiry, the sources that  
21 were originally cited in the comments were looked  
22 into, I take it?

23 A Yes.

24 Q And do you recall during this entire process  
25 preparing the EIS whether the Commission or staff

1 received a request for socioeconomic cost/benefit  
2 analyses?

3 A Yes.

4 Q And were those responded to or followed up on?

5 A I believe in the early stages before we had the  
6 application, some letters were written back to those  
7 townships that had asked for a reply.

8 Q Okay. Do you recall what townships were responded  
9 to, by any chance?

10 A Not off the top of my head, no.

11 Q Do you recall an approximate number of responses?

12 A Not off the top of my head, no.

13 Q And do you recall the content of those responses  
14 insofar as there was actually a follow-up on the  
15 study or whether a response was --

16 A You seem to be asking two separate things. The  
17 request for a socioeconomic study is one object. The  
18 comments that asked for us to review additional  
19 literature is a different issue --

20 Q Yeah, I apologize.

21 A -- and the socioeconomic studies were responded to in  
22 letters prior to the application coming in before the  
23 review process was started. And that's why letters  
24 were written back to these people. After the review  
25 process started, there was a mechanism to have

1           comments and participate in the review of the  
2           application.

3       Q     And I apologize for not being -- my question was  
4           getting at whether or not the response to the  
5           requests for socioeconomic studies actually involved  
6           socioeconomic studies that staff conducted?

7       A     We did not conduct any socioeconomic studies.

8       Q     I apologize. That should have been my question. No  
9           further questions, Your Honor.

10                   EXAMINER NEWMARK: All right. Other  
11           cross?

12                   CROSS-EXAMINATION

13       BY MS. WESTERBERG:

14       Q     Good afternoon, Ms. Weiss. I'm Christa Westerberg  
15           with Clean Wisconsin. Your final EIS at page 32  
16           discusses impacts to springs. Were you here this  
17           morning when I was discussing that issue with Ben  
18           Callan for DNR, were you here for that?

19       A     Yes.

20       Q     So I won't belabor that lead-up again. But the EIS  
21           indicates that the applicants have stated that prior  
22           to construction, if the spring with substantial -- if  
23           a spring with substantial flow is identified on the  
24           order route, the applicants state that they will make  
25           every effort to adjust the structure locations and

1 construction access. Do you know what is meant by  
2 substantial flow in that sentence?

3 A No.

4 Q Okay. Do you yourself have an opinion about whether  
5 that would be something like two cubic feet per  
6 second, more, less, anything?

7 A No.

8 Q So we don't really know what the applicants will  
9 do -- how the applicants will assess the size of the  
10 spring relative to making construction decisions?

11 A No, don't know.

12 Q They also -- the final EIS also indicates that if the  
13 spring cannot be avoided, the applicants would  
14 implement techniques to reduce surface exposure along  
15 with mitigation steps to prevent destruction of the  
16 flow of water from the spring, but also indicates  
17 that details regarding the techniques and mitigation  
18 strategies that would be implemented to minimize  
19 impacts on unavoidable springs were not provided.  
20 And that's provided to the Commission, correct?

21 A Yes.

22 Q Okay. Have you ever received that information?

23 A We haven't received it and we did not issue a  
24 follow-up data request.

25 Q Do you have any concern about whether mitigation

1 measures for springs would actually work?

2 A No.

3 Q You don't have any concerns?

4 A You asked me if they would work.

5 Q Okay. You don't think they would work?

6 A No, you asked if I had any -- please repeat the  
7 question.

8 (Requested question read by the reporter.)

9 A Let me retract that. I heard a different question.

10 Q It happens.

11 A Not knowing what mitigation strategies would be used,  
12 I have no way of knowing whether they would work.

13 Q Okay. Do you know if any further follow-up will be  
14 required with PSC or DNR on that issue beyond what  
15 you heard from Mr. Callan this morning?

16 A I don't think there will be.

17 Q The final EIS mentions that the majority of -- or the  
18 highest concentrations of springs on the routes, on  
19 the proposed routes -- well, actually in Wisconsin is  
20 on Segment O between the Town of Leon and the City of  
21 Elroy; is that right?

22 A Yes.

23 Q Is that a factor you think should be considered in  
24 making the routing decision?

25 A I think it goes more to construction practices.

1 Q How so?

2 A I think locating structures, talking with landowners,  
3 having knowledge of the hydrology of the area, can go  
4 a long way to avoid the impact in the first place.

5 Q Do you think that that has been done to date?

6 A No. I think it will depend on final engineering as  
7 they don't have structure locations at this point and  
8 it would require a Commission approval for them to do  
9 final engineering.

10 Q So are you saying that the location of springs should  
11 be ascertained and then structure location decisions  
12 be made after that?

13 A I think they'll do final engineering and there will  
14 be minor adjustments based on things that they find  
15 in the field, and that's typical for most large  
16 projects.

17 Q Okay. So then do you think there should be an order  
18 point for the applicants to assess the location of  
19 springs in the field before making final structure  
20 location decisions?

21 A I don't know.

22 Q Do you know of any other way that that would -- if  
23 there were not an order point, would there be any  
24 requirement for them to do that?

25 A I don't know. I feel that it would be to their

1 benefit not to disrupt the spring because that  
2 requires more dewatering and then DNR permits might  
3 need to be adjusted for the dewatering. So I think  
4 it is in their self-interest to avoid the springs.

5 Q Okay. But other than that, there would be no --

6 A I don't --

7 Q There would be no requirement to your knowledge,  
8 there might be an incentive in another way, but not a  
9 requirement?

10 A It depends on what the Commission orders.

11 Q Okay. Would you also agree that if there is a route  
12 that doesn't impact as many springs, then we won't  
13 have as many of these issues?

14 MS. AGRIMONTI: Objection, "these issues,"  
15 if you could clarify, please.

16 BY MS. WESTERBERG:

17 Q Structure location decisions, engineering,  
18 dewatering, all the things you just mentioned.

19 A There are issues on every project for every location;  
20 and springs is just one of many, many subjects.

21 Q Sure. I understand that. But if we could avoid this  
22 concentration of springs in Segment O and find a  
23 route without as many springs, at least that  
24 particular issue will be somewhat minimized?

25 A Sure.

1 Q Have you ever been involved in any discussions with  
2 the applicants regarding routing options in the Fort  
3 McCoy area?

4 A Yes.

5 Q Okay. What -- well, can you describe those  
6 discussions to me.

7 A I think it was an issue that was brought up during  
8 the pre-application as we asked for an explanation as  
9 to how they arrived out of the original spaghetti  
10 with the routes that were being potentially part of  
11 the application. We continued with data requests  
12 after the application came in.

13 Q And have you listened to some of the testimony about  
14 routing in that area throughout this week?

15 A Yes.

16 Q And there was discussion about data request response  
17 05.17?

18 A Which one is -- I --

19 MS. WESTERBERG: May I, Judge?

20 EXAMINER NEWMARK: Yes.

21 (Document tendered to the witness.)

22 A Yes.

23 BY MS. WESTERBERG:

24 Q I just handed you at least the attachments to data  
25 request response 05.17. Do you recall receiving that

1 information?

2 A Yes.

3 Q And do you recall reviewing the applicants'  
4 explanation for the reasons they were limited in  
5 their routing decisions in the Fort McCoy area -- let  
6 me strike that.

7 Do you recall the applicants' explanation  
8 of their perceived limitations in the Fort McCoy area  
9 as described in that document?

10 A Yes.

11 Q Okay. Did you ever attempt to independently verify  
12 with Fort McCoy the routing limitations as  
13 represented by the applicants in their data request  
14 response?

15 A No.

16 Q Did anybody else at the Commission do that?

17 MS. AGRIMONTI: Objection, lack of  
18 foundation.

19 MS. WESTERBERG: I'm asking if she knows.

20 A I don't know of anybody.

21 Q And why did the PSC request an explanation -- PSC  
22 staff request an explanation as to why routing  
23 couldn't be accomplished through that area through a  
24 data request?

25 A Because we didn't know the answer.

1 Q What would the benefit have been -- to a routing  
2 through that area have been in staff's view?

3 A There was a lot of comments that were received where  
4 people thought that the -- extending as far south as  
5 they did and going through the Cashton area caused  
6 important impacts. And as part of our review, we  
7 often try to pull in other aspects of the spaghetti  
8 if we think they have value that the Commission  
9 should consider. So when in doubt, we ask the  
10 question.

11 Q And this was one of those situations clearly?

12 A Yes.

13 Q The final EIS contains many, many tables identifying  
14 the impacts to wetlands and forests and other  
15 features in terms of acreage.

16 A Yes.

17 Q Did the PSC staff attempt to independently -- well,  
18 let me strike that.

19 Where is the source of those numbers in  
20 those tables, the applicants' materials?

21 A The -- I believe -- most of that information, but not  
22 all, came directly from the applicants in their GIS  
23 data that they submitted. Areas that were other  
24 state departments' purview, such as Department of Ag.  
25 for agriculture and DNR for wetlands and waterway

1 issues, we substitute our judgment for theirs. The  
2 things that were tables that had to do with things we  
3 could count and we looked at, in some instances we  
4 put our own numbers in as opposed to the numbers  
5 submitted by the applicants.

6 Q Were forest impacts among those that you  
7 independently inserted into the EIS, or were those in  
8 reliance on the applicants' numbers?

9 A That was relying on the applicants' and the GIS layer  
10 could be clearly computed from the acreage shown on  
11 that.

12 MS. SILVER KARSH: Just one quick  
13 interruption for clarification. In your previous  
14 answer to Ms. Westerberg's question, you said I  
15 believe and we substitute our judgment for theirs.  
16 Is that what you mean? Or do you mean we substitute  
17 their judgment for ours in talking about DNR, DATCP  
18 and DOT?

19 THE WITNESS: DNR's values were used in  
20 areas of wetlands and waterways if they differed  
21 from the application information. DATCP's values  
22 were substituted for the applicants' where they had  
23 the expertise.

24 MS. SILVER KARSH: Thank you for the  
25 clarification. Sorry for the interruption.

1 MS. WESTERBERG: No problem. That's all I  
2 have. Thank you.

3 EXAMINER NEWMARK: Other cross?

4 MS. KUNZE: Your Honor.

5 EXAMINER NEWMARK: Before you start,  
6 because it's connected to the last line of  
7 questions, I was getting hungry when you were  
8 speaking, could you explain what you mean by  
9 spaghetti.

10 THE WITNESS: Marinara sauce.

11 EXAMINER NEWMARK: Not that.

12 THE WITNESS: Do you want me to answer?

13 EXAMINER NEWMARK: Yeah, because it's  
14 confusing on the record.

15 THE WITNESS: Okay. That's a professional  
16 term.

17 EXAMINER NEWMARK: Oh, it is?

18 THE WITNESS: Spaghetti is what we call  
19 the original almost all possible routes that the  
20 applicants usually go through before they start  
21 winnowing it down to the fewer routes that are  
22 presented in the application.

23 EXAMINER NEWMARK: When you pick another  
24 strand out of the spaghetti like you said, it's  
25 picking out one of the original routes that they

1           were investigating.

2                   THE WITNESS:   Right.

3                   EXAMINER NEWMARK:   Okay.   And the other  
4           one was, there was kind of a compound question once  
5           where it talked about the springs and where -- that  
6           Segment O had the most springs on the route.   And I  
7           think you answered it affirmatively, but also that  
8           question included that it had the most springs in  
9           Wisconsin.   I don't know that you agreed to both of  
10          those.

11                   THE WITNESS:   The information for the  
12          springs came from the Wisconsin geological survey.  
13          And, let's see, this is only to the project area,  
14          not to Wisconsin.

15                   EXAMINER NEWMARK:   Okay.   So --

16                   THE WITNESS:   We did not review beyond the  
17          scope of the project area.

18                   EXAMINER NEWMARK:   Okay.

19   BY MS. WESTERBERG:

20   Q     Then the line -- if I may clarify, a line in the EIS  
21          then, it states on page 32 the area of Wisconsin with  
22          the highest concentration of springs is in the  
23          southwest, the Driftless Area.   So that is what I was  
24          referring to when I said in Wisconsin.

25   A     Okay.   Sorry, it's a big document and it's been a

1 very long year.

2 Q Understood.

3 A Yeah, and that's cited too and that's -- yes.

4 Q So you have no reason to dispute the accuracy of that  
5 statement?

6 A No, no, no. That statement from the geological  
7 survey and their database.

8 EXAMINER NEWMARK: All right. Ms. Kunze.  
9 Go ahead.

10 CROSS-EXAMINATION

11 BY MS. KUNZE:

12 Q Good afternoon, Ms. Weiss. I'm Laura Kunze,  
13 self-representing. In your direct, page 2, you  
14 testify that it was your responsibility to organize  
15 and coordinate preparation of the Environmental  
16 Impact Statement. I want to make sure that I'm  
17 directing questions appropriately. Are the questions  
18 regarding the airstrips and airports better addressed  
19 to you or Ms. Zuelsdorff?

20 A Kathy Zuelsdorff.

21 Q Thank you. Is the ERF'd notice for the PSC meetings  
22 after the release of the draft Environmental Impact  
23 Statement part of the record?

24 A I'm sorry, could you repeat the question.

25 Q Sure. Is the ERF'd -- if that's a proper term in

1 this context.

2 EXAMINER NEWMARK: It is here.

3 BY MS. KUNZE:

4 Q Notice for the -- I've been using it, I just didn't  
5 know if it was. Is the ERF'd notice for the PSC  
6 meetings after the release of the draft EIS part of  
7 the record?

8 A I don't think so.

9 Q Would you please explain the PSC's process for  
10 selecting locations for the post-released draft EIS  
11 meeting locations.

12 A We didn't have any meetings. We had public hearings  
13 and we had scoping meetings which were before the  
14 draft to determine -- to get input from the public  
15 for the draft EIS, we call those scoping meetings.  
16 But we had no meetings after the draft EIS was  
17 published.

18 Q Would you explain, please, the PSC process for  
19 selecting -- did you select -- how did you select  
20 locations for other meetings?

21 A What meetings are you referring to?

22 Q The -- I think more the public outreaches.

23 A The scoping meeting?

24 Q Um-hmm.

25 A We tried -- I tried to find places that were -- where

1 nobody was driving more than 30 minutes on highways.  
2 We looked for places that had large enough venues to  
3 support it and had WiFi for people to -- so computer  
4 systems and mapping could be made -- could be  
5 accessed out in the field. I tried to find places  
6 that didn't cost the taxpayers too much money. That  
7 was about it. The scoping meetings were -- I think  
8 nobody was more than 30 minutes driving away to get  
9 there.

10 Q Thank you. Are the comments on the -- actually on  
11 the DEIS, the draft Environmental Impact Statement  
12 handled by the PSC? Comments regarding the draft.

13 A Are they handled, yes, we receive them.

14 Q And are they made available for public review?

15 A Those that are ERF'd were ERF'd. I think people who  
16 wrote in postal -- and sent them through the postal  
17 mail, I don't think those were ERF'd. And e-mails  
18 were not ERF'd. And phone calls were not ERF'd. We  
19 receive comments in all formats.

20 Q In Ms. Justus' rebuttal beginning on page 5, line 17,  
21 she discusses undergrounding of the distribution line  
22 that is under-built on the 138 kilovolt line in  
23 Segment A. What are the anticipated impacts of this  
24 undergrounding?

25 A I'm not a construction engineer. But I can

1 understand that undergrounding a distribution line  
2 has -- is a commonplace -- is not that unusual and  
3 the impacts are minimal.

4 Q Can you show me where this specifically is addressed  
5 in the final EIS?

6 A I think in the beginning. It is not something -- the  
7 other thing is on this project, the movement of the  
8 distribution lines would be handled by the local  
9 electric distribution company and not by the  
10 applicants. So it was not reviewed to the same  
11 standard as the things that were applicant  
12 responsibilities. I'm under the -- I believe that in  
13 each chapter section, there is a section on  
14 distribution lines.

15 Q I believe the same.

16 A The impacts and the method by which distribution  
17 lines will be relocated is not discussed in the EIS,  
18 either the draft or the final; but in the final there  
19 is an accounting of those lines that would be slated  
20 for relocation and -- but their location is not known  
21 because that would be handled not by the applicants.

22 Q So the impacts of undergrounding would not be  
23 considered?

24 A Of distribution lines.

25 Q Okay. So EIS page 359, 11.3.4.

1 MS. SILVER KARSH: On page?

2 MS. KUNZE: Page 359.

3 MS. SILVER KARSH: I don't think that's  
4 the right page number.

5 MS. KUNZE: It's not?

6 THE WITNESS: Section 11.1.3 is the  
7 electric distribution line.

8 MS. SILVER KARSH: 11.3.4 is public lands  
9 and recreation on page 381.

10 MS. KUNZE: Right.

11 Q And I'm -- I just wanted to get you there.

12 A To which page?

13 Q It's a known fact, it's stated and so -- in the  
14 interest of time, you don't need to pull this up  
15 unless you'd like to confirm it. It simply states  
16 that, it's page 359, that no known recreational paths  
17 are identified on Segment A.

18 A Kathy Zuelsdorff is the one that wrote the public  
19 land section.

20 Q Okay. Thank you.

21 MS. SILVER KARSH: Just to clarify for the  
22 record, it is page 381 that you're referring to.

23 MS. KUNZE: It is?

24 MS. SILVER KARSH: You're talking about  
25 public lands and recreation.

1 MS. KUNZE: Thank you.

2 MS. SILVER KARSH: You're welcome.

3 BY MS. KUNZE:

4 Q And Ms. Weiss, I hope I haven't transposed lots of  
5 numbers on here, it got late.

6 A If you just give me the section topic, I'll find it.

7 Q Perfect. So are you the proper person to talk about  
8 residential property owners and visual impact?

9 A No. That would be Kathy Zuelsdorff.

10 Q Did you deal at all with the Public Service  
11 Commission's use of appraisers on property value,  
12 et cetera? Have you dealt with the PSC's employment  
13 of appraisers to calculate property values? Was that  
14 you or was that Ms. --

15 A We don't have any appraisers, nor do we get involved  
16 with the discussions, negotiations between utility  
17 companies and private landholders. By "we," I mean  
18 the Commission.

19 Q Absolutely. So the EIS Section 4.5 -- 11.2-4  
20 addresses some property values within the EIS. Is  
21 that something that Ms. Zuelsdorff would --

22 A I'm sorry, I'm confused about what you're looking at.

23 Q It is Section 11.2-4 --

24 A What is the header of the section?

25 Q It will be -- I didn't write it down -- it will be

1 residential impacts if I had to guess.

2 A Okay. And what's -- I don't think we talk about the  
3 financial impact.

4 MS. SILVER KARSH: I believe it's 11.3.2.

5 A Maybe share her EIS. That will help a lot.

6 BY MS. KUNZE:

7 Q Is Ms. Zuelsdorff going to be dealing with proximity  
8 to potentially sensitive populations?

9 A Yes.

10 Q Have you read public comments from residents in  
11 Segment A?

12 A Yes.

13 Q Have the residents expressed concern about the  
14 negative effect on property value?

15 A Yes.

16 Q How are public comments considered by the PSC?

17 A We read them, we look for information that can help  
18 describe impacts we're not aware of or new  
19 information that would help make a more reasonable  
20 route alternative.

21 Q Has anyone informed you that they have been unable to  
22 sell their homes in this area due namely to the  
23 buyer's aversion to the proposed transmission line?

24 A Yes.

25 Q EIS page 355 indicates a deviation would place a

1 right-of-way about 10 feet and the centerline about  
2 70 feet from the front of a home. So it is at the  
3 bottom of that page still. And would you agree that  
4 the -- this is a very close proximity to a high  
5 voltage transmission line? Ten feet?

6 A It is, ten feet, yes.

7 Q And do you agree that this might significantly impact  
8 this residence?

9 A Transmission line will cause impacts, yes.

10 Q How has the resident been made aware of this change  
11 and the impact?

12 A The -- everybody within -- we've done to the best of  
13 our ability, sent letters out, the notice, and maps  
14 for everybody within 300 feet of the proposed line  
15 and anybody who has expressed an interest to be  
16 included in our mailing list, providing phone numbers  
17 of staff where they can talk to us, going out into  
18 the public with ArcReader projects where they can see  
19 their own property and the dimensions of the  
20 right-of-way. That's how we've done -- we've done  
21 everything through many media to allow them to know  
22 who to contact to get more information.

23 Q Would you have included the outreach to this  
24 particular case when there is a deviation, has the  
25 landowner been notified of --

1       A     There hasn't been a deviation yet. It's one of the  
2             options that has been discussed. Until the  
3             Commission chooses a route, there is no deviation  
4             that's been approved.

5       Q     Are you aware of I think something that is being  
6             referred to as a deviation on Bronner Road? It  
7             should be in here.

8       A     This was in response to a landowner -- if you're  
9             talking about the property at the corners of Airport  
10            and Bronner Road, this is a result of a comment from  
11            a landowner who lived on the corner of Airport and  
12            Bronner Road. He asked why is it then towards his  
13            property and we asked that question of the  
14            applicants.

15      Q     And the action taken was -- ?

16      A     We asked them to evaluate the reasons behind that  
17             deviation. There's no action to be taken, only  
18             analyze and supply information.

19      Q     Okay.

20                   EXAMINER NEWMARK: What page of the EIS  
21             was that?

22                   THE WITNESS: 377, I believe. The map --  
23             the figure that is referred to is on page 378, shows  
24             the location of the homes and the deviation from the  
25             existing transmission line.

1 EXAMINER NEWMARK: Let's just -- go ahead.

2 THE WITNESS: That the proposed route  
3 would take of Segment A5 and A6a, subsegment.

4 EXAMINER NEWMARK: And off the record.

5 (Discussion off the record.)

6 EXAMINER NEWMARK: Let's get on the  
7 record.

8 BY MS. KUNZE:

9 Q Would a question about diminution of property also be  
10 best addressed to Ms. Zuelsdorff?

11 A Sure.

12 Q Or would you be able to answer something like that?  
13 Let me ask the question --

14 MS. ZUELSDORFF: I knew you were going to  
15 say that.

16 BY MS. KUNZE:

17 Q Let me ask you a question and you tell me if it  
18 pertains to you. Did the PSC obtain a diminution  
19 appraisal for any property or properties in preparing  
20 the Environmental Impact Statement?

21 A No, it's not something we review.

22 Q The EIS cites a report by the EPRI. Is EPRI a real  
23 property expert?

24 A I'm sorry, what?

25 Q There is -- it cites a report by E-P-R-I. Is that a

1 property expert or is it an electric industry entity?

2 A It's EPRI.

3 Q Thank you. It's EPRI.

4 EXAMINER NEWMARK: Let's go off the  
5 record.

6 (Discussion off the record.)

7 EXAMINER NEWMARK: Back on the record.

8 BY MS. KUNZE:

9 Q So based on your work on this project, how will the  
10 property value aesthetic impact and other impacts  
11 raised by the EIS be mitigated?

12 A Not everything can be mitigated. Building a big  
13 project like this, there will be impacts.

14 Q Meaning --

15 A Somebody will experience impacts somewhere somehow in  
16 some value. I think I can go on the record and say  
17 that.

18 Q By impact, do you mean losses that cannot be  
19 recovered?

20 A I mean impacts, whether it's -- it can be any number  
21 of different way -- everybody defines impacts  
22 differently, and there will be impacts.

23 Q Are you meaning that impacts are not always  
24 compensable?

25 A Yes.

1 MS. KUNZE: Thank you. No further  
2 questions, Your Honor.

3 EXAMINER NEWMARK: Okay. Other cross? Go  
4 ahead.

5 REDIRECT EXAMINATION

6 BY MS. SILVER KARSH:

7 Q I just have a couple quick questions for you.  
8 Earlier Mr. Oliveira was asking you questions about  
9 socioeconomic factors.

10 A Yes.

11 Q And would you be able to tell me, where is  
12 socioeconomic factors such as effects on tourism or  
13 property values discussed in the EIS?

14 A They are discussed in a general way. It's the study  
15 that no specific study was done on any particular  
16 location.

17 Q And there were no monetary values assigned to those?

18 A No.

19 MS. SILVER KARSH: Thank you. I have no  
20 further questions.

21 EXAMINER NEWMARK: Thank you, ma'am.  
22 You're excused.

23 (Witness excused.)  
24  
25

1 MS. SILVER KARSH: I'd like to call Kathy  
2 Zuelsdorff to the stand.

3 KATHLEEN ZUELSDORFF, STAFF WITNESS, DULY SWORN

4 DIRECT EXAMINATION

5 BY MS. SILVER KARSH:

6 Q Good afternoon. Would you please state your name for  
7 the record.

8 A It's Kathleen Zuelsdorff.

9 Q And what is your position at the Commission?

10 A I am an environmental analyst in the gas and energy  
11 division, and I am also the WEPA coordinator for the  
12 agency.

13 Q And did you submit direct, rebuttal and surrebuttal  
14 testimony and five exhibits?

15 A Yes, I did.

16 Q And you also filed an errata sheet and uploaded that  
17 to ERF this morning; is that correct?

18 A Yes.

19 Q If I were to ask you the same questions today on the  
20 stand, would your answers be the same as they are in  
21 your testimony?

22 A Yes.

23 Q And is all the information in your exhibits true and  
24 correct to the best of your knowledge?

25 A Yes.

1 MS. SILVER KARSH: I have no additional  
2 questions. Ms. Zuelsdorff is available for  
3 cross-examination.

4 EXAMINER NEWMARK: Okay. Questions?

5 MR. POTTS: Sorry, we need to object to  
6 the errata that Ms. Zuelsdorff is filing because we  
7 think it will make the testimony confusing and we  
8 would rather do it on cross-examination because  
9 our -- the applicants' rebuttal responds to the MRA  
10 assertion, and so we would need to somehow correct  
11 our testimony and we think it would be a lot easier  
12 to just not do it via errata and just do it on the  
13 stand.

14 MS. SILVER KARSH: Why don't I just ask  
15 her that.

16 MR. POTTS: That's fine.

17 BY MS. SILVER KARSH:

18 Q Ms. Zuelsdorff, would you please clarify your  
19 surrebuttal testimony when you were discussing a  
20 change by use of a minor route modification process  
21 or MRA.

22 A Yes. I think it's in my surrebuttal testimony on  
23 page 4, lines 19 through 21, and I refer to a  
24 possible alternative alignment that needs further  
25 investigation. It was raised at the public hearings

1 in Warrens, and so we took that information in and I  
2 included it in my testimony. It needs further  
3 investigation because it's -- it involves new  
4 landowners and potentially new impacts that are not  
5 discussed in EIS. And so if that alternative  
6 alignment is found to be reasonable and possibly  
7 superior to the existing alignment, it would actually  
8 require reopening the docket to have that segment  
9 approved.

10 Q And I believe you had one additional clarification to  
11 make to your surrebuttal. I believe it's on page 8,  
12 lines 4 through 5, where you refer to a Federal  
13 Highway Administration document.

14 A Yes. It's actually a book that was written by two  
15 engineers at Purdue for transportation decision  
16 making.

17 MS. SILVER KARSH: Thank you. Now the  
18 witness is available for cross-examination.

19 MR. OLIVEIRA: I have one question, Your  
20 Honor.

21 EXAMINER NEWMARK: Okay. Let's just go  
22 off the record for a minute.

23 (Discussion off the record.)

24 EXAMINER NEWMARK: Any cross?

25 MR. POTTS: We don't have any cross.

1 MR. OLIVEIRA: I have one question.

2 CROSS-EXAMINATION

3 BY MR. OLIVEIRA:

4 Q For the record, Marcel Oliveira, CETF and SOUL.

5 Ms. Weiss testified that a project of this magnitude  
6 will invariably cause impacts. Would you agree that  
7 the purpose of an EIS is to identify as many of those  
8 as possible?

9 A Yes.

10 MR. OLIVEIRA: No further questions.

11 EXAMINER NEWMARK: All right. Redirect?

12 Oh, I'm sorry. Right. I forgot.

13 CROSS-EXAMINATION

14 BY MS. KUNZE:

15 Q Good afternoon, Ms. Zuelsdorff.

16 A Good afternoon.

17 Q Laura Kunze, self-representing. To what extent did  
18 your drafting of the EIS rely on the agricultural  
19 impact statement?

20 A Not really -- not to any extent. I did not draft  
21 that section.

22 Q In your direct testimony, page 2, lines 6 through 7,  
23 you state that you were responsible for drafting  
24 sections of the EIS regarding, among other subjects,  
25 airports and airstrips.

1 A Yes.

2 Q Have you reviewed the notice of hazard communications  
3 from the FAA contained in the application Appendix H?

4 A Yes.

5 Q Would you agree that there are over 1,300 pages of  
6 FAA communications in that appendix?

7 A Yes.

8 Q Is this a normal amount of notices or is this a  
9 significant number of notices and issues raised?

10 A I'm afraid I can't answer that question. This is a  
11 very lengthy project and there are a number of small  
12 airports and several larger airports along the  
13 project, and so I guess I'm not surprised that there  
14 are a number of determinations by the FAA.

15 Q The final EIS Appendix 11.3.5, airports and  
16 airstrips, did not reference Appendix H nor did it  
17 address the impacts on the airport if mitigation was  
18 necessary based on the issues raised in the notice of  
19 hazard. Will the PSC correct this?

20 A Can I turn to 11 --

21 Q Absolutely.

22 MS. WEISS: Page 382.

23 MS. KUNZE: Thank you.

24 A We did not reference Appendix H because it's a very  
25 lengthy and sort of complicated appendices. So

1 basically I took a lot of the wording that was  
2 actually in the applicants' text part of their  
3 application, the technical support document, and then  
4 some verbiage off of the FAA's sheet in Appendix H  
5 and just used the wording in this section. I am not  
6 an expert in airports and airstrips.

7 Q Okay. If we could refer to PSC reference 226545  
8 which I can hand to you. Are you familiar with my  
9 data request to the PSC with regard to Morey Field in  
10 Middleton?

11 A I guess not specifically.

12 Q Do you remember our conversation about it?

13 A I remember speaking with you on the phone, yes.

14 Q Have you seen PSC reference number 266545, it's Howe  
15 Exhibit 1 I believe it is. Is it appropriate now,  
16 Judge, to discuss those issues raised in that  
17 discovery request?

18 EXAMINER NEWMARK: I guess so. I mean, I  
19 don't know where you're going exactly.

20 A I would need a copy of that document or information.

21 BY MS. KUNZE:

22 Q I can simply ask you the question because I can't  
23 find it.

24 (Document tendered to the witness.)

25 EXAMINER NEWMARK: Let's go off the

1 record.

2 (Discussion off the record.)

3 EXAMINER NEWMARK: Let's get back on the  
4 record.

5 BY MS. KUNZE:

6 Q So in this document -- actually, Judge, it was on  
7 Wednesday I believe now. In this document, I've  
8 asked to provide topographical study as to Segment A  
9 as it pertains the height limitation ordinance for  
10 Morey Field due to the FAA's expression of concern  
11 for this area. Has a topographical study been  
12 conducted for this area of the project?

13 A To my knowledge, it has not. Could I clarify, are  
14 you talking about with respect to placement of  
15 transmission line structures?

16 Q Within specifically a height limitation ordinance  
17 zone.

18 A I don't believe the applicants have completed a  
19 topographical study within that airport limitation  
20 zone.

21 Q The FAA expressed concern about the instrumentation  
22 and low flight. What will the PSC do to understand  
23 the potential recommendations by the FAA?

24 MS. SILVER KARSH: I'd like to object. I  
25 think those might be questions better asked of the

1 applicants because they will be the ones to comply  
2 with FAA regulations or have discussions about what  
3 mitigations need to be conducted. I don't believe  
4 that's Ms. Zuelsdorff's expertise.

5 MS. KUNZE: Fair enough. I'll explain how  
6 it pertains to where I'm going, if that's okay.

7 Q So it is stated that the FAA has had some concerns,  
8 and the EIS goes on to explain that those concerns by  
9 the FAA will be allayed through studies conducted by  
10 the applicant when the route is chosen. The concern  
11 here is that might the FAA require a variance or  
12 lighting or markings because this location Segment A  
13 is within -- is 1.8 miles into this three-mile  
14 limitation zone?

15 A It's possible.

16 Q And might those recommendations affect the  
17 environment with lighting, markings, different pole  
18 structure affect the environment in the Segment A?

19 A Yes, it's possible it would.

20 Q So therefore to provide a more thorough analysis of  
21 the impact of that area, should we not investigate  
22 what the FAA might stipulate for that area?

23 A I believe the hazard sheets mention structure height  
24 limitations or lighting as possible mitigation  
25 measures.

1 Q And would possible lighting and other mitigation  
2 measures differently affect the environment of that  
3 area other than what's been detailed in this report  
4 for Segment A?

5 A Yes.

6 Q Were you here for Mr. Lorenz's testimony the other  
7 day?

8 A I listened to most of it, I believe.

9 Q Did you hear that he had mentioned that there are  
10 poles near Morey Field currently for transmission  
11 lines?

12 A Yes. I know there are.

13 Q Do you remember how tall those poles were around the  
14 airport, Morey Field?

15 A No, I do not.

16 Q I believe he said the poles were 65 feet. But the  
17 objective was to point out that lighting isn't always  
18 required, that sometimes other measures are required,  
19 and this one was a height requirement. Are these  
20 65-foot poles and something of this structure listed  
21 in Appendix A as a possible pole structure for  
22 Segment A or for any of this project?

23 A I wouldn't know without consulting Appendix A.

24 Q The presence of a transmission line changes then the  
25 inherent and continued operation at Morey Field.

1           There are mitigation impacts and impacts not subject  
2           to mitigation that can alter the use and character of  
3           the airport. Where in the EIS are these potential  
4           impacts considered?

5       A     I guess I don't understand the question. I don't  
6           know if -- the statement you read, where that came  
7           from.

8       Q     I guess in speaking to -- well, even just listening  
9           and speaking to the Department of Transportation,  
10          aeronautic engineer, I can represent that I had that  
11          conversation and it's not uncommon for a variance to  
12          be filed --

13                   MR. POTTS: I guess I'm going to object to  
14           that. I think we've been over this before.

15           Ms. Kunze can't introduce technical evidence from  
16           someone she talked to that we can't cross-examine.

17                   EXAMINER NEWMARK: Sustained.

18       BY MS. KUNZE:

19       Q     Hypothetically could a variance be filed to mitigate  
20           the pole issue such that the flight approach and  
21           departure of aircraft would be changed, made safer?

22       A     It's possible.

23       Q     And might that change affect potentially pilots who  
24           desire to use that airport?

25       A     It's possible.

1 Q If they choose not to use that airport, could that  
2 not affect the business at Morey Field, a/k/a  
3 Middleton Municipal Airport?

4 A It could.

5 Q Were those impacts on business considered and  
6 analyzed in the EIS?

7 A No, they were not.

8 Q Give me a moment, please, to figure out where I'm at.

9 A Sure.

10 Q If we can switch to page 381 in the Environmental  
11 Impact Statement. It states that no known  
12 recreational paths are identified on Segment A.

13 A Yes.

14 Q I don't know if you were here earlier, are you  
15 familiar with an exhibit that was distributed  
16 yesterday which detailed a DNR-coordinated  
17 conservation area and nature segment in Segment A?

18 A I'm not aware of that from yesterday.

19 MS. KUNZE: Should I distribute that or do  
20 we rely on future reference to that document, Judge?  
21 I don't know how to proceed.

22 EXAMINER NEWMARK: Well, I can show you  
23 your Exhibit 2. This is what you're talking about,  
24 right?

25 MS. KUNZE: Um-hmm. Thank you.

1 EXAMINER NEWMARK: That's got the  
2 reference in it.

3 (Document tendered to the witness.)

4 BY MS. KUNZE:

5 Q It for all intents and purposes detailed that the DNR  
6 was involved in coordinating a prairie conservation  
7 segment within the subdivision. Was that included in  
8 the Environmental Impact Statement?

9 A No, it was not. But we actually rely on local  
10 landowners to inform us of smaller properties that  
11 may be being specially managed. I don't know if this  
12 information came in prior to the drafting of the EIS  
13 or if this is the first time that this information  
14 has been brought forward, but we rely on local  
15 landowners to provide information such as this as  
16 early in the process as possible.

17 (Discussion off the record.)

18 Q How do you express that information then from the --  
19 you're relying on people to come to you. How would  
20 residents know that they are supposed to come to you  
21 for this type of information?

22 A We send a number of mailings. We had -- we send --

23 EXAMINER NEWMARK: This has been covered,  
24 our public participation process.

25 A Through our public participation process. We sent

1 letters to everybody regarding the public scoping  
2 meetings. We were at the meetings, basically trying  
3 to interact with local landowners. And then after  
4 the draft EIS was presented and published, again, we  
5 solicited another letter telling people that it was  
6 available and requesting comments on the draft EIS to  
7 clarify or tell us of any incompletenesses or -- so,  
8 and then the final EIS. So we try to communicate  
9 with the public at several opportunities and then we  
10 also hold the public hearings.

11 BY MS. KUNZE:

12 Q Are you aware of the many public comments stating --  
13 from the residents in that area stating that the  
14 residents in the neighborhood used the path and the  
15 road along Bronner and Koch as a regularly traveled  
16 jogging and walking and biking path?

17 MR. POTTS: Objection, can you point to  
18 the specific comments you're talking about?

19 MS. KUNZE: Do I have to --

20 EXAMINER NEWMARK: Just -- let's let the  
21 question stand. I'm sure there are some.

22 MS. KUNZE: Several.

23 A I mean, I remember many comments about people  
24 walking, hiking, pushing strollers and biking on  
25 Bronner Road in that area.

1 Q Thank you. Are you aware that these residents  
2 expressed specific health and other concerns related  
3 to walking, biking, jogging, directly under the  
4 proposed line?

5 A Yes.

6 Q EIS page 380 states that residential property owners  
7 will experience the greatest visual impact associated  
8 with the new transmission line on Segment A. But the  
9 presence of existing transmission lines in the  
10 immediate area mitigate this adverse impact to some  
11 extent. How have you arrived at that conclusion?

12 A Because there is an existing transmission line there,  
13 they are used to seeing the poles and the conductors  
14 and some semblance of cleared right-of-way beneath  
15 the line. Whereas on a brand new right-of-way, it  
16 would be -- this would be a -- it's viewed as an  
17 incremental impact rather than constructing a  
18 transmission line on a brand new right-of-way which  
19 would be a new impact.

20 Q Have the public comments you have read on that topic  
21 indicated that they would be used to and accepting of  
22 seeing the high voltage lines in place of the 138  
23 kilovolt lines?

24 A No.

25 Q Same question in reference to the double circuiting

1 of the existing 138 kilovolt with the proposed 345.  
2 While taller and more visible on the landscape, the  
3 straighter alignment and relocation farther away from  
4 the homes would improve the overall aesthetic  
5 experience of these homeowners. Is that something  
6 they determined, that it would improve their overall  
7 experience?

8 A I said it could improve the overall experience.  
9 Because the 138 jogs off of a line and goes west and  
10 then south and then back east again, I assumed that a  
11 straighter line could improve the aesthetics of the  
12 area.

13 Q Might you also agree conversely that the replacement  
14 of a lower voltage, lower visibility, lower impact  
15 138 kV line is very different than that of a much  
16 larger, much more obtrusive 345 kV line that hums and  
17 crackles, will there be a difference?

18 A Yes.

19 Q Have the other comments you've read indicated an  
20 acceptance and approval of the high voltage 345  
21 replacement?

22 A No.

23 Q How are property owners compensated for their loss or  
24 potential loss of property value?

25 A That's through an appraisal and easement process that

1 the utility conducts with the affected landowner. So  
2 I'm not directly involved in that process and I'm not  
3 informed on all aspects of that acquisition process.

4 Q Are there times when the differences in property  
5 value cannot be, hypothetically, appropriately  
6 mitigated or compensated?

7 A Yes.

8 MS. SILVER KARSH: I'm going to object  
9 because I think that again is out of  
10 Ms. Zuelsdorff's area.

11 BY MS. KUNZE:

12 Q Overall, Ms. Zuelsdorff, your analysis and your  
13 thorough reading of public input, would you say that  
14 the residents, the densely populated, more densely  
15 populated area have welcomed the opportunity of this  
16 345 kilovolt line?

17 A No, they did not.

18 Q Would you say they are very much against the proposed  
19 Badger Coulee line in Segment A in their highly  
20 densely populated area?

21 A Yes.

22 MS. KUNZE: Thank you. I have no further  
23 questions, Your Honor.

24 EXAMINER NEWMARK: Okay. Redirect.

25 REDIRECT EXAMINATION

1 BY MS. SILVER KARSH:

2 Q Just a question or two. How did the impacts differ  
3 between Segments A and B?

4 A The two segments are quite different. Segment A  
5 mostly follows an existing transmission line  
6 right-of-way. It's more densely populated than  
7 Segment B. But there are actually fewer homes within  
8 300 feet of the centerline. The line would likely be  
9 more visible to more people on Segment A versus  
10 Segment B. But there are more homes within close  
11 proximity to the line on Segment B and Segment B  
12 would be mostly new right-of-way that would be cut  
13 through hilly topography and through a mostly wooded  
14 landscape. There are very clear differences between  
15 the segments and the EIS is just trying to present  
16 those differences.

17 Q So you wouldn't say that one has necessarily greater  
18 impacts than another, their impacts are different?

19 A Their impacts are very different, right.

20 MS. SILVER KARSH: I don't have any  
21 further questions.

22 EXAMINER NEWMARK: Okay. Thank you,  
23 ma'am. You're excused.

24 (Witness excused.)

25 EXAMINER NEWMARK: All right. Yes.

1 MR. POTTS: I have an administrative item.  
2 The prehearing conference memo requires all of us to  
3 file within three days of receiving the transcript  
4 corrections. Could we change that to five days  
5 after the hearing?

6 EXAMINER NEWMARK: Yes. You beat me to  
7 that.

8 MR. POTTS: Because some of them have  
9 already come in.

10 EXAMINER NEWMARK: Right.

11 (Discussion off the record.)

12 EXAMINER NEWMARK: Let's put that on the  
13 record. We'll change the deadline for transcript  
14 corrections to three days after the last transcript  
15 is served on the parties. Let's go off the record.

16 (Discussion off the record.)

17 EXAMINER NEWMARK: Let's get on the  
18 record. Let's say if there is a request for  
19 expanding the reply brief page limits from 30 pages,  
20 that the response to that motion would be two  
21 business days, okay, and then do we need reply to  
22 the motion as well? Let's make that one day if you  
23 need to reply. Okay. And if you want to speed up  
24 that process, just get the brief in earlier so we  
25 know what your take is on that.

1 MR. POTTS: We can assume under the  
2 prehearing conference memo if no one responds within  
3 two days then it's granted?

4 EXAMINER NEWMARK: Then it's granted,  
5 yeah. Well, I'll -- okay, yeah, if I don't...  
6 Let's go off the record.

7 (Discussion off the record.)

8 EXAMINER NEWMARK: Let me say on the  
9 record we'll deal with whether -- we'll deal with  
10 granting that motion when it comes. So it won't be  
11 automatically granted.

12 MS. JACKSON: Your Honor, I'm Amanda  
13 Jackson for the City of Onalaska. I had some  
14 transportation issues on the first day and I didn't  
15 get my appearance entered.

16 EXAMINER NEWMARK: Let's go off the  
17 record.

18 (Discussion off the record.)

19 EXAMINER NEWMARK: Let's get on the  
20 record. Thanks, everybody, for your participation  
21 and your patience and the hard work. I appreciate  
22 it. I think the record has benefitted greatly. So  
23 we'll look forward to seeing your briefs.

24 (The hearing adjourned at 3:00 p.m.)  
25

1 STATE OF WISCONSIN )

2 MILWAUKEE COUNTY )

3  
4 We, JENNIFER M. STEIDTMANN, RPR, CRR, and LYNN  
5 M. BAYER, RMR, CM, Reporters with the firm of Gramann  
6 Reporting Company, 740 North Plankinton, Suite 400,  
7 Milwaukee, Wisconsin, do hereby certify that we reported  
8 the foregoing proceedings, and that the same is true and  
9 correct in accordance with our original machine shorthand  
10 notes.

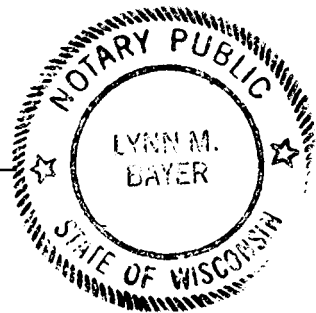
11 DATED THIS 12th DAY OF January, 2015.

12  
13 *Jennifer Steidt* -  
14 \_\_\_\_\_

15 JENNIFER M. STEIDTMANN, RPR, CRR

16  
17 *Lynn M Bayer*  
18 \_\_\_\_\_

19 LYNN PEPPEY BAYER, RPR, CM



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