

1
2
3
4
5
6 **OFFICE OF THE HEARING EXAMINER**
7 **SKAGIT COUNTY**

8 *In re:*)
9 Application for Mining Special Use) Cause Nos.: PL16-0097, PL16-
10 Permit and Forest Practices Permit by) 0098, PL22-0142
Concrete Nor'West/Miles Sand and)
Gravel,)
11 and) PERMIT HEARING 9-2-22 9:00 AM
Appeal of Mitigated Determination of)
12 Significance by Central Samish Valley)
Neighbors)
13

14 Transcription Date: April 22nd, 2024

15 Present: Andrew Reeves, Mona Kellogg, Jason D'Avignon, Tom Ehrlichman, Bill
16 Lynn, Kyle Loring, Gary Norris, Kevin Cricchio, Unidentified Female 1,
17 Unidentified Male 1

18 REEVES: The audio.

19 KELLOGG: Can you hear me?

20 REEVES: Yes, yes, I can. Is that Mona?

21 KELLOGG: Good morning. Yes, it is. Good morning.

22 REEVES: Good morning. I see Jason D'Avignon, I think that's his
23 microphone.

24 D'AVIGNON: Uh, good morning, Mr. Examiner.

25 REEVES: Good morning. And I see Tom Ehrlichman.

1 EHRlichman: Good morning.

2 REEVES: Bill Lynn, I see him if we can test his audio?

3 MALE 1: John Semrau, isn't it?

4 FEMALE 1: Can you turn down your volume for a sec? Audio. Turn it off.

5 REEVES: And, Bill Lynn, I just wanted to check your audio, your mic?

6 LYNN: Uh, can you hear me? I'm here. Good morning.

7 REEVES: Good morning. I can hear you just fine. And then, looking for
8 Kyle Loring. Oh, good, you got the memo, purple tie. Kyle Loring, are you
9 there?

10 LORING: Yes, I am, yeah. Thank you for sending that. I wasn't aware if
11 everybody else was on the email of the time.

12 REEVES: To be clear, I did not [inaudible] related to wearing a purple
13 tie today. It's, it's purely a coincidence, I promise. Okay. Um, I think, and
14 I see Mr. Norris, who I think we're starting with, after we deal with a few
15 procedural matters. So, I think we can go ahead and start the recording,
16 Mona.

17 KELLOGG: All right. It's started.

18 REEVES: Okay. Get my gavel out and make it official. And good morning.

19 I'm going to go ahead and call this session of the Skagit County Hearing
20 Examiner back to order. For the record, today is ni-, September 2nd, 2022.

21 It's after 9:00 a.m. And we are here on Day 3 of the, uh, Miles Sand and

22 Gravel, uh, Special Use Permit and Central Samish Valley Neighbors, uh, SEPA

23 Appeal. And we, again, it's Day 3, I think we all know what's happening. So,

24 I will keep my opening, uh, remarks brief, but for the record, this is Andrew

25 Reeves, serving as the Hearing Examiner. And, uh, we had some procedural

1 matters that sort of came up between, I guess it was Monday, I think, the
2 last day we were together, Monday or Tuesday and today. So, I just wanted to
3 deal with those first. I know that Attorney Tom Ehrlichman had filed, uh,
4 looks like just filed something last minute, but, uh, Mr. Ehrlichman, maybe
5 you can explain? I know one of the matters was sort of a pre-emptive filing
6 as it were, but maybe you can tell us what, what your thoughts are?

7 EHRLICHMAN: Uh, Mr. Examiner, I did just send out an email that has an
8 Exhibit, which is a letter from Neil McCloud, and he is, I think, in the
9 batter's box at some point at your pleasure, uh, to testify today, uh, out of
10 order, if you will, for presentation of our case. The other filing I did was
11 after the discussion on Monday about whether the auto-turn analysis should be
12 introduced into the record.

13 REEVES: And just to clarify what happened there, uh, we had a witness, as
14 part of the Applicant's case, that referenced a study that does not appear
15 to, thus far, be in the record. And, uh, Mr. Lynn was discussing the
16 potential of introducing that and I believe Mr. Loring, uh, had an objection
17 and Mr. Ehrlichman, uh, wanted it in the record so then they're sort of on
18 other opposing sides at the moment. But, uh, let me start with, uh, I guess,
19 Mr. Loring, 'cause he has the objection as it were. So, were you able to see
20 Mr. Ehrlichman's motion and...

21 LORING: I did, yes, thank you, Mr. Examiner, I, I was able to review his
22 motion. Uh, for the SEPA Appeal purposes, Central Samish Valley continues to
23 object to the entry of that document. Um, obviously, we've got a bit of a
24 combined hearing, uh, consolidated with the Special Use Permit hearing and
25 SEPA, uh, but our position continues to be that the County was required to

1 make its threshold determination based on all information before that time
2 and that this would be late information and can't somehow cure the
3 information that the County had in front of it while it was reviewing whether
4 this, uh, project was significant. And the, you know, there are issues under
5 SEPA, of course, uh, the case law is pretty cl-, is clear that the County
6 officials are required to issue that threshold determination based on the
7 information at that time. Uh, there's also the secondary layer and, and I
8 have not briefed this and I have not fully investigated this to be candid,
9 but there's also the procedural due process matter where the public has not
10 had an opportunity to review materials like this that might somehow be used a
11 part of a new threshold determination or to, or to ad hoc justify that
12 previously issued MDNS in this matter as well. And so that's a significant
13 one for my client, uh, to not have had that opportunity to review it. Or for
14 the public to have had the opportunity to review it and provide comments as
15 part of the SEPA process, in particular. So, for...

16 REEVES: Sure.

17 LORING: So, for SEPA purposes, we continue to object to it being entered
18 as part of this, uh, hearing or for that review.

19 REEVES: Got it. I, I mean, these things do happen sometimes and I, I
20 certainly acknowledge that temporal problem, as it were, which is, you know,
21 new information that comes in after a determination is made, clearly was not
22 made as part of that determination. That part makes sense. In terms of the
23 SUP itself, uh, you know, which is the other part of this hearing,
24 frequently, new information comes in up to and during the hearing and if
25 it's, there's enough or a certain quantity or quanta, as it were, I'll

1 sometimes solve that by leaving the record open for a week or two to allow
2 additional thoughts. But, as a general rule, just like public comments that
3 come in, you know, I generally let them during testimony. I'll let Bill Lynn,
4 uh, speak to this as well?

5 LYNN: Well, I, I may have kind of created more of this than needs to be
6 made, uh, by suggesting that this was some big report. Uh, for the record
7 and, and I'm, Mr. Norris is a far better person than I am to elaborate on
8 this, but basically auto-turn is a computer program, uh, into which you
9 provide, uh, inputs and you get an out, the output is then really used to
10 design improvements that will allow a truck to pass through, uh, the road as
11 improved. So, it's really just a computer output. Um, I note that there is a
12 similar condition relating to the S-curves on Prairie Drive, even though that
13 auto-turn analysis is not part of the record. There's just a condition that
14 requires improvements consistent with the auto-turn analysis. And so,
15 frankly, why anybody would need to look at this is kind of beyond me, unless
16 you're a Traffic Engineer. Um, I think I had made the point that I don't
17 think we have an objection to it being reviewed, but I, I think the, it
18 should, somebody is not muted..

19 REEVES: Quite a bit of feedback.

20 LYNN: Yeah. Uh, uh, the condition could be added or the Applicant can
21 add it as an element of its proposal, uh, without the necessity for it to be
22 reviewed now. It really is engineering detail that is, uh, commonly and more
23 appropriately reviewed at the design stage, um, and [inaudible].

24 REEVES: Hello?

25 LYNN: So, somebody just exited and we got an announcement.

1 REEVES: Okay. So, [inaudible] what about the idea that it could be
2 included as an Exhibit related to the SUP, but not considered in relation to
3 SEPA?

4 LYNN: Uh, I, I absolutely think it should be considered as part of the
5 SUP, at least the Proposal. I think we could argue and potentially brief, I
6 guess, whether or not the Examiner has the authority to impose conditions,
7 uh, through the SEPA Appeal. I'm just, I'm just not prepared to talk about
8 that because I really haven't thought about it and we're not really there
9 yet. But, certainly think it should come in and there's no temporal issue in
10 relation to the Special Use Permit.

11 REEVES: Okay. So, I, I would, sorry, Jason, uh, D'Avignon, do you have
12 any thoughts, I apologize?

13 D'AVIGNON: No, that's fine. I, I would tend to agree with Bill that, at this
14 point, for the SUP, I think it goes directly to any possible conditions that
15 the Hearing Examiner could impose. Uh, certainly, uh, Mr. Loring is correct
16 that we can't use new information to pretend like we knew more than we did
17 when we made the determination. Um, it may be that it would be useful in, if,
18 to the extent the Hearing Examiner can amend the conditions of the MDNS. Um,
19 I think to Mr. Lynn's point, that's, I think a bigger issue that we're not
20 really prepared to deal with, at this point.

21 REEVES: Okay.

22 D'AVIGNON: But it certainly should be admitted for the Special Use Permit.

23 REEVES: Yeah. I guess in my mind, my, my ruling would be to allow it in
24 in terms of the SUP because that's a, sort of new decision that I, myself, am
25 going to have to make. Um, disallow it in terms of the SEPA process. And if

1 someone wants to, you know, submit a supplemental brief on that, I welcome
2 it, but, but that would be my ruling, uh, at the moment. So, Mr. Loring, any
3 thoughts on that?

4 LORING: I, I think that ruling makes sense, Mr. Examiner. Uh, to the
5 extent it is allowed to come in through the SUP process, uh, we would ask for
6 the opportunity to provide supplemental comment, uh, from the public, or from
7 my clients, afterwards. That may not even occur, but obviously having a
8 window open for that, uh, would be important.

9 REEVES: I strongly suspect the record is going to end up being left
10 opened, uh, for supplemental things to happen. So, I have no issue with that.
11 So, that would be my ruling, essentially, at the moment, we'll bring this in
12 as a yes, oh, sorry, Mr. Lynn, did you still want to bring this in? I should
13 have asked that to start.

14 LYNN: Yeah. It, it actually wasn't me who suggested it. I think, uh,
15 there was a question from Mr. Ehrlichman about it, uh, and whether or not I
16 could be made available and I said, yes. But it's not my proposal to bring it
17 in. My proposal, for purposes of this, would be to take the same condition
18 that's already in the record about the S-curves on Prairie and just
19 substitute Grip [inaudible] that we actually submit the design as part of the
20 condition, just that the Applicant's commitment to make the improvements be
21 part of the record. But, uh, I'll do that more formally so I actually propose
22 wording to you as opposed to just rambling about it on a Friday morning.

23 REEVES: Okay. At a minimum, I'm just trying to get an Exhibit number and
24 would you be okay with it, that information coming in? You had, I, I
25

1 understand that there was a back and forth that occurred, but, um, I think
2 for simplicity sake, having it come in at this point would be easiest.

3 LYNN: Uh, so, why don't I find out what form it takes and then I, then
4 we can all have it in front of us and look at it? But I, I, at this point, I
5 don't know whether it's a bunch of ones and zeroes or whether it's, uh, an
6 actual record. So, let me talk to Mr., Mr. Norris and, and Mr. Semrau and
7 we'll find out what, whether there is a product you can actually look at.

8 REEVES: There we go, so the concern is that it may look like a function
9 on a calculator, or something to that effect, versus a TIA that we can look
10 at, so you're going to look into that?

11 LYNN: Right.

12 REEVES: I assume Mr. Ehrlichman will remember to remind us, uh, before
13 too long that, that you looked into that, does that make sense?

14 LYNN: And, and, and just one, one more thing, if might, Mr. Norris on
15 the stand, he can certainly ask him what it looks like so we can all hear it
16 at once. And I, that might be good to be included in the record anyway.

17 REEVES: Excellent. Okay. So, I believe, then, Mr. Ehrlichman, that
18 addresses your motion, is that right? I mean, obviously we're going to close
19 the loop, but...

20 EHRLICHMAN: Mr. Examiner, I'm going to go with the flow here, yes.

21 REEVES: I appreciate it. So, and then in terms of the additional
22 information, just to be clear, that you provided recently, it sounded, oh,
23 wait, hold on. Is there any new information here?

24 EHRLICHMAN: Are you asking me a question?
25

1 REEVES: I apologize, yes, that was intended to be directed toward you,
2 Mr. Ehrlichman.

3 EHRLICHMAN: Um, whether there's any new information that we're presenting?

4 REEVES: Right. In the email that was sent right as we were starting.

5 EHRLICHMAN: Oh, I'm sorry. Yes, our request was that Neil McCleod be, um,
6 able to testify today as he is traveling next week. And so, we, uh, submitted
7 his letter to you that is part of his testimony or that summarizes his
8 testimony today.

9 REEVES: Got it. Okay. And, and is this the witness you previously
10 identified as having a scheduling conflict?

11 EHRLICHMAN: Correct.

12 REEVES: Okay. I think everybody agreed to that. So, I think after we
13 finish with Mr. Norris, I have no issue moving out of order for this, this
14 witness and, um, just to be clear, Mr. Lynn, do you have anyone that needs to
15 go out?

16 LYNN: Uh, no, our wetland person, uh, is only available this afternoon,
17 uh, and, but I think we'll, we'll get to her in time.

18 REEVES: We better.

19 LYNN: Yeah. Well, and we can, uh, what I, what I meant to say is we can
20 fill the time until we get to her so, there's no need to create a gap in the
21 hearing.

22 REEVES: Sure. I mean, we can take another witness if need be, I don't
23 know if we need to fill the time with just one or two, maybe we can get three
24 in, but, you know...

25 LORING: I was...

1 LYNN: A filibuster.

2 LORING: I was going to say, you know, Central Samish Valley would be
3 happy to put on a, a witness or two if we get to the point where that were
4 necessary and then take Ms. Porter after that.

5 REEVES: Excellent. Okay. Um, anything else, uh, we'll go round robin,
6 that I need to address before we return to, uh, Mr. Ehrlichman's conclusion
7 and cross-examining Mr. Norris. I'll start with, Mr. Ehrlichman?

8 EHRLICHMAN: Thank you, Mr. Examiner, Tom Ehrlichman, Attorney for Cougar Peak
9 LLC, party to the Special Use Permit proceeding. And, uh, we are asking
10 questions of the Applicant's traffic witnesses and the Applicant, um, as
11 presentation of our case in chief. Um, and Mr. Norris has, uh, been
12 testifying, uh, in response to our questions, which we very much appreciate.
13 So, we'll pick up from there. Um, does the witness need to be sworn in again
14 or is that all taken care of?

15 REEVES: I was going to do a quick round robin to make sure none of the
16 Attorneys had anything they wanted me to deal with first. In terms of Mr.
17 McCleod, uh, we'll deal with the, the potential additional Exhibit when you
18 bring him on, okay?

19 EHRLICHMAN: Oh, thank you. I, I misunderstood.

20 REEVES: That's okay. Uh, next, I'll go to Bill Lynn?

21 LYNN: Uh, nothing.

22 REEVES: Okay. Jason D'Avignon?

23 D'AVIGNON: Uh, nothing from me, Mr. Examiner.

24 REEVES: And Kyle Loring?

1 LORING: Uh, nothing directly as part of our case. But I do note that, uh,
2 Mr. Lynn circulated a couple of documents that he's proposing to enter as
3 Exhibits, and, uh, and I don't think that Central Samish Valley will have
4 objection to those, but we would like the opportunity to question Mr. Barton
5 about the document that has been, uh, characterized as a policy on inclement
6 weather.

7 REEVES: Got it. So, that would r-, that would entail recalling the
8 earlier witness, is that right?

9 LORING: Yes. It would and, and I don't anticipate lengthy questioning,
10 but certainly a couple of questions.

11 REEVES: Sure. And Mr. Lynn, is Mr. Barton here today?

12 LYNN: Uh, yes, he is.

13 REEVES: Okay. So, with that, uh, why don't we go to Mr. Ehrlichman to
14 conclude his, uh, cross-examination, as it were, of Mr. Norris and I will
15 swear in witnesses again because it's confusing otherwise. So, Mr. Norris, do
16 you swear or affirm to tell the truth in the testimony you give here today?
17 Oh, we have to unmute you.

18 NORRIS: I do.

19 REEVES: Excellent. And one more time if you can just state and spell your
20 name for the audio?

21 NORRIS: My name is Gary A. Norris, G-a-r-y A N-o-r-r-i-s.

22 REEVES: Okay. Thank you so much for being here. So, go ahead, Mr.
23 Ehrlichman.

24 EHRLICHMAN: Thank you, Mr. Examiner. Uh, good morning, Mr. Norris.

25 NORRIS: Good morning, Mr. Ehrlichman, how are you today?

1 EHRlichman: I'm doing well. Thank you. I hope the same for you.

2 NORRIS: I am.

3 EHRlichman: Uh, thank you again for your testimony on Monday. Um, as you
4 know, uh, my clients are concerned about safety on Grip Road and so I'm going
5 to ask you some, uh, questions that will zero in on, uh, what type of
6 analysis the Applicant did with respect to, um, the shoulders and crossovers.
7 All of my questions, um, focus on those. And we are not, uh, zeroing in on
8 the intersections. I just wanted to explain that as a preface. So, if your
9 answers could, um, be, be focused on that, that narrow scope as well, that
10 would be, um, much appreciated. Um, we left off where we were kind of
11 bouncing around, in my view, on this question of the 60 trips per hour. And I
12 want to just ask you, um, for clarification, um, w-, was it your testimony
13 that the 60 trips per hour estimate, uh, was not the figure, or the average
14 used for your trip analysis or your safety analysis?

15 NORRIS: No, it was not.

16 EHRlichman: Okay. And as I understood it, your testimony was that you used an
17 average of 46 trips per day between, um, I'll just ask that, was that the
18 scope of your traffic, um, analysis?

19 NORRIS: Uh, the term scope is not the correct term, the scope of our
20 analysis was much more broad and extensive than that.

21 EHRlichman: Uh-huh.

22 NORRIS: What was, uh, determined as the 46 came from basic assumptions
23 that were provided by the Applicant in regards to, uh, the amount of material
24 they anticipated mining per year and, uh, spreading that over a five-day week
25 with a 10-hour a day operation led us to that number.

1 EHRlichman: Thank you. I appreciate the clarification. And that is 23 loaded
2 trucks and 23 empty trucks per day, correct?

3 NORRIS: That's correct.

4 EHRlichman: So, the traffic analysis that you did was based on the 46 trips
5 per day, um, not the 60 trips per hour, which is a higher number, correct?

6 NORRIS: That is correct.

7 EHRlichman: Okay. And was it also your testimony that when you looked at
8 safety issues related to Grip Road, shoulders and crossovers, you also looked
9 at it through the lens of 46 trips per day, rather than the higher number?

10 NORRIS: Well, there's no, uh, direct relationship, other than exposure
11 for the volume of trips. The issue with the, uh, encroachment was a geometry,
12 roadway geometry issue, uh, that we were trying to, um, reduce the potential
13 for these trucks to, uh, maneuver off the roadway while they were going
14 through these curves.

15 EHRlichman: Understood. Would you agree that the risk, strike that, would you
16 agree that the potential for crossovers is greater if Grip Road has 60 truck,
17 trips, excuse me, Grip Road has 60 truck trips per hour as opposed to the 4.6
18 trips per hour under the lower number?

19 NORRIS: Uh, the potential for any one truck to go over is, uh, no
20 different.

21 EHRlichman: Let me ask it a different way, if you're driving your car on Grip
22 Road wouldn't you, um, be exposed to, let me, strike that. So, the, the
23 hypothetical here is that trucks may tend to crossover, I believe you
24 identified that as a risk in your, um, Exhibit 18, I think it was, your, um,
25 November 2020 report, isn't that correct?

1 NORRIS: In the, um...

2 EHRLICHMAN: September.

3 NORRIS: September?

4 EHRLICHMAN: 2020, yes, thank you. You did a Traffic Impact Analysis on
5 Exhibit 18 dated September 10th, 2020, correct?

6 NORRIS: Correct.

7 EHRLICHMAN: And you identified crossover as a risk, did you not?

8 NORRIS: Correct.

9 EHRLICHMAN: On Grip Road?

10 NORRIS: Correct.

11 EHRLICHMAN: Okay. So, my question is, if you're in a car traveling on Grip
12 Road, aren't you going to be exposed to a higher risk if you're at the 60
13 trucks per hour as opposed to the 4.6 per hour? I mean, it's...

14 NORRIS: Mr. Ehrlichman, with all due respect to your questioning, uh,
15 it's my understanding the Applicant has already agreed to widen the road
16 sufficiently to eliminate that potential occurrence. So, I don't, it doesn't
17 matter what the volume is, the potential for that occurrence has been
18 eliminated through the, uh, redesign of the road to provide these, uh, extra
19 lane, extra widening to accommodate the truck. And just, just to stay a
20 little bit about the, uh, auto-turn, as it seems to be a big point of
21 discussion here...

22 EHRLICHMAN: Mr., Mr. Norris, could, could we, Mr. Examiner, could I ask the
23 witness to reserve the auto-turn discussion for some questions on that? I do
24 have some specific to that if we can group those in one grouping. I don't
25 want to cut off the witness, but...

1 REEVES: Okay. I'll cut off the witness. Mr. Norris, if you could just
2 wait on the auto-turn...

3 NORRIS: Sure.

4 REEVES: Apparently we'll come to that shortly.

5 NORRIS: Not, not a problem.

6 EHRLICHMAN: Yeah. Thank you, Mr. Norris. So, I understand why you object to
7 the question, but I still need the question answered, the risk is higher,
8 isn't it, at 60 trucks per hour?

9 NORRIS: No, the risk of any one truck is the s-, is the same.

10 EHRLICHMAN: I'm sorry, the risk to a, uh, traveler on Grip Road is higher the
11 more trucks you have on the road, right?

12 NORRIS: The potential conflict between vehicles is higher, but the
13 potential for the truck to maneuver off the road is not any higher than it is
14 one truck versus 60 trucks.

15 EHRLICHMAN: Is it your testimony that the crossover risk will be completely
16 eliminated by the new mitigation on Grip Road that the Applicant is
17 proposing?

18 NORRIS: Uh, could you restate that question, please?

19 EHRLICHMAN: The Applicant, you, you just now testified that the Applicant is
20 proposing mitigation on Grip Road that you believe reduces that risk to an
21 acceptable level, is that a fair paraphrase of your testimony?

22 NORRIS: It's, that's not what I said at all. What I said...

23 EHRLICHMAN: Okay.

24 NORRIS: It eliminated, eliminates the potential. So it eliminates the
25 risk of a crossover and run off the road, so...

1 EHRlichman: Okay. So, your testimony is that the mitigation proposed by the
2 Applicant will completely eliminate the risk of crossover?

3 NORRIS: Correct.

4 EHRlichman: Okay. And is the Applicant proposing to widen Grip Road in the
5 entire 0.7 miles between the mine and Prairie Road?

6 NORRIS: No.

7 EHRlichman: Okay. Do you know how many locations they're proposing to widen
8 the shoulder?

9 NORRIS: It's through the, uh, Grip Road curves and through the Prairie
10 Road curves.

11 EHRlichman: Oh, okay. We're just talking about Grip Road here right now,
12 okay? So, the Applicant is not proposing to widen all of Grip Road between
13 the mine and Prairie Road, correct?

14 NORRIS: Is not intending to widen the road between Grip and Prairie?

15 EHRlichman: No, between the mine entrance and Prairie Road, the Applicant is
16 not proposing to widen the entirety of Grip Road, is it?

17 NORRIS: No.

18 EHRlichman: Okay.

19 NORRIS: No, they're not.

20 EHRlichman: So, can you identify for us exactly where the Applicant is
21 proposing to widen Grip Road?

22 NORRIS: It's at the, uh, Grip Road curves there, um, west of the mine
23 site.

24 EHRlichman: And how many curves is that?

25 NORRIS: Uh, hang on a second, I have to check that out.

1 EHRlichman: Or, let me ask it this way, is it, are they going to widen Grip
2 Road at all curves between the mine entrance and Prairie Road, that segment?

3 NORRIS: We're going to go backwards here because the, uh, determination
4 of where to widen the road was based upon the auto-turn analysis.

5 EHRlichman: Okay.

6 NORRIS: So, wherever auto-turn dictated that the trucks had the potential
7 of...

8 EHRlichman: Okay.

9 NORRIS: Uh, crossover or going into the shoulder, that's where the road
10 is going to be widened.

11 EHRlichman: Fair enough. We'll, we'll come back to that, then. Thank you for
12 identifying that as, um, but you don't know, uh, without getting into that
13 discussion, how many curves are going to be widened?

14 NORRIS: [Inaudible] the exact, the exact spots I don't have, uh,
15 specifically...

16 REEVES: Mr. Norris, I apologize to cut you off. Hopefully it wasn't just
17 me, but I missed about three seconds, five seconds of what you were just
18 saying, can you try that one more time?

19 NORRIS: Uh, the question was, uh, where was the Applicant intending to
20 widen Grip Road. And it's basically where the go-, or where the auto-turn
21 analysis indicated that the trucks would encroach either on the center line
22 or on the shoulder of the road.

23 EHRlichman: Right. And then my follow-up question was, without getting into
24 the auto-turn discussion, you don't know how many curves will be widened on
25 Grip Road?

1 NORRIS: Uh, hang on a second.

2 EHRLICHMAN: Just, if you know the number?

3 NORRIS: I don't have the exact number in front of me, no.

4 EHRLICHMAN: Okay. That's fine. Thank you. I just wanted to try to get the
5 quick picture and then ask some questions about this. So, um, the, the
6 question of risk on Grip Road, risk as injury to another driver on Grip Road,
7 is one that I want to, um, focus in on here with you. Again, the segment, not
8 the intersections. And the MDNS has a condition that limits the number of,
9 uh, daily trips related to the mine, correct?

10 NORRIS: Correct.

11 EHRLICHMAN: And it, uh, Condition 13, Sub 7, do you have MDNS in front of
12 you?

13 NORRIS: I, I don't, no.

14 EHRLICHMAN: Okay. Let me read Condition 13, Subsection vii, and Mr. Lynn can,
15 um, object if, if I have somehow misread it, but it, uh, says, Development
16 shall comply with all requirements from both Skagit County Planning and
17 Development Services and Skagit County Public Works, including, but not
18 limited to: and then it has several listed, um, requirements and number vii,
19 small roman numeral vii, says, quote, The maximum daily truck traffic that is
20 allowed associated with the subject gravel mine quarry is limited to an
21 average of 46 daily trips during mining operations, not to exceed 30 trucks
22 per hour under extended hours operation. And it goes on from there. So, the
23 phrase I want to ask you about is the one that says, the maximum daily truck
24 traffic is limited to an average of 46 daily trips, not to exceed 30 trucks

1 per hour. Under that condition, isn't it possible that the truck traffic on
2 Grip Road, on any given day, could go up to 30 trucks per hour?

3 NORRIS: On any given day, yeah, it can go up to 30 trips an hour. But
4 it's still limited to daily total, as I read it.

5 EHRLICHMAN: And what do you mean by that?

6 NORRIS: Well, I think the statement you read was the, uh, Applicant is
7 limited to 46 trips per day, and not to exceed 30 trips per hour. So you
8 could have 30 trips in an hour, which mean you'd only be allowed another 16
9 trips during the day.

10 EHRLICHMAN: Okay.

11 LYNN: Well, can I, can I ask that the actual MDNS language be put up,
12 uh, and displayed so that we don't have a reading followed by a mem-, you
13 know, a memory test. So, I'd like Mr. Norris to be able to see the language
14 he's being asked about.

15 REEVES: Right. So, I believe in terms of the SUP Exhibits, this is, would
16 be Number 27 would be the, uh, MDNS and, yes, I would also prefer that we
17 don't spend significant time reading to each other. Um...

18 LYNN: Thank you.

19 REEVES: And I don't know if Jason is stuck doing this again or someone
20 else wants to volunteer, but...

21 D'AVIGNON: I can put this up, I have it opened on my computer already.

22 REEVES: Gold star.

23 D'AVIGNON: Maybe.

24 REEVES: Silver star.

1 EHRlichman: And, Mr. Norris, when it comes up, if you could just take a
2 moment and read Condition 13, sub vii.

3 NORRIS: Thirteen, sub vii?

4 EHRlichman: Yes.

5 NORRIS: Says the maximum daily truck traffic that is allowed associated
6 with the subject gravel mine quarry limit to an average of 46 daily trips,
7 uh, not to exceed 30 an hour under extended hours of operation. So, uh, a
8 clarification of that, it does say, an average, so, uh, this would, to me,
9 tend to say you could have, uh, 30 trips per hour, which for the extended
10 hour operation could, could be more than the 46 trips a day.

11 REEVES: And I'll, I'm going to break in and ask you a question, as the
12 person who will ultimately need to understand the math, uh, so, Mr. Norris,
13 that average you just discussed, would that be the year, essentially during
14 an emergency, you might have 30 trucks per hour for ten hours, but
15 ultimately, you would take 46 daily trips times 365 days in a non-leap year,
16 that gives you the number and ultimately, you can't exceed that number, I
17 guess, I'm asking what the base unit is for the average?

18 EHRlichman: Well, the base unit was 260 working days a year, with, uh, ten
19 hours per day for a five day week.

20 REEVES: Okay. Thank you, so...

21 NORRIS: I'm getting a lot, a lot of static on my end, like, the wind is
22 blowing through somewhere.

23 REEVES: I don't, I don't think it's me.

24 EHRlichman: Can you hear okay now?

1 REEVES: Yeah. That seemed to be better. But, just, sorry, to clarify, Mr.
2 Norris, I was wrong in terms of 365 days, but it's the year is the base, even
3 if it's 260 is how many in a year, but if we're calculating whether the
4 Applicant is complying with the MDNS conditions, we look at it from January
5 1st to December 31st, is that an accurate statement on my part?

6 NORRIS: I believe so, yes.

7 REEVES: Okay. Thank you. Go ahead, Mr. Ehrlichman.

8 EHRLICHMAN: No, thank you, Mr. Examiner, that, that's exactly the kind of
9 clarification I'm seeking. So, Mr. Norris, if the year is the base, the
10 calendar year, 365 days...

11 REEVES: No, he just clarified that somewhat not accurate, but go ahead.

12 EHRLICHMAN: That, that's what I'm trying to get to, so the, the calendar year
13 is the unit of time within which we measure the average, correct?

14 NORRIS: Correct.

15 EHRLICHMAN: Okay. And the maximum number of trips that can occur under this
16 condition, in that one year period, is what?

17 NORRIS: What they're saying is the average of 46 daily trips.

18 EHRLICHMAN: And what is that maximum number?

19 NORRIS: The maximum number would be the 30 trucks per hour, under
20 extended hours of operation.

21 EHRLICHMAN: I'm sorry, I'm talking about within that one-year base time
22 period?

23 NORRIS: During one year, the average is 46 daily trips.

24 REEVES: So, it would be 260 times 46?

25 NORRIS: Yes.

1 REEVES: So, my rough math says 11,960. I may be wrong, but about 12,000
2 trips total.

3 NORRIS: That's approximately correct, yes.

4 REEVES: Okay. Approximately correct. So maybe I screwed up somewhere, but
5 I would prefer we don't have all the lawyers learn math while we're going
6 through here. You can confirm about 12,000, I think that's helpful. Okay.

7 EHRLICHMAN: Yeah. And Mr. Norris, don't your, um, traffic...

8 NORRIS: Well, to be exact, I'll go right to the June 6th, 2019, uh, memo
9 and it says 11,765 vehicular trips per year.

10 EHRLICHMAN: Okay. Thank you. Now, I'm going to ask you a question about this
11 MDNS condition and what the maximum number of trips per year allowed is under
12 that condition. Is it your testimony that with this condition in place, the
13 maximum number of ve-, of truck trips that can occur during that one year
14 time period is 11,765 ve-, um, truck trips?

15 NORRIS: That's what the average is, yeah. What the, the annual trip
16 generation would be.

17 EHRLICHMAN: So, my question wasn't about the average, it wasn't about, um, a
18 trip generation model, modeling, it was about a number.

19 REEVES: He, he just...

20 EHRLICHMAN: Does this, go ahead, Mr. Examiner, sorry.

21 REEVES: Well, I'm saying, he just gave you the maximum number, the, the
22 number for the whole year is 11,765. Which I'm...

23 EHRLICHMAN: Okay. Yep. That's how I understood it, too, but I wanted to make
24 sure Mr. Norris confirmed that.

25 REEVES: Okay. Go ahead. Sorry.

1 EHRlichman: Mr. Norris, can you confirm that?

2 NORRIS: I thought I already did.

3 REEVES: He did.

4 EHRlichman: Okay. So, we now have, in, in, in my small brain, for the first
5 time in this proceeding, a clear maximum number of truck trips that will
6 travel on Grip Road, in any given year, for the life of this mine. And the
7 question I want to ask you is what happens if the Applicant reaches that
8 200,000 tons per year, but they want to mine more than that? They want to
9 exceed the 11,765 trips, does this MDNS prohibit that for this mine in a, in
10 a given year?

11 NORRIS: Well, the, uh, you have to go back to Condition vii of what's
12 allowed under the MDNS.

13 REEVES: Well, I'm confused to the, Mr. Ehrlichman, I'm confused to the
14 extent that I didn't think Mr. Norris was the one that issued the MDNS.

15 EHRlichman: Okay. Uh, I'll withdraw it.

16 REEVES: Well, am I wrong about that? I...

17 EHRlichman: He doesn't look like the guy that issued the MDNS.

18 REEVES: Who I think we're going to hear from, so I, I...

19 EHRlichman: Yeah.

20 REEVES: Okay.

21 EHRlichman: So, I withdraw that question. Um, let's, let's move ahead here
22 now. The, uh, 30 trucks per hour, under extended hours of operations that
23 allowed by this condition, with permission of the County, is subject to that
24 maximum number of trips per year ceiling, correct?

1 NORRIS: Um, I, I think, again, I'm going to go back in the Hearing
2 Examiner's decision, somebody else put this condition together. I would say
3 that the, uh, the max number of trips under any one hour is 30 trips under
4 extended hour of operation, which the Applicant has to receive permission
5 from the County for. And it's, uh, attempt to recognize that, uh, you, you
6 have to understand that this operation is a public benefit operation that
7 they supply, uh, gravel and sand and other materials to Public Works
8 functions throughout the County and throughout the area. And if we have an
9 extreme, uh, situation that occurs, uh, we need to have them be able to
10 respond to that by, uh, additional, um, provision of these materials and, uh,
11 to totally constrain it and not allow it to do that is failing our public
12 purpose and the public benefit. So, I think this is an attempt in the
13 condition to get some kind of upper limit of what, uh, would be possible
14 under these extreme conditions. It's not the average condition, these are
15 extreme conditions. So, I think that needs to be kept in mind, uh, in this,
16 uh, consideration.

17 EHRLICHMAN: Right. I understand. And, and we have a ceiling now clearly
18 established so we'll move on. Um, and is that 30 trips per hour, is that 15
19 loaded and 15 empty?

20 NORRIS: Correct.

21 EHRLICHMAN: Okay. Um, thank you for those clarifications. Those are, uh, of
22 key importance to everyone involved in this proceeding. And I can tell you
23 that I'm not the only one who was confused here. Let me ask you about the
24 statement that the County made in their opening presentation. Uh, where they
25

1 said the maximum operation limit may not exceed 30 full trucks, parenthesis,
2 60 trips per hour.

3 LYNN: Uh, is this a question? It sounded like...

4 EHRLICHMAN: Yes.

5 NORRIS: More like a commentary.

6 REEVES: Yeah.

7 EHRLICHMAN: Yes, it's a question.

8 REEVES: Let's move forward and I, to be clear, what I'm struggling with
9 is this clarification is really only useful, in my mind, if [inaudible] or
10 Kevin Cricchio agree. Because Gary Norris is not the one that issued the
11 MDNS. I mean, if you have some document he himself created that led to these
12 numbers, I could see that. But I'm struggling with, I mean, I guess the
13 question I would add, Mr. Norris, is the 30 trucks per hour for extended
14 operations is, was that derived from your, your studies that you produced?
15 And is it your understanding that that's 15 loaded and 15 not or...

16 NORRIS: Um, we did, uh, different scenario comparisons of this, uh, and,
17 again, I'm going to refer back to, uh, the, uh, June 6th, 2019 memo that was
18 produced. And it says, uh, assume withstanding a pit operation of ten hours a
19 day, the average hourly truck volume would be 29.4, uh, trips per hour under
20 the extreme example of 5,000 tons per day. Uh, this volume of 29.4 trucks per
21 hour is substantially less than the capacity of Grip Road, which is estimated
22 to be 110 trips per hour and significantly less than the 72 truck per hours
23 estimated by Skagit County. The County estimate was based on 700 truck trips
24 per day. So, the, the maximum that we were looking at with the pit operation,

1 and, again, this would have to be clarified more by Miles than me, was, uh,
2 essentially 30 truck trips per hour.

3 REEVES: All right. Was that...

4 NORRIS: So, that's...

5 REEVES: Uh, can you give me an Exhibit Number, Mr. Norris?

6 NORRIS: For the, uh, memo?

7 REEVES: Well, yeah, is the 2016 memo, the later memo? I'm just trying to
8 keep track for, for everybody following, following along.

9 NORRIS: This is, go ahead.

10 D'AVIGNON: I was going to say County 14, I believe.

11 REEVES: Okay. So, this was the, the 2019, June 6th, 2019 memorandum?

12 NORRIS: Yeah.

13 REEVES: Okay. Thank you. Sorry to interrupt.

14 EHRLICHMAN: Shall I proceed?

15 REEVES: Yeah. Please.

16 EHRLICHMAN: Yeah. But, again, Mr. Norris, there have been many numbers used
17 in this proceeding, including in your Exhibit 13, correct? Uh, which is your
18 memo dated November 30th, 2016, at the very last paragraph, you say therefore
19 the suggested maximum limit, based on the availability of 30 dump trucks was
20 determined to be 60 trucks per hour or 720 truck trips per day. Correct?

21 NORRIS: Correct.

22 EHRLICHMAN: So, now we are at 30, under the MDNS conditions, we are at 30, a
23 maximum of 30 trucks per hour, uh, that's 15 loaded and 15 empty, correct?

24 NORRIS: That's the way I would read it, yes.

1 EHRlichman: Okay. So, we're no longer talking about the levels that you, uh,
2 mentioned in Exhibit 13, that I just cited, correct, not the 60?

3 NORRIS: Correct.

4 EHRlichman: Okay. Thank you. And we're not talking about the 30 loaded
5 trucks, um, that was mentioned in the, in the, uh, Staff opening
6 presentation, are we?

7 NORRIS: I, I'm not sure of the question.

8 EHRlichman: Uh, strike that. Let's, let's move along here. Thank you for
9 those, uh, clarifications. Um, now, let's talk about w-, what you studied in
10 terms of the safety impacts for the 30, uh, trucks per hour. Am I correct in,
11 uh, saying that your testimony so far has been that you focused on trip
12 generation at the 46 trips per day, rather than the 30 trips per hour?

13 NORRIS: That's correct.

14 EHRlichman: Okay. And you agreed in earlier testimony, I believe, correct,
15 that the analysis of 47 or 46 trips per day does not cover the impact, or
16 doesn't give us insight into the impacts of, uh, 30 trips per hour, correct?

17 NORRIS: No, it, uh, the analysis didn't address the 30 trips per hour.

18 EHRlichman: Okay.

19 NORRIS: Well, except, I, I got to correct that, because, in fact, the
20 evaluation was looking at different scenarios and we bounded the scenario,
21 uh, in this case it was determined that the, uh, critical intersection of
22 Prairie and Grip Road and, uh, Highway 99 could receive 110 additional truck
23 trips per hour. And we were nowhere near, uh, that volume of trips in any of
24 the analysis or any of the considerations that were done. So, it, it was not
25 a critical factor in our evaluation.

1 EHRlichman: So, when you were analyzing the 30 trips per hour, um, y-, and
2 you just responded to that question focusing on intersections, did you do any
3 analysis of safety on Grip Road segments at 30 trips per hour?

4 NORRIS: The, the bearing had, uh, no impact on the actual volume of, uh,
5 truck traffic in regards to safety.

6 EHRlichman: Okay. Um, Mr. Norris, I'm going to ask you to answer the specific
7 question. Did you do any safety analysis on the Grip Road segment at the rate
8 of 30 trucks per hour?

9 NORRIS: We did a safety analysis on Grip Road for the impact of the mine
10 operation.

11 EHRlichman: Mr. Examiner, I don't want to waste time here, but...

12 REEVES: Sure. Well...

13 EHRlichman: I would like...

14 REEVES: Mr. Norris, I'm going to ask you a clarifying question. I think a
15 minute ago you essentially said that the information was such that the road
16 itself could handle an additional 110 trips per hour, ergo, even at a maximum
17 of 30 trips per, the road could still handle 80 more trips per h-, per hour,
18 such that no further analysis was necessary. Is that an accurate assessment?

19 NORRIS: That's an accurate assessment.

20 REEVES: There we go. Okay.

21 EHRlichman: Excellent. So, now, doesn't that analysis focus on intersections?

22 NORRIS: The capacity, I mean, if you want to talk about the capacity of
23 the road, the capacity of Grip Road, for example, uh, is dictated by the
24 headway between vehicles that would arrive, uh, use the road. And, uh, uh, we
25 generally work with a rule of thumb of two seconds vehicle headway. And so,

1 if you take 3600 seconds in, uh, an hour and you divide that by two seconds,
2 you get, essentially the capacity of the roadway is 1800 vehicles per hour in
3 each lane. So the capacity of Grip Road in a two-lane roadway would be 3600
4 vehicles per hour. The constraint in a roadway capacity analysis is obviously
5 the intersection where the, uh, demand for the roadway is shared by multiple
6 directions. And so, in this case, in order to determine what the capacity of
7 the roadway was, the limiting factor, not the capacity on Grip Road, it's the
8 capacity at the intersections. And the intersection we determined we could
9 receive 110 more truck trips and still not trip the, uh, Level of Service
10 threshold. I hope that provides an understanding to what we're dealing with.

11 EHRLICHMAN: Well, go ahead.

12 REEVES: I mean, I, I get it and I'm the one that has to make the
13 decision, I think, so, you know...

14 EHRLICHMAN: Is there a distinction between capacity analysis and safety
15 analysis in your mind, Mr. Norris?

16 NORRIS: Yes.

17 EHRLICHMAN: What is that distinction?

18 NORRIS: Uh, capacity is, uh, as I shared was the vehicle, or the ability
19 of the roadway, uh, to handle vehicular traffic...

20 EHRLICHMAN: Okay.

21 NORRIS: Without creating, uh, undo congestion.

22 EHRLICHMAN: So, when I asked you did you do any safety analysis on the Grip
23 Road segment of 30 trucks per hour, your answer related to the capacity
24 calculus, correct, not the safety...

25 NORRIS: No. No.

1 EHRlichman: Analysis?

2 NORRIS: No. That's incorrect. We did a safety analysis of the roadway.

3 EHRlichman: That's my question. Can you tell us what that was?

4 NORRIS: Well, I think it's been, go ahead.

5 REEVES: I guess what I want, again, if we're working on how the math
6 works, my understanding, I didn't cut in earlier, but Mr. Norris, was Mr.
7 Ehrlichman asked you more trucks, sort of common sensically [sic] mean more
8 accidents was what he was sort of trying to put on the table. My
9 understanding of your answer is the math is a little more nuanced, which
10 would be if I flip a coin, it's a 50/50 probability of heads every single
11 time, but if I flip the coin, you know, 30 times in an hour, versus 60 times
12 in an hour, I'm going to end up with quantitatively more heads because, you
13 know, I'm doing it twice as fast. So, any given moment, the potential
14 accident for me, as the driver, right, is the same, but quantitatively over
15 time, when you have more vehicles, you're going to have more accidents. Or am
16 I misunderstanding the math?

17 NORRIS: Um, I don't think you can just jump to that conclusion
18 necessarily because it depends upon the roadway conditions that are pre-,
19 prevalent and, uh, the exposure to certain constraints in the roadway could
20 lead to, uh, more crashes increased volume. So, uh...

21 REEVES: Well...

22 EHRlichman: Right.

23 REEVES: I understand. But you testified earlier that in this
24 circumstance, increased volume would not have an increased potential for
25

1 accidents, I thought, at any given moment. Or did I misunderstand your
2 testimony?

3 NORRIS: No, you're absolutely correct in that assessment. And the reason
4 I said that was because the Applicant has offered mitigation to address the
5 critical safety issues in the corridor. So, uh, the, the potential for
6 crashes in that corridor is probably going to be reduced as a result of the
7 safety improvements that Miles is making to the road.

8 EHRLICHMAN: Mr. Examiner?

9 REEVES: Go ahead, Mr. Ehrlichman.

10 EHRLICHMAN: If I may speak to you with, uh, again, you asked me to, you know,
11 sort of let you know where we were going on questioning.

12 REEVES: Yeah. Go ahead.

13 EHRLICHMAN: I'd like, I'd like to describe where we are and where we're
14 going. We can see the problem here where the analysis presented in the
15 records so far doesn't contain, in my view, the safety analysis at the 30
16 trips per hour on the Grip Road segment. Uh, we're looking for, where is that
17 at in the record. And I believe Mr. Norris's testimony is telling us that
18 it's not yet in the record, the Applicant is offering the solution now. So,
19 that's, that's where I'm going with this is, you know, my next question to
20 Mr. Norris is, okay, where in the record do we find this safety analysis that
21 he did where he just described how road conditions and exposure can lead to
22 more crashes. Well, okay. Where is that? We don't see that in his report in
23 Exhibit 18, which is the most comprehensive traffic analysis. So, that's
24 where I'm at in my questioning and I'll take guidance as to...

25 REEVES: Sure.

1 EHRlichman: How to shorten this.

2 REEVES: I guess, my challenge is having r-, you know, read the whole
3 record, you know, I think there's a certain amount of, you know, kind of
4 math, mental math you have to do to figure it out to the extent that, I
5 don't, I be-, I agree with you that there isn't a, you know, a chart that
6 says, you know, at 30, this is how many accidents. I think it's, as he
7 testified, you look at that 110 as the capacity. And this is, at least in,
8 you know, I'm not trying to testify here, but for LOS purposes or, or
9 concurrency purposes, kind of standard, but, but I get what you're saying.
10 And I, I thought, ultimately your goal was to get an agreement from the
11 Applicant that they're going to widen the road and I think they've said
12 they're going to. So, I'm kind of curious as to what we're doing at this
13 point.

14 EHRlichman: Thank you. Yes, what, what we're doing is trying to find the, the
15 it, you know, in writing where we can look at that safety analysis, whether
16 it's they're presenting it today for the first time or whether they did it
17 before, let us look at what the analysis was. Because, it, the safety
18 analysis is different from the capacity analysis.

19 REEVES: Sure.

20 EHRlichman: In our view that the one-, the 110 figure relates to
21 intersection, uh, capacity and the crashes and, and injuries all relate to
22 that intersection. All of the crash analysis that you see in these studies is
23 intersection-based. What we're concerned about is the segment where the
24 shoulders don't go anywhere near the 6' wide.

1 REEVES: I got to say, my recollection of Mr., I think it was Mr. Norris's
2 testimony the other day, was that when they reviewed previous, uh, crashes,
3 they also reviewed segments, not just intersections. So I do want to clarify
4 that point.

5 EHRLICHMAN: Yes.

6 REEVES: Uh, but in terms of your role today, unless I'm missing it,
7 you're here representing your clients on the SUP and...

8 EHRLICHMAN: Uh-huh.

9 REEVES: So, this additional, any agreement, any initial information, you
10 know, is a big win, but the fact that if it doesn't already exist in the
11 record, he-, maybe helps Mr. Loring, but, but I don't know...

12 EHRLICHMAN: It, it only helps me to the ex-, thank you for that. It only
13 helps me because I don't see it in the record. I want to see it. So, I want
14 to be clear that we don't yet have it because there was some comment from,
15 uh, Mr. Lynn earlier today, oh, that it's just techno speak and it's not
16 really, you know, doesn't tell us anything. Well, it does because we've seen
17 lots...

18 REEVES: Well...

19 EHRLICHMAN: We've seen lots of intersection analysis. May I speak to one
20 other point quickly?

21 REEVES: Okay. I mean, I'm, I'm, I'm going to have us move on soon as
22 terms of...

23 EHRLICHMAN: Sure.

24 REEVES: The difference between intersections and segments, you're not
25 selling me on that. So, but go ahead.

1 EHRlichman: No, no problem. No problem. So, we're, we're very much
2 appreciative that they're offering mitigation on Grip Road now. We want to
3 see the analysis so that we can assure ourselves that they've caught the, the
4 danger points. And Neil McCleod will testify to some of that in a moment.

5 REEVES: Okay.

6 EHRlichman: So, that, that's what we want to see. And, um, we're not
7 questioning, you know, the Applicant's, uh, diligence on that, except that
8 they haven't looked at it in all this time. They haven't analyzed it in all
9 this time, it's not in the record. That's what I wanted to ask Mr. Norris
10 right now, if you would permit me another question. About the, uh, crash
11 segment testimony he gave on Monday.

12 REEVES: I'll, I'll let you question him on it very briefly, but I feel
13 like we're spinning wheels and part of this is just who is good at math and
14 who isn't. And I don't think we want to spend hours of everybody's time
15 figuring out who, who understands math, so...

16 EHRlichman: Yeah. And I, I sure don't because Mr. Norris I a lot better at it
17 than I am. So, Mr. Norris...

18 NORRIS: Yes, sir.

19 EHRlichman: When I asked, when I asked you whether you had done crash
20 analysis on the segment, as opposed to the intersections on Grip Road, you
21 answered, um, no, at first and then you dug into the crash data and I believe
22 you testified that there were six accidents on the segment, correct?

23 NORRIS: On the, um, correct, from Prairie Road, uh, to, um, as it's
24 defined, to Lillian Lane.

1 EHRlichman: Thank you. And my question is, where in the record can I look at
2 that data? Because you didn't attach it to your Exhibit 18, did you?

3 NORRIS: No, I did not.

4 EHRlichman: So, I would ask Mr. Hearing Examiner, uh, whether Mr. Lynn would
5 perhaps provide that into the record, uh, if Mr. Norris has it. That is
6 typically attached to traffic studies that I've seen on gravel mines in
7 Skagit County.

8 REEVES: Your thoughts, Mr. Lynn?

9 LYNN: Well, the record is the record. Uh, he said he considered, he
10 looked at it and considered it. It's not in his report, it's not in his
11 report. Somebody else wants to put it in the record, they can.

12 EHRlichman: Well, Mr. Lynn, with all due respect, your witness testified to
13 specific numbers from that document that no one else could see. That's what
14 we'd like to see.

15 REEVES: Well, I, let me ask one question of Mr. Norris, out of curiosity,
16 is that data easily attainable or not, is it, you know, is it somehow
17 protected? I'm just curious, I'm not making a decision here, Mr. Lynn, I'm
18 just trying to think through if this is even worth everybody fighting about.
19 I mean, I, I have no reason to believe Mr. Norris is lying to us. So, I, I'm
20 going to say that, but...

21 EHRlichman: That's not my allegation at all, Mr. Examiner.

22 REEVES: No, I, that's not what I was saying. I, you know, but I, this
23 process, the Hearing Examiner process is very different than Superior Court,
24 like, it's meant to be more efficient such that every photograph doesn't then
25 need to have nine questions about the camera and the person who bought the

1 film from and the store you bought the film from. 'Cause we'll be here for
2 months. So, quickly, Mr. Norris, do you have an answer to my questions about,
3 is that easily obtainable data?

4 NORRIS: Yes, it is.

5 REEVES: Okay. Based on that, Mr. Lynn, do you have any problem with just
6 adding it to the re-, I get your objection, obviously, but I...

7 LYNN: No.

8 REEVES: No objection? Okay.

9 LYNN: No.

10 REEVES: We'll add it. Okay. There we go.

11 EHRLICHMAN: And, thank you, Mr. Examiner, and...

12 REEVES: To be clear, sorry, I need to be clear about what I'm saying
13 because this is the same problem Mr. Loring had earlier, which is when I say...

14 LORING: Thank you.

15 REEVES: We would add it to the record, it's, I'm not confusing the fact
16 that this, well, this was, actually, would have been part of the SEPA review,
17 I believe. But, Mr. Loring, I'll give you a sec here, go ahead.

18 LORING: Well, I, I do see it as the same issue. Uh, presumably it would
19 have been part of the SEPA review, but it sounds like it actually wasn't part
20 of the SEPA review, at least this specific information wasn't available to be
21 reviewed through the SPEA process.

22 REEVES: I get what you're saying. So...

23 LORING: Yeah.

24 REEVES: The, the person that produced the MDNS, who I believe...

25 LORING: Right.

1 REEVES: Who I believe is [inaudible] I'm missing this data, uh, okay. So,
2 I...

3 LORING: Right. Or, or I will say, too, or have the opportunity to share
4 it with their Traffic Engineers at the County level. Because, let's not
5 forget, right, the MDNS is, is the culmination of the entire County review,
6 presumably.

7 REEVES: Sure.

8 LORING: Yeah.

9 REEVES: Well, we hope, right? Uh, well, at that point, earlier in the
10 process, right? There's...

11 LORING: Yes.

12 REEVES: Further review of the SUP, I, I just got to be really...

13 LORING: Right.

14 REEVES: Clear about that, if we're doing things right. But, so I, I would
15 let it in at, you know, and I'll limit it to the SEPA because that's what Mr.
16 Ehrlichman seemed, seemed to be concerned about.

17 EHRLICHMAN: Limit it to the SEPA?

18 REEVES: Sorry, uh...

19 EHRLICHMAN: From, from the SEPA?

20 REEVES: Yeah. There we go.

21 EHRLICHMAN: Okay.

22 REEVES: Excluded from my, any decision I make on SEPA and I'm now going
23 to get lost in terms of Exhibits. Do we have any idea where that would put
24 us, at this point, in terms of, uh, the Applicant's Exhibits? And I'm, again,
25 noting Mr. Lynn's objection that I'm forcing him to include this, you know...

1 EHRlichman: If I may speak to that, uh, Mr. Lynn, this is not, um,
2 intersection trip generation crash history, this is Grip Road segment safety...

3 REEVES: Yeah.

4 EHRlichman: Past history. And that isn't, that isn't in the report, but it
5 was in Mr. Norris's testimony, live testimony.

6 LYNN: His testimony was he considered it.

7 EHRlichman: No, his testimony, excuse me, his testimony was, wait a minute,
8 let me look and into the data and give you an answer. And then he gave me the
9 answer of the six crashes on the segment.

10 REEVES: So, this would ultimately, sort of prove up the, the statement
11 that Mr. Norris made. So, back to my questions because Mr. Lynn agreed we
12 could, we can include it, uh, over his objection, which I fully acknowledge,
13 um, but in terms of Applicant Exhibits, can anyone give me what number we
14 would be at, at this point? Sorry. By Day 3, I sometimes get a little, little
15 lost in terms of, uh, Exhibit Numbers and...

16 LORING: Uh, is it, it's the 96th document, I think, if we're going by the
17 B numbering system. There's some challenge, of course, uh...

18 REEVES: Oh, wait.

19 LORING: Should we do it through the County system, which is the...

20 LYNN: Yes.

21 EHRlichman: Yes.

22 REEVES: I messed up, we should do it through the County system, so what
23 number would be at, uh, with what I call the, the Cricchio file, as it were,
24 the master file?

25 CRICCHIO: My notes indicate...

1 LORING: Fifty-two.

2 CRICCHIO: Fifty-two, yes.

3 REEVES: Fifty-two. All right. Thank you. So, 52 is, uh, crash data Grip

4 Road segment.

5 EHRLICHMAN: Thank you, Mr. Examiner.

6 REEVES: Okay.

7 EHRLICHMAN: May I ask quickly about auto-turn data, which is a related

8 evidentiary request?

9 REEVES: I'll, I'll give you, like, five minutes on that.

10 EHRLICHMAN: Thank you. Mr. Norris, uh, how are you holding up there?

11 NORRIS: I'm, I'm holding up great. Uh, I...

12 EHRLICHMAN: I want to ask you, sorry, go ahead.

13 NORRIS: Just a little clarification, I just passed the information to Mr.

14 Lynn, but the fact was this information was reviewed. The Grip Road segment

15 is about a mile and a half long segment that was being considered and there's

16 six, uh, accidents over five years on this, uh, segment. Some involved

17 hitting a deer, some involved over-turned vehicles, some involved, uh,

18 utility poles. The only place where there was any, uh, significant, and I'm

19 saying, too, which is not really significant in five years, if you look at

20 it, was at Lillian Lane. Uh, and that wasn't really within our, our segment

21 of consideration. So, we did consider that information, did not believe that

22 it had a bearing on our safety considerations for this deal. In addition to

23 that, we did, uh, an intersection analysis which I summarized for you before,

24 which also indicated the, the rates of crashes at the location were below,

25 uh, normal rates. So, it wasn't this, uh, deemed a hazardous condition. So,

1 that was the, the basis for our estimation. The most significant thing is
2 I've said all along, has been the, uh, the truck encroachment where we
3 specifically addressed. So, that's kind of, uh, is the background on the
4 safety.

5 REEVES: Thank you, Mr. Norris. So, Mr. Ehrlichman, I was going to give
6 you a few minutes to ask about the curve.

7 EHRLICHMAN: Thank you. And, and, Mr. Norris, that, we agree the biggest issue
8 is the truck encroachment, um, in your Exhibit 18, um, most extensive traffic
9 analysis you attached Exhibit B6, correct, which was the County road, uh,
10 design standard for, uh, rural, um, collectors, like Grip Road, correct?

11 NORRIS: Correct.

12 EHRLICHMAN: And that shows that, uh, the road standard is for a 6' wide
13 shoulder, is that correct?

14 NORRIS: I believe so, yes.

15 EHRLICHMAN: Okay. When you do, when the auto-turn, who did the auto-turn
16 analysis for Grip Road?

17 NORRIS: Uh, I did.

18 EHRLICHMAN: Okay. And, Mr. Lynn, uh, will you be introducing that today in
19 the Special Use Permit proceeding?

20 NORRIS: Can I, uh, stop you right there because you're asking these
21 questions about it and quite frankly the, uh, results of the, of the, or the
22 auto-turn analysis are included in the Appendix of that, uh, September 2020
23 document.

24 REEVES: Sorry, what, can, can I get an Exhibit Number one more time using
25 the...

1 NORRIS: It's the, uh, Exhibit 14, the 201-, excuse me, no, the
2 final TIA, which is September 10th of 201-, 2020, I believe.

3 EHRLICHMAN: Exhibit eig-, uh, 18, I believe.

4 NORRIS: Eighteen, yeah, Exhibit 18.

5 EHRLICHMAN: But this, wasn't the auto-turn that was included there, uh,
6 Prairie Road?

7 NORRIS: Yes. But...

8 EHRLICHMAN: Okay. But...

9 NORRIS: This...

10 EHRLICHMAN: But you...

11 LYNN: This gives you example...

12 EHRLICHMAN: But you did not, but you did not include Grip Road, correct?

13 NORRIS: No, did not.

14 EHRLICHMAN: Okay. Mr. Lynn, would you, uh, be willing to produce the Grip
15 Road auto-turn analysis, uh, today?

16 LYNN: Let me get back to you. I don't know what its availability is. I
17 assume it's available, but I don't know as we sit here today. As we sit here...

18 EHRLICHMAN: Mr. Examiner...

19 LYNN: At 10:0-, 10:16, I don't know.

20 EHRLICHMAN: Mr. Examiner, per my, uh, filing on Monday or Tuesday, I guess it
21 was, uh, may I have leave to recall the witness after we look at the Grip
22 Road auto-turn analysis?

23 REEVES: Well, I'm going to ask Mr. Norris, so, first off, you said just
24 now that in the Appendixes, there's data for Prairie Road, is that right?

25 NORRIS: That's correct.

1 REEVES: And was the thought that, you know, there's an analogous
2 situation or did you independently also look at Grip Road?

3 NORRIS: We, we independently looked at, well, actually, we looked along
4 the whole corridor of Grip Road to see where these conditions might exit. And
5 that all came out for the auto-turn evaluation. The reason why I was pointing
6 this figure out in the Appendix of that, uh, September, uh, 2020 because you
7 wanted to know what the output looked like, this is what the output looks
8 like. It shows you essentially where the vehicle would encroach, uh, on the
9 roadway based upon existing roadway width.

10 EHRLICHMAN: My request, Mr...

11 REEVES: As you request, hold on one sec. Can you give me some way to
12 identify a page or, or so I'm now digging through the Appendixes trying to
13 figure it out.

14 NORRIS: In my, in my page number, as I'm looking at right now, it's Page
15 68 of 71.

16 LYNN: All the way at the end. That's the graphic.

17 NORRIS: The PDF.

18 EHRLICHMAN: The graphic with the roadway in color.

19 EHRLICHMAN: And my request to, while you're looking, Mr. Examiner, my request
20 to Mr. Lynn was for the whole Grip Road analysis that Mr. Norris just
21 referred to. Not just the, the result, the...

22 REEVES: I understand. I, I, myself, just asked him this question. He's
23 dealing with my question and...

24 EHRLICHMAN: Okay. Sorry.

1 REEVES: I do have that prerogative as, as the Hearing Examiner to the
2 extent to, you know, in a normal Land Use Application hearing [inaudible] um,
3 okay. So, it was 68, is that right?

4 NORRIS: Yeah. Sixty-eight, 69, uh...

5 REEVES: Is that PDF or as opposed to

6 NORRIS: Yeah. That's a PDF.

7 REEVES: Okay. Well, I guess my question is, earlier the way I described
8 how to get this data, and I think this is what Mr. Lynn may have been
9 alluding to, was is it ones and zeros, is it, like, typing something into a
10 calculator or a program or will it spit out data in a way that is quickly and
11 easily analyzed?

12 NORRIS: It's giving you a graphical representation of what the vehicle,
13 um, path is through the roadway.

14 REEVES: Okay. I'm leery of having to recall witnesses for this type of
15 thing, I, so, I guess what I'm asking is, if we look at these specific, you
16 know, graphs that's already there for Prairie, is there something about that
17 graph, Mr. Ehrlichman that you need clarification on? I get it's not for
18 Grip, but I'm saying if he can later produce the same table for Grip Road, do
19 we need his expertise to, to interpret it? Because it just feels...

20 EHRLICHMAN: It, it's possible, Mr. Examiner, that if they give us only a
21 small segment, like they did here for Prairie Road, that we will ask you to,
22 um, have Mr. Norris come back. We want to see how they selected the two
23 locations that they say will completely mitigate the risk of crossovers on
24 Grip.

1 REEVES: Okay. So, I guess, first, uh, Mr. Norris, how long, or is it
2 possible or how would it work to produce the table that would be specific to
3 Grip Road? I haven't made a ruling, I'm just...

4 NORRIS: Table, it's not a table, it's a graphic representation just like
5 you see similar to this. And it's just a simple computer output of a, a
6 graphic that would illustrate and, uh, I'm, I'm not sure, uh, you know, we
7 Engineers went to school to be Engineers so we could do this kind of stuff
8 and understand it and for, to assume that any lay person can understand the
9 work from it is, uh...

10 REEVES: Is...

11 NORRIS: And what the benefit is to it I'm not sure either because we've
12 already committed to make the improvements to the road.

13 REEVES: Well, you're touching on a complex issue that we call it the
14 Chevron doctrine and it used to, we all used to defer and then Justice Scalia
15 tried to eliminate it. It's very complicated for us lawyers, but, uh, in
16 terms of, again, I, I am not making any re-, any ruling yet. I'm just asking,
17 I'm recognizing you're, you're the expert, how quickly can you input the data
18 and output what you need to output?

19 NORRIS: Uh, we've already done it. I think we already have the graphics
20 of it so I, I don't think it's going to be any problem to produce it. Whether
21 or not the other side really understands what's being said is another issue,
22 but if they want, if they want to look at it, I don't have a problem with
23 that.

24 EHRLICHMAN: All right. So, uh, Bill Lynn, my, my idea is I am not going to
25 have Mr. Norris recalled to explain the details of this. But I, I would be

1 fine with including it in the record, out of an abundance of caution. And
2 then if Mr. Ehrlichman has an expert that wants to, you know, produce a short
3 memo or something, I'd be fine with that. But I'm sure you wouldn't be. But
4 I, I'm just trying to think how do we get through to the end of this. Uh, any
5 thoughts you have?

6 LYNN: Uh, I guess I'll talk to Mr. Norris and my client during a break.
7 I mean, if it's readily available, it's readily available. We've, it's, it's
8 probably going to be disappointingly boring, but, uh, I, my suspicion is we'll
9 p-, produce it, I just would like to be able to talk [inaudible].

10 REEVES: Sorry, I missed the very end there.

11 LYNN: I, I would just like to be able to talk to Mr. Norris and, and
12 understand it as little, much as I can before we make a commitment. REEVES:

13 Okay.

14 LYNN: But if, I'm guessing it's just going to look like this. Like that
15 part, Page 68.

16 REEVES: And, go ahead, Mr. Ehrlichman?

17 EHRLICHMAN: We're requesting the output from, for the segment between the
18 mine entrance and Prairie Road.

19 REEVES: Or as close as possible, I assume, so...

20 EHRLICHMAN: Whatever they analyzed.

21 REEVES: Right.

22 EHRLICHMAN: But not just their conclusions.

23 REEVES: You want all the meta data, is that what you're saying?

24 EHRLICHMAN: Let's, let's see what they produce. Uh, they produced...

25 REEVES: Okay.

1 EHRlichman: And Exhibit, they produced an Exhibit in 18 that we didn't have a
2 problem understanding. Um, I, I think let's, we can cross this bridge when we
3 come to it, perhaps?

4 REEVES: Well, I'm just worried that we're not going to cross the bridge
5 for another seven or eight hours. Where are we at in the process, at this
6 point, in terms of questioning this witness?

7 EHRlichman: Uh, I am just about done. I had a couple of quick questions about
8 the auto-turn method, um, and then let's see the document and, you know, if...

9 REEVES: Well, we'll do that on a break.

10 EHRlichman: Right.

11 REEVES: Meaning the, Mr. Lynn needs to consult with his client, we'll
12 come back and discuss it on the break, but, uh, I'll give you two questions
13 about auto-turn analysis at this point and then we're moving on. Because as
14 the Hearing Examiner, I do have the authority to sort of limit and control
15 things and I do appreciate, you know, that you are representing clients that
16 have serious concerns, but at the same time, this is, uh, you know, this is
17 not the Superior Court and, and you did come late to the game, as well. So,
18 with that, go ahead, Mr. Ehrlichman.

19 EHRlichman: And it's been a long game, hasn't it? So...

20 REEVES: Way more for some of the others than me, but go ahead.

21 EHRlichman: Yes. Absolutely. And thank you so much for the opportunity. Mr.
22 Norris, when running the auto-turn model on the Grip Road segment, um, did
23 you anticipate, did you, did you include a scenario where two trucks were on
24 the road at the same time coming in opposite directions? This is under that
25 30 per hour frequency rate scenario.

1 NORRIS: No, that, that's not the way the analysis is done.

2 EHRLICHMAN: Okay. And what was the width and length of the truck-trailer

3 combinations used when you ran the model?

4 NORRIS: Oh, hang on a second, I have to pull that up.

5 REEVES: And that will be the last question, I think.

6 EHRLICHMAN: My, my math was tracking that exactly.

7 REEVES: Thanks.

8 EHRLICHMAN: My, my, my limited math skills. [Pause] if, if you want to answer

9 that question, you know, in writing, um, Mr. Lynn, that's fine with me.

10 NORRIS: Uh, we can send you, uh, a picture that, uh, this was a, um, a,

11 the, uh, auto-turn analysis, uh, has several imbedded files of common vehicle

12 types. And, um, the combination that was in play for the Miles Sand and

13 Gravel was not one of the imbedded, uh, vehicles. So, uh, we had to create,

14 uh, the vehicle and the overall length is in the neighborhood of, uh, let's

15 see, [pause] probably about 45 feet long. I'm guessing.

16 EHRLICHMAN: And the width was eight feet?

17 NORRIS: Um, was 8.5 feet.

18 EHRLICHMAN: Thank you.

19 REEVES: Great. Perfect. Okay. So, we're going to move on. Thank you, uh,

20 Mr. Ehrlichman. Uh, Mr. Lynn, any redirect, at this point? Oh, you're muted,

21 though.

22 LYNN: In, in that case, it would be even fewer questions. Um, um, Mr.

23 Norris, um, I think I'm going back a ways here, but I think you testified on

24 Friday that if there was no, even in the absence of crash data, you would

25

1 look at conflicts, um, did you look at potential conflicts here and propose,
2 um, any actions by the Applicant?

3 NORRIS: Uh, well, yes, that's essentially what we were doing with the,
4 uh, the conflict with sight distance at the Prairie Road, Grip Road
5 intersection, the, uh, potential sight distance issues at the site access and
6 in both of those cases, we proposed active warning signs that will alert the
7 drivers, uh, both the truck drivers and the approaching vehicles to the
8 presence of turning trucks. Uh, this has proven to be a very effective, uh,
9 technique to, uh, notify approaching vehicles and warn of a, a potential
10 hazard. The other things was that we looked at was the encro- [inaudible] off
11 the roadway, uh, that would, or over the center line, uh, and that's what the
12 background is on the development of the mitigation that was defined by, uh,
13 Mr. Barton in regards to, uh, mitigation for the project.

14 LYNN: Okay. You had concluded, though, in your traffic impact analysis
15 that even without the Grip Road improvements there were not safety concerns,
16 isn't that correct?

17 NORRIS: That's correct.

18 LYNN: Okay. So, let, let me just, at the risk of getting into the math,
19 uh, business here, let me just ask a question about this morning's testimony.
20 You said that, uh, that the risk for each truck was the same and, um, so,
21 does that mean that if you did have 30 trucks per hour in one day, because of
22 the averaging, the overall risk would remain the same?

23 NORRIS: Yeah. The, well, the, the Examiner pointed out the math of the,
24 uh, flipping the coin percentages, which is, you know, certainly a, a part of
25 statistics, but the potential for a crash on any given vehicle is the, uh,

1 the same. And so whether you have 30 or 15 or four or whatever, the potential
2 for the vehicle to crossover, uh, is the same.

3 LYNN: Just let me go through my notes real quickly here. We've covered
4 a lot of ground that I was thinking I might have to address in redirect. Uh,
5 just with reference to emergency vehicles, uh, do you know whether or not
6 the, uh, SEPA documentation would have been circulated to, uh, fire
7 departments and police agencies?

8 NORRIS: I, I don't know for a fact, but normally that's the case that,
9 uh, all public services get to review SEPA, or requested to review it,
10 whether they do or not is sometimes their choice.

11 LYNN: Okay. Is it standard practice in your field to, uh, separately
12 analyze, uh, pedestrian, uh, traffic or bicycle traffic, other than to note
13 that there are potential conflicts?

14 NORRIS: Uh, depends on the scenario in which you're evaluating. I mean,
15 this is not a high pedestrian or bicycle corridor. If you're in downtown
16 Seattle and you're looking at pedestrian crossing activity, then, yes, we do
17 do that. But this, uh, it wasn't deemed to be appropriate in this, uh,
18 evaluation.

19 LYNN: Okay. That's all I have. Thank you.

20 REEVES: And I, I suppose I would give, under the SEPA, I would give Mr.
21 Loring an opportunity to see if he just has one or two question re-, redirect
22 or, uh...

23 LORING: Re-cross?

24 REEVES: Re-, thank you. We're not going to go all the way around the
25 table, but, go ahead, Mr. Loring?

1 LORING: Uh, thank you, Mr. Examiner, I, I do have a few questions. Um, on
2 that last point, uh, Mr. Norris, you didn't take any surveys for pedestrian
3 or bicycle use along Prairie Road or Grip Road, did you, as part of your
4 analysis?

5 NORRIS: Yes, we did.

6 LORING: And where would I find that in the record?

7 NORRIS: That was in the, um, the traffic, uh, counts that we did for
8 those intersections, uh, recorded pedestrian volumes.

9 LORING: Okay. And that was at the time of year when you were doing those
10 traffic counts?

11 NORRIS: Correct.

12 LORING: Okay. Was that in the winter?

13 NORRIS: Uh, some of them were in the winter, I think some of them were,
14 uh, in the Spring, I don't, I don't remember correctly, it's been quite
15 awhile since we did a lot of that.

16 LORING: Okay. Thanks for that. Uh, you were asked just a moment ago
17 about, uh, the safety of encountering vehicles and you used the coin flip
18 analogy the, the Hearing Examiner had mentioned earlier. And so, my question
19 for you is just this, uh, the more times you flip the coin, the more likely
20 it's going to come up heads, is that right?

21 NORRIS: No. The probability of coming up heads is 50/50 every time you
22 flip the coin.

23 LORING: But if I flip a coin ten times, I've got a five in ten chance of
24 getting heads, if I flip it once, I've got a 0.5 percent chance, right?

25 NORRIS: You got a 50%...

1 LORING: I mean, not 0.5%, but...

2 NORRIS: You have 50% chance every time you flip the coin of it coming up

3 heads.

4 LORING: I, I see the Examiner going frustrated, I, I...

5 REEVES: Well...

6 LORING: I'm trying to, my, my, my point is this, if I pass ten vehicles

7 and I've got a 50% chance of having an encounter with any one of those, that

8 gives me five of those that I'm likely going to have an encounter with, but

9 if I pass just one, then I've got fewer opportunities for that [inaudible]...

10 REEVES: Oh...

11 LORING: To occur, more opportunities for risk if there are more vehicles

12 on the road, in this instance, is that right?

13 REEVES: Uh, we kind of lost you, I think, at least I did, did others lose

14 Mr. Loring at the end?

15 LORING: Thank you.

16 REEVES: So, I think you were trying to sort of bring up what I was

17 bringing up earlier which is if you flip the coin faster, you get heads, not

18 more often, but more heads, 'cause you flipped it more, but go ahead and

19 rephrase your question in terms of travel.

20 LORING: That really was it, though, yeah, thank you. If, if you are

21 passing, you know, more trucks, even if each individual interaction has

22 certain chance of having an accident, you have more opportunities for those

23 accidents to happen, if you're passing more trucks, is that right?

24 NORRIS: Uh, now, we're getting into finding statistical analysis terms

25 and the, the potential is the same for every vehicle. The number, uh,

1 depending on the potential, would be, uh, result in the actual volume of
2 crashes that would occur. But the potential for a crash is the same every,
3 every, every time. And, and...

4 LORING: That, and that's fine. I, that, that's okay. I'm just going to
5 consider it essentially a non-answer to my question and move on. Thank you,
6 Mr. Norris, I've got a few more questions for you here.

7 LYNN: Can I ask that the commentary be eliminated about non-answers. If
8 it's a non-answer the record will show that. You don't need to make a
9 commentary about it, I don't think it's helpful.

10 REEVES: All right. Noted. And, you know, ultimately if you all recall,
11 I'm the one that needs to produce the decision and so, I was the one with
12 came up with the coin idea and if my statistical analysis is horribly off, I
13 apologize. But I think Mr. Norris agreed that I kind of was in the right
14 ballpark, so, but, go ahead.

15 LORING: Um, Mr., thank you, Mr. Examiner. Mr. Norris, you mentioned, you
16 repeatedly mentioned that the Applicant here has agreed to, uh, address the
17 issues on Grip Road, essentially, is that correct?

18 NORRIS: Address the issue regarding truck crossover encroachment.

19 LORING: Thank you for that clarification. Yes. Uh, do you have that, uh,
20 that promise in writing?

21 NORRIS: I believe Mr. Barton, the manager for Miles made that statement
22 when he, uh, testified.

23 LORING: Okay. So, you don't have anything in writing to identify the
24 parameters of whatever that potential promise might be?

25 NORRIS: No, I don't believe that's within my scope.

1 LORING: Okay. Thank you. Uh, just a couple more here.

2 REEVES: I'll give you two.

3 LORING: Two and a half?

4 REEVES: Two and a half.

5 LORING: Uh, there has been a lot of talk about the, the type of traffic

6 impact analysis that has occurred or, or would need to occur, I just wanted

7 to circle back and clarify that in this instance, a, a Level 1 Traffic Impact

8 Analysis would have been required, uh, for this, or, and I know one occurred,

9 but it was suggested that it was, uh, voluntarily provided, but the Road

10 Standards for Skagit County actually required a Level 1 Traffic Impact

11 Analysis here, right?

12 NORRIS: Uh, not under our, uh, initial volume, no.

13 LORING: It, well, volume is not the only Standard for that, right?

14 NORRIS: It pretty much is a volume standard.

15 LORING: Okay. So, are you familiar with the Road Standards?

16 NORRIS: Yes, I am.

17 LORING: Okay. Are you familiar with the language that states that a Level

18 1 TIA is required, uh, either if it meets a certain volume or if it, the

19 project is not categorically exempt from SEPA?

20 NORRIS: Yeah. I, I, uh, yeah, I didn't see that as being a, a, uh,

21 prominent condition of a, uh, Level 1 Traffic Study.

22 LORING: Okay. But, just to clarify, you're not testifying that this

23 Project is exempt from SEPA?

24 NORRIS: No, it's not exempt from SEPA.

25 LORING: Okay. Okay. Thanks.

1 REEVES: And you get your half and then we're done, Mr. Loring.
2 LORING: Yeah.
3 REEVES: You already...
4 LORING: This...
5 REEVES: Passed it, I, I'm feeling real generous today, so go ahead.
6 LORING: Well, I, these are questions that have come up, I, I'm just
7 trying to follow up on things. I'm not outside the scope, I'm, it's, I'm
8 within my rights. Um, I, the last question I have for you, though, uh, Mr.
9 Norris is this, you haven't investigated whether the Grip Road curves, and
10 the underlying land, can actually accommodate, uh, the expansion that now
11 we're hearing has been promised, have you? And by that, I mean, for example,
12 uh, slope stability along those curves, I mean, any other elements that might
13 impact whether the road could actually be expanded in a way that would
14 accommodate this gravel hauling along them?
15 NORRIS: I, I don't believe in our, uh, auto-turn analysis that the
16 results indicated that the widening would be, uh, so significant that would
17 impact, uh, other environmental concerns along the roadway.
18 LORING: Does your auto-turn analysis incorporate, well, this is
19 important.
20 REEVES: I know.
21 LORING: Does it incorporate those environmental concerns? Does it, does
22 it have an element for slope instability?
23 NORRIS: No.
24 LORING: Okay. And does it incorporate any other environmental concerns
25 into its calculation?

1 NORRIS: Okay. I guess we have to back up and do a little more explanation
2 about what exactly auto-turn does. Because you're moving into an area that's
3 totally out of the realm...

4 REEVES: Hold on. I, I'm going to cut into the extent that Mr. Norris, are
5 you a geotechnical engineer? And in producing this analysis, do you look at
6 things like slope stability?

7 NORRIS: In producing what analysis?

8 REEVES: You...

9 LORING: The auto-turn analysis of the

10 REEVES: Auto-turn...

11 LORING: [Inaudible] needed.

12 REEVES: Yeah.

13 NORRIS: Okay. As, as I said before, the auto-turn analysis takes the
14 roadway configuration, that being of the travel way and existence of the
15 shoulders, whatever may exist, and it operates this, uh, design vehicle
16 through the curve to show where the vehicle, in its standard pathway, would
17 encroach outside the lane configuration or the shoulder configuration. From
18 that, uh, a knowledgeable engineer looks at the surrounding conditions on
19 the, uh, within the right-of-way, along the road, and determines what impacts
20 this widening of the, um, paved surface would be on these other features. So,
21 the auto-turn analysis does not address anything about the, um, natural or
22 topographic features of the roadway.

23 REEVES: So, the answer was...

24 LORING: Thank you, Mr. Norris. Uh, that, that was my question. Thank you.
25 I appreciate it. And I have no further questions.

1 REEVES: Thank you. Mr. Lynn, any, any final [inaudible].

2 LYNN: [Inaudible.]

3 REEVES: Okay. So, my thinking is it's 10:45, we're an hour and 45 minutes
4 in. I think it would be appropriate to just take, you know, ten minutes, use
5 the restroom, et cetera. Mr. Lynn can also figure out the other issue we had
6 in terms of getting that data or did you already sort it out, Mr. Lynn? Oh,
7 you're muted again. Muted.

8 LYNN: Yeah. Sorry. Um, I have not been able to talk to anybody. I have
9 sent around the dimensions of the truck, uh, used in the analysis.

10 REEVES: Okay. But, we'll, we'll, so, let's come back in about ten minutes
11 and then if you have an answer or something we can, we can start there, we'll
12 just start with you on that. But, then, after that, I think Mr. Ehrlichman
13 was hoping to call his witness out of order, uh, because his witness can only
14 participate today. Does that make sense?

15 LYNN: Uh, yes. One, one quick question about that, uh, Tom, how long
16 will your witness be, do you know? I'm trying to figure out 'cause I've got a
17 witness on standby and I don't know, I don't want to keep her around if she's
18 not going to get heard this morning.

19 EHRLICHMAN: I don't think very long. Uh, in fact, we, we tried to put most of
20 the testimony into letter form so we can just hit the highlights, uh, we've
21 submitted the letter this morning.

22 LYNN: Okay.

23 EHRLICHMAN: Uh, so whatever questions you all have.

24 REEVES: Just to be clear, uh, there could potentially be objections from
25 Mr. Loring in terms of that letter would obviously not have been part of the

1 SEPA analysis, but can we agree that I will, I'm smart enough to, to figure
2 that out? Well, it's not really, I mean, I don't think there's any objection
3 to the letter from this witness. If there is, please, somebody tell me that?

4 EHRLICHMAN: And if it helps, Mr. Examiner, on that score, rather than have
5 our witnesses testify during the public portion of the Special Use Permit
6 proceeding, I think we all agreed we would have them testify as part of this
7 grouping of our presentation, although this one would be out of order.

8 REEVES: Okay. It's out of order, but I also think the plan was to sort of
9 hear from everybody as part of the public and then the SEPA specific, as it
10 were, portion is just, you know, super brilliant legal argument.

11 EHRLICHMAN: Right.

12 REEVES: Uh, of expert witnesses.

13 EHRLICHMAN: Uh-huh.

14 REEVES: Okay. So, why don't we take a quick break. I think everybody
15 could use one. I certainly can. And we'll come back, uh, how about, about,
16 how about five 'til, it's 10:45 now, does that work for everybody?

17 EHRLICHMAN: Sound great.

18 REEVES: All right.

19 LORING: Sounds good. Thank you.

20 REEVES: That's what we're going to do regardless. Thanks, everybody.

21 EHRLICHMAN: Thank you.

22 [The tape ends.]

23 **The undersigned being first duly sworn on oath, deposes and says:**

24 I, Janet Williamson, declare under penalty of perjury, under the laws of the State of Washington
25 that the following statements are true and correct: I am over the age of eighteen (18) years and not a party

1 to this action. That on April 22nd, 2024, I transcribed a Permit Hearing, conducted by Andrew Reeves,
2 that took place on 9/2/22 at 9:00 a.m., regarding the above-captioned matter.

3 I certify and declare under penalty of perjury under the laws of the State of Washington that the
4 aforementioned transcript is true and correct to the best of my abilities.

5 Signed at Mount Vernon, Washington, this 22nd, April of 2024.

6 Janet Williamson

7 Janet Williamson
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25