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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 9-8-22 3:00 PM
Appeal of Mitigated Determination of)
12 Significance by Central Samish Valley)
Neighbors)
13 _____

14 Transcription Date: May 4th, 2024

15 Present: Andrew Reeves, Tom Ehrlichman, Brian Bowser, Kyle Loring, Bill
16 Lynn, Jason D'Avignon, Mona Kellogg, Phil Mccloud

17 REEVES: There's Mr. Loring. Okay. And Mr. Bowser. Okay. Um, so, we'll go
18 to Mr. Ehrlichman next.

19 EHRLICHMAN: Thank you, Mr. Examiner. Afternoon, Mr. Bowser.

20 BOWSER: Hi, there.

21 EHRLICHMAN: Um, my name is Tom Ehrlichman and I represent one of your
22 neighbors, uh, Cougar Peak and Neil Mcleod's family on Grip Road.

23 BOWSER: Okay.

24 EHRLICHMAN: Uh, have you and I ever met or spoken?

25 BOWSER: I do not believe so.

1 EHRlichman: I don't believe so either. Um, and if necessary, would you be
2 willing to return to this proceeding during my presentation of the case, uh,
3 as a witness?

4 BOWSER: Yeah. As long as, uh, it works where I'm not flying as part of my
5 job.

6 EHRlichman: Okay. Thank you.

7 BOWSER: Uh-huh.

8 EHRlichman: Um, I, I think your testimony, uh, let me put it this way, some
9 people will find your testimony and videos and photos compelling, other
10 people will not. Um, one of the folks that will not find it compelling might
11 likely say that you are not an expert. Um, are you an expert when it comes
12 to, uh, the terrain that you showed us in those photos and videos?

13 BOWSER: You mean, like, do I know the area like the back of my hand and
14 can tell you how to drive every corner faster, slower, if I'm on a bicycle,
15 where I need to be, any detail about the road? Yeah. I've been there my whole
16 life. I've been all over everywhere, gravel pits, the property of this
17 proposed, uh, dig the pit, I mean...

18 EHRlichman: Thank you.

19 BOWSER: I grew up here.

20 EHRlichman: And have you been watching these, uh, proceedings, including the
21 testimony of the traffic expert for the Applicant?

22 BOWSER: I've been able to catch a little bit, but I also have to work,
23 so...

24 EHRlichman: And you testified that, um, you have examined the traffic reports
25 that are in the record?

1 BOWSER: Yes.

2 EHRLICHMAN: Um, you mentioned, uh, Fire District Number 8, uh...

3 BOWSER: Yes.

4 EHRLICHMAN: I wasn't sure, could you clarify that for us? Are you a volunteer
5 there, uh, is one your family, uh, part of it?

6 BOWSER: My, my dad was when we first moved here in '72, he joined the,
7 the local fire department and was involved with it until probably around
8 2012ish, somewhere in that range. He started as a, as a, uh, just a member,
9 became a Fire Chief, uh, later, after he retired, became Fire District
10 Commissioner and I think he was there for 12 to 16 years as a, as a
11 Commissioner. So, um...

12 EHRLICHMAN: Is it safe to...

13 BOWSER: [Inaudible.]

14 EHRLICHMAN: Sorry.

15 BOWSER: Go ahead.

16 EHRLICHMAN: Is it safe to say that, uh, you have an intimate knowledge as to
17 the, um, history of what Fire District 8 is about in this specific area?

18 EHRLICHMAN: Oh, yeah. Yeah.

19 BOWSER: And during that period of time, uh, do you recall, uh, Fire
20 District 8 or your father talking about, uh, accidents along Grip Road or
21 Prairie Road near the intersection of Grip Road?

22 LYNN: I'm going to object. Um, I'm sorry, excuse me, but, you know,
23 we're asking the witness if he remembers hearing about something from his
24 father, a Fire District Commissioner, if, certainly not very probative
25 evidence. And it's hearsay.

1 REEVES: Uh, sustained, I guess you can rephrase the question. I, Mr.
2 Ehrlichman.

3 EHRLICHMAN: Thank you. Um, Mr. Bowser, uh, are, are you aware that the
4 traffic engineer for the Applicant testified here that he looked at the, uh,
5 crash history on Grip Road, the segment in between the intersections...

6 BOWSER: Uh-huh.

7 EHRLICHMAN: And he found that there were only six crashes in five years?

8 BOWSER: I find that hard to believe. Part of it, I see debris. So, maybe,
9 uh, people do stuff and don't call cops and able to drive their car away. So,
10 that may be part of it, but, uh, um, that doesn't seem accurate based on what
11 I'm used to seeing through there.

12 EHRLICHMAN: What, what, if you were told that the evidence that you submitted
13 in your testimony, um, isn't compelling, that you shouldn't worry because
14 there had only been six crashes in five years on Grip Road, what would your
15 response to that be?

16 BOWSER: Uh, um, well, I'm willing to be an expert witness when somebody
17 dies. Because that is not a safe, safe route to travel with truck and pup.
18 And I've seen many, many near misses on that system, um, I've, I've witnessed
19 all sorts of stuff, I've been involved in near misses. Um, and it's, there
20 are going to be problems down the road. And we can pretend that, you know, if
21 an expert said that it's great and we've had experts through this entire
22 planning process that say stuff is fine. And then we go back and we look and
23 we find out it's not. I think we just had a derailment of some trains, uh,
24 down south that experts said was great and a bunch of people died, so...

25 EHRLICHMAN: Okay.

1 BOWSER: I get a little frustrated at that.

2 EHRLICHMAN: Thank you for that. Um, it, we heard testimony, uh, from the
3 Applicant's, um, Chief Officer, Vice President, that the, the driver track
4 record for this company is excellent. It does not include ser-, any serious
5 accidents. Doesn't, isn't that reassuring enough to you that the mine would
6 operate safely on Grip Road?

7 BOWSER: No. I appreciate if they, if they have a, uh, if they're
8 concerned about safety and, I mean, because it affects their insurance and
9 everything else, that's great. But they're not the only people going to the
10 pit, I have no control over who goes to that pit. It could be anybody. And
11 just because you're, you have a good track record and you have, in general,
12 good employees, that doesn't mean accidents aren't going to happen. And when
13 you put them in risky situations, I mean, you're just, you're asking for
14 difficulties.

15 EHRLICHMAN: And when, uh, he also testified that the conflicts with school
16 buses were not a problem because there were only three buses, isn't that
17 reassuring to you?

18 BOWSER: No. Not if the bus is coming down the hill when they're trying to
19 go up the hill or vice versa.

20 EHRLICHMAN: What do you mean by that?

21 BOWSER: Well, if you're on Grip Road and you're trying to traverse the S-
22 curves and the bus is coming down and the truck is going up, um, that doesn't
23 reassure me that it's a professional driver or whether that, that there's
24 only three buses.

1 EHRlichman: Well, couldn't, wouldn't the driver be able to be aware that
2 school buses might be on the road and, and safely navigate his side of the
3 road?

4 BOWSER: No. You can't fit and stay on your side of the road and navigate
5 those corners. You're going to have to stop some place, if you know the bus
6 is coming.

7 EHRlichman: When you looked at the Applicant's graphic showing that the, uh,
8 truck/pup trailer combination was only 63 feet long, uh, your testimony was
9 that actually, uh, trucks hauling gravel w-, would likely be longer than
10 that? I think you said 70 feet?

11 BOWSER: Yeah. There will be a good chunk of them that will be, not all of
12 them.

13 EHRlichman: W-, and was that graphic that you looked at, and I can find the
14 Exhibit number if we need it, it was at the beginning of your testimony, did
15 that graphic appear to be at scale, drawn to scale?

16 BOWSER: No.

17 EHRlichman: Uh...

18 BOWSER: That is...

19 EHRlichman: Oh, we don't have an Exhibit number yet. Mr. Lynn, did you, Mr.
20 Lynn, did you want to propose an Exhibit number for that?

21 LYNN: Well, I don't want to propose an Exhibit number, I don't have the
22 list at the moment. But, what I said I would find was when it was sent. And
23 it was sent on September 2nd at 10:37. So, that would tell us, that would give
24 us a way to identify the document. And then we can verify that we have the
25 same number and I suggest we spend some time doing that at some point.

1 EHRlichman: Mr. Examiner, if I may, uh, we've had testimony now about the
2 Exhibit, it was circulated to all parties, there's no reason not to give it
3 an Exhibit number that I can see, every-, everyone has it.

4 REEVES: There's no objection to having an Exhibit number, we just don't
5 know what number to give it, so, it's coming into the record, we just...

6 EHRlichman: Oh, okay. All right. So, it's not an issue of it coming into the
7 record, it's just...

8 REEVES: No.

9 EHRlichman: You don't know what number? Okay. All right. Very good. Uh, but
10 Mr. Bowser, you remember reviewing that graphic?

11 BOWSER: Yes.

12 EHRlichman: And it was not drawn to scale?

13 BOWSER: No.

14 EHRlichman: Um, so it didn't really give us a good depiction of the length of
15 those trucks, per-, and is that correct?

16 BOWSER: That's correct.

17 EHRlichman: Did it give us a picture of the length of those trucks in
18 relation to a car or a school bus?

19 BOWSER: No.

20 EHRlichman: And are you aware that that graphic was intended to depict the
21 truck/trailer combination that was used in the Applicant's auto-turn
22 analysis?

23 BOWSER: Um, I didn't, I didn't know what it, other than distance, I
24 didn't know. If that's the configuration, it's going to handle a corner way
25 differently than a triple axel trailer with no steer dolly up front.

1 EHRlichman: I believe the Applicant, um, again, uh, the Applicant's, uh, Vice
2 President testified that they are offering to improve two curves on Grip Road
3 based on an auto-turn analysis that used that truck/trailer combination, uh,
4 in the modeling for that. Is that a concern from your perspective?

5 BOWSER: I appreciate that there's acknowledgement that there's a problem
6 in those curves, but I'd like to model the correct vehicle and turn radius,
7 um, for that to make sure that we're actually adequately, adequately
8 addressing the issues there.

9 EHRlichman: And you said that you have familiarity in the, uh, region here
10 with, uh, construction, construction management, um, and, uh, those projects
11 have included oil refineries?

12 BOWSER: Yeah.

13 EHRlichman: And what other large facilities have you, uh, done construction
14 management for?

15 BOWSER: Uh, so I, I've dealt with issues at the, uh, Navy Base on Whidbey
16 Island. Um, three of the four local refineries, like build a new waste water
17 treatment plant, managing 100 plus million dollar turnarounds from cradle to
18 grave. I'm currently, uh, working with a, a large manufacturer in five
19 different large capital projects that are from Greenfield, uh, 200 square,
20 uh, thousand square foot building, roads, parking, everything, uh, plus the
21 equipment inside to manufacturer to just upgrades to be making a fiberglass
22 rebar, um..

23 EHRlichman: Okay.

24 BOWSER: Lots of stuff.

1 EHRlichman: Thank you. And did you have an opinion as to whether this mine is
2 vital to continued, uh, supply of sand and gravel in the, uh, Skagit County,
3 um...

4 BOWSER: Um...

5 EHRlichman: Market.

6 BOWSER: I don't know the actual market in Skagit County on whether we're
7 running out or not running out. I know it's got gravel in the ground, it's
8 zoned, uh, I don't agree necessarily with how they zoned it when they did it,
9 but that's water under the bridge. Um, it's zoned, uh, to, to mine there. But
10 if we're going to mine it and we think it's vital, which the County does want
11 gravel, people here do, and we need to handle the infrastructure. The, the
12 infrastructure was never designed for this use whatsoever, anywhere along the
13 way.

14 EHRlichman: Thank you. And when you did your, uh, examination and
15 investigation on whether, uh, truck trailer combinations at 70 feet could
16 handle, uh, Grip Road without crossing over, um, were you aware that the
17 County has a requirement that the Applicant provide improvements to, uh,
18 prevent that?

19 BOWSER: I know there's language in their documents that say that.

20 LYNN: I'm going to...

21 EHRlichman: Were you aware of a...

22 LYNN: Object, um, essentially what is happening here is that Mr.
23 Ehrlichman is quoting things and then asking the witness, which he's calling
24 as his witness, will agree to him. It's leading, he's asking him for legal
25 conclusions now, and it's well outside the scope of appropriate testimony.

1 EHRlichman: If I may speak to that Mr. Examiner?

2 REEVES: I'll sustain the objection. Move on, please.

3 EHRlichman: If I may speak to the objection?

4 REEVES: The objection was sustained, Mr. Ehrlichman. Go ahead.

5 EHRlichman: Without allowing me to speak to it?

6 REEVES: Go ahead, Mr. Ehrlichman, speak to it, then.

7 EHRlichman: Thank you, Mr. Examiner. Uh, Mr. Lynn's objection, it is out of
8 order. It is, he objects when testimony is coming in that is directly germane
9 to the flaws in the Application. What I object to in Mr. Lynn's interruption
10 is that the nature of the objection has nothing to do with the Hearing
11 Examiner proceeding. The rules allow broad latitude in witness testimony.

12 REEVES: I...

13 EHRlichman: So, I...

14 REEVES: [Inaudible] by me, the Hearing Examiner, ultimately to try to
15 control the proceeding. Clearly, I've been failing miserably. But, you know,
16 this is different than a court proceeding, you know, the particular role that
17 you yourself identified you yourself as having was, uh, going to be limited
18 and specific. Uh, you know, I've now reread everything submitted multiple
19 times and I'm still at a loss as to all of this. But, you know, I, I'm just
20 trying to get through, trying to get us all through. So, I, do you have a,
21 sorry, I'm trying to figure out, there were multiple reasons you dislike the
22 objection. I recognize I interrupted you. Um, but go ahead and try to finish,
23 Mr. Ehrlichman.

24 EHRlichman: Mr. Bowser, let me rephrase that question. Are you aware of
25 Comprehensive Plan Policy 4D 5.3, which says cost sharing for the

1 improvements of roads and bridges shall be negotiated between the permitting
2 authorities and the Applicant?

3 REEVES: And...

4 EHRLICHMAN: I have a follow up question, let me lay that foundation, if I
5 may.

6 BOWSER: Yes, I am and I've read through that and, uh, the traffic study
7 requirements and volumes and counts, yes.

8 EHRLICHMAN: And is that not reassuring to you in terms of the concerns you
9 expressed in your testimony?

10 BOWSER: I don't think a lot of that was done. Uh, uh, again, it comes
11 back to having a, a true traffic analysis done and looking at the, the road
12 system as a whole with the actual volumes of traffic that are going to be
13 there.

14 EHRLICHMAN: And, and, again, you've looked at all of the traffic studies that
15 were presented by the Applicant?

16 BOWSER: Yes.

17 EHRLICHMAN: And you didn't find any negotiation between the County and the
18 Applicant on that?

19 BOWSER: Uh, there's been, early on there was the offering up of doing the
20 lighting system, um, and there's been some discussion of that. That's 100% on
21 Concrete Nor'West, um, and later on, as, as far I know, it's 100% on Concrete
22 Nor'West to take care of the S-curves on, on Prairie Road and I don't know
23 who's paying for what, or what the conclusion is on Grip Road. I just know
24 there's been acknowledgement that there's issues there.

1 EHRlichman: Very good. Thank you so much. Mr. Examiner, that concludes my
2 questioning.

3 REEVES: Thank you. Mr. D'Avignon, do you have questions of this witness?

4 D'AVIGNON: I do not. Thank you, Mr. Examiner.

5 REEVES: Okay. Mr. Lynn?

6 LYNN: Um, yeah. Thank you, Mr. Bowser. Um, you're not able to offer
7 testimony about auto-turn or the analysis that goes into it or whether one
8 truck tracks the same or differently than another in that computer program,
9 are you?

10 BOWSER: Not within the computer program, no.

11 LYNN: Okay. Um, you identified, uh, through your videos a number, uh,
12 of situations involving trucks crossing over the road, those are current
13 conditions, correct? Those are, those are trucks that are currently on the
14 road?

15 BOWSER: Yep.

16 LYNN: And, and none of them were Miles trucks, were they?

17 BOWSER: Not, I don't know.

18 LYNN: Okay. Did you see any Miles logo on any of the trucks?

19 BOWSER: You couldn't see a logo on the one that, the main truck that we
20 were following, no.

21 LYNN: Okay. Was that you following, by the way?

22 BOWSER: No.

23 LYNN: You were driving the car?

24 BOWSER: No.

25 LYNN: Okay. Were you riding in the car?

1 BOWSER: In the, where the, where there was a dump truck with a pup, no, I
2 do not believe so.

3 LYNN: Okay. So, I, I'm asking because I noticed that when the truck
4 passed the bicycles, crossing over the center turn lanes, the car following
5 it did exactly the same thing. I just wondered if you were in that truck, or
6 that car?

7 BOWSER: I was in that car.

8 LYNN: Okay. Um, you pointed to the, uh, driveway in one of your
9 photographs or videos, that's the driveway you understand will be improved
10 both physically and then also with beacons, uh, all three directions, that is
11 both directions on Grip and in the mine itself?

12 BOWSER: Uh, you're up at the mine entrance way where you're leaving Grip
13 Road going into your mine?

14 LYNN: Yes.

15 BOWSER: Yes.

16 LYNN: Okay. Um, so I think maybe you answered this question, but I
17 noticed that when you pointed out some sloughing on the pavement, there was
18 painting there, uh, did that indicate that the County was about to make a
19 repair and did they subsequently make that repair?

20 BOWSER: The County, where, you're talking about where the two pictures of
21 the, it sloughed off they made the repair? Yeah.

22 LYNN: Yeah. Okay. And isn't that common throughout the County that
23 problems emerge and the County does maintenance?

24 BOWSER: Yeah.

25 LYNN: Okay. And...

1 BOWSER: There's some places that tend to have more maintenance than
2 others.

3 LYNN: Yeah. And, and isn't it true that there are flooding problems
4 throughout the County and the County closes road sometimes and then reopens
5 them after the flooding, uh, disperses?

6 BOWSER: That is also true. Depending on the use, they choose to fix it or
7 not fix it.

8 LYNN: Okay. And wouldn't there, wouldn't the fact that there's more
9 truck traffic give the County more incentive to make quicker and better
10 repairs?

11 BOWSER: [Laughs] I can't answer that. I wish I could. That was funny,
12 though.

13 LYNN: Well, this, this isn't the only road in the County with sub-,
14 substandard shoulders, is it?

15 BOWSER: Oh, no. No. It doesn't...

16 LYNN: That's...

17 BOWSER: Meet, the whole system doesn't meet their current requirements,
18 nor would I expect it would from when it was...

19 LYNN: But that, uh, okay. And isn't that characteristic, then, of all
20 the areas where a mine might be located, that you'd have similar roads?

21 BOWSER: Uh, not necessarily. But, um, whenever you change the use, I
22 mean, I look at Costco, they got all different roads there because the use
23 changed in that area. It was not like that. Burlington Boulevard was not like
24 that whenever I moved here. It was two lanes, uh, one each direction. The use
25 changed, the road changed.

1 LYNN: And isn't that, uh, and maybe you don't know the answer, if so,
2 just say so, isn't that based on the, uh, operation of the road, the levels
3 of service and that type of analysis that, uh, determines the capacity of the
4 roads?

5 BOWSER: Uh, it's interpreted by the County and their rules, yes. And I
6 can't, after this process, I can't follow what that really is.

7 LYNN: Okay. Um, you, I think this was at Grip and Prairie, you l-,
8 talked about the view, but you were, the, the truck actually had a different
9 view than you and the car behind it, didn't it? Wasn't the truck both closer
10 to the intersection and the driver at a higher viewpoint so his viewpoint,
11 his or her viewpoint might be different than yours?

12 BOWSER: Uh...

13 EHRLICHMAN: Objection, Mr. Examiner. Objection. That's a leading question.
14 Could you rephrase it, please?

15 LYNN: Well, I am cross-examining and I think I'm allowed to pr-, to,
16 uh, lead, but go ahead. Let the Examiner speak.

17 REEVES: Again, yes, go, I'm going to allow it, again, to the extent we're
18 not strictly bound by the rules of evidence. If we were, very few of the
19 questions I've heard would, would be allowed, uh, throughout much of the day.
20 So, go ahead, Mr. Lynn, with your question.

21 BOWSER: All right. So, I would agree the elevation is different from the
22 truck, uh, but that doesn't gain you anything on that corner. We have another
23 Exhibit of a photograph from that intersection where that person would be
24 seated and they actually, you're increasing your angle, your distance to the
25 hill, you're getting closer, so your angle around that corner, you don't see

1 as far. That isn't going to change with the elevation of the, whether you're
2 in a truck or a car. That's a fixed, fixed point.

3 LYNN: Um, you had some testimony about what you thought the cost might
4 be for the, for the, um, bank removal at Prairie and Grip. And just to be
5 clear, even though you're a construction expert, you didn't undertake any
6 engineering analysis or any analysis of the actual configuration that would
7 have to go in, the availability of the right-of-way or the cost of the work,
8 did you?

9 BOWSER: All I made comment to cost was tied back to the right-of-way
10 based on what I saw up and down Parson Creek Road that Puget, uh, Sound
11 Energy paid. I did not speculate to any price on removal. But, I've done
12 civil work and, uh, you're not going to be putting piles in the ground,
13 you're not going to be doing anything wild and crazy there. It's mostly
14 vegetation removal, dirt removal. You may have to do some, some retaining
15 wall work, but it's, and then slope the bank back. It's not rocket science
16 there.

17 LYNN: Okay. But you haven't undertaken that analysis, that's just
18 based...

19 BOWSER: No.

20 LYNN: On your experience?

21 BOWSER: Yes.

22 LYNN: Okay. And you describe what the Applicant did as a hand wave, but
23 you haven't seen whatever the Applicant did, other than what was in the
24 traffic report?

1 BOWSER: Right. Because they just mentioned it was too expensive, they did
2 not supply any information. There was nothing to review, nothing to validate
3 or to have a discussion about what's too expensive.

4 LYNN: Okay. Um, so, you, you made the statement that the traffic
5 analysis only examined average traffic. Wasn't there also analysis of the
6 road capacity at 30 trucks per hour?

7 BOWSER: My understanding of all of those capacities are at intersections
8 themselves.

9 LYNN: Okay. And...

10 BOWSER: Not the road system.

11 LYNN: Okay. And so, what you found missing was some analysis of the
12 road system at particular, uh, numbers of trucks?

13 BOWSER: Yes. They didn't evaluate the whole system. And, and the, the
14 evaluation criteria that drove the, the traffic analysis was based off the
15 average truck numbers, not on, on real life, hey, we're going to have a
16 hundred trucks today or we're going to have 200 trucks today. Um, and what
17 those peaks are.

18 LYNN: Did, but you didn't hear Mr. Norris' testimony, I guess what, uh...

19 BOWSER: No.

20 LYNN: Earlier? Okay.

21 BOWSER: No.

22 LYNN: Um, so, the problems that you identified in, um, the various
23 videos and photographs are existing problems, uh, does it, uh, appease you
24 even a little bit that the Applicant proposes to improve those S-curves, both
25 on Prairie and Grip?

1 BOWSER: I, it's, it's a step in the right direction. And I, I appreciate
2 that. Um, I just don't think that there's been enough done or, or being
3 enough done to that, that system.

4 REEVES: Okay. Thank you very much. That's all I have.

5 REEVES: Mr. Loring?

6 LORING: Yes. Thank you, Mr. Examiner. Uh, Mr. Bowser, just a few follow-
7 up questions on the questions you were asked just now. Uh, you were, you
8 were, uh, asked about the existing problems that had been identified and the
9 promise to address them. Uh, have you seen any proposal in writing from Miles
10 Sand and Gravel to address the Grip Road, uh, curves?

11 BOWSER: No.

12 LORING: Uh, would you have expected that before the County issued a MDNS
13 for the project?

14 BOWSER: There's a lot of things I would have expected before that, that
15 happened. And y-, so, yes, I guess, yes.

16 LORING: Sure. And, so...

17 BOWSER: Details matter.

18 LORING: Yeah. And, and you would have expected that sometime during the
19 first six years of the Application process?

20 BOWSER: Yes.

21 LORING: Okay. Uh, okay. Uh, you were also asked a moment ago whether you
22 had seen what the Applicant's Consultant did when they, uh, allegedly
23 studied, I guess the cost associated with the bank removal. Uh, and you said
24 that you, you had not, you'd only reviewed what was in the report? Uh...

25 BOWSER: Right.

1 LORING: Is that accurate? Okay.

2 BOWSER: Right. In the initial memo, it was mentioned it was too expensive
3 and that's all there was.

4 LORING: Okay. Um, wouldn't you have expected to see that information in
5 the report, if they had..

6 BOWSER: Yeah. It would..

7 LORING: Done a full analysis?

8 BOWSER: The volumes of materials, it's with the cost of right-of-way,
9 whether retaining wall was needed, some basic stuff that I'm used to doing an
10 order of magnitude estimates, I would have expected that.

11 LORING: Okay. And, uh, I believe you were also asked, uh, whether you
12 conducted an actual study of those costs yourself? Uh, and you said, no, you
13 hadn't done so. Again, you would have expected to see that in the
14 Application, um..

15 BOWSER: Yeah.

16 LORING: Yeah. Okay.

17 BOWSER: That's...

18 LORING: Do you have some, do you have some sort of burden to perform that
19 study?

20 BOWSER: Uh, I, you mean, am I required to? I certainly hope not. I
21 wouldn't think...

22 LORING: Okay.

23 BOWSER: That I'm the guy responsible for it. I'm capable to do it, but I
24 don't think I'm the right guy to do it.

1 LORING: Okay. Uh, you were, there was, uh, Mr. Lynn just spoke with you
2 about the County making a repair where the road had sluffed off.

3 BOWSER: Uh-huh.

4 LORING: And, uh, so, I just had a follow-up question on that. If, the
5 additional truck traffic from Miles, uh, causes sluffing in the future..

6 BOWSER: Uh-huh.

7 LORING: Do you believe that the County should also pay to repair that?

8 BOWSER: Uh, again, it's an use change and, and there should be cost
9 sharing for the whole system. We're changing what we're doing, and everyone
10 should pay for that. So that combination.

11 LORING: Yeah. Uh, and then I think I have one or two more, uh, you were
12 asked a question about the flooding and whether that should be addressed. Uh,
13 what do you anticipate would happen if trucks encounter the area that is
14 flooded?

15 BOWSER: I expect the road to deteriorate a lot faster. You're going to
16 have all of that weight and a saturated base and you're going to be going
17 across there. It's not going to, not going to be good.

18 LORING: And, and if the road is closed off, uh, would shipments still go
19 there?

20 BOWSER: I would certainly not think so, would hope not.

21 LORING: Okay. And then, last, are there any other water issues along the,
22 uh, preferred haul route that we've been discussing here today that you're
23 aware of?

24 BOWSER: Yeah. There is at, uh, Park Ridge Lane, there's permanent signs
25 installed so they can just drop them down that say water over roadway.

1 There's a, a creek that comes out at the base there goes over the road on a
2 regular basis. The County has made improvements and it's better than it used
3 to be, but multiple times a year, there will be water across the roadway and
4 it carries on quite a ways across the road because it's a downhill section.

5 LORING: Okay. And just roughly, where is that, uh, Park Ridge Lane?

6 BOWSER: Um, that is, um, um, in the, the dump truck video we were looking
7 at, where the double yellow line is and, and the dump truck went around the,
8 the, uh, bikers.

9 LORING: Okay. So, west on Prairie Road, not too far from the, uh, 90
10 degree turns, roughly 90 degree turns on Prairie Road?

11 BOWSER: Yeah. And I'd like to go back to the, the, the damage on Grip
12 Hill and whether it's going to sluff or, we haven't done any investigation,
13 we, meaning, uh, Miles, the County, anyone, I haven't seen any documentation
14 about soil types on that hill or anything else to address whether it is going
15 to sluff or not. I know in my lifetime it sluffed multiple times. So, I
16 expect it to happen again, but until you actually do some work and know what
17 you're dealing with, it's all of us with an opinion.

18 LORING: Okay. Okay. I don't have anything further. Thank you very much.

19 REEVES: Okay. Thank you, uh, Mr. Bowser. So, uh, Mr. Ehrlichman is using
20 the raised hand feature.

21 EHRLICHMAN: Thank you. I do have some re-direct, Mr. Examiner.

22 REEVES: I, re-, re-something?

23 EHRLICHMAN: I'm sorry?

24 REEVES: Re-direct? Is this the...

25 EHRLICHMAN: Yeah. After...

1 REEVES: Theory that this is also your witness, is this that same concept?

2 EHRLICHMAN: Uh, again, I was trying to accommodate the understanding we all
3 had that rather than segment witnesses away, that I ask them the questions
4 while they're here. If you would like to do it a different way, I'm happy to
5 do...

6 REEVES: No, let's just get through.

7 EHRLICHMAN: Thank you. Um, Mr. Bowser, you, you just testified, again, that
8 you had not seen anything in the record that provided analysis of some of
9 these key improvements that you think are needed for safety, correct?

10 BOWSER: Correct.

11 EHRLICHMAN: And Mr. Lynn, uh, asked questions related, uh, that, asked you to
12 confirm that these are existing conditions, correct?

13 BOWSER: Yes.

14 EHRLICHMAN: Is it your understanding that a Special Use Permit approval would
15 require analysis of not only the existing conditions, but the conditions that
16 are expected when you add the trips from the proposed project?

17 BOWSER: Yeah. And I would expect it to, to look at peak numbers in
18 addition to average numbers and not just be an average. I...

19 EHRLICHMAN: Well, that's...

20 BOWSER: We've seen...

21 EHRLICHMAN: That's a, that's a nuance or a different aspect of it, but
22 instead of, uh, asking you about levels of, levels of service and peak hour
23 trip math, um, I'm asking you, now, about the safety analysis that you said
24 you had not seen. And if the, if the code requires the Applicant has the
25 burden of proof under the code to present that delta analysis, the change

1 between existing conditions and the conditions with the number of trucks that
2 they're proposing, wouldn't you expect to see analysis in writing, from the
3 Applicant, about that relative change in risk?

4 BOWSER: Yes. There's, there's been nothing to address any of that.

5 EHRLICHMAN: Would you also, uh, expect that that analysis would delve into
6 the number of times per day, for example, that vehicles cross over the center
7 line on Grip Road?

8 BOWSER: Yes.

9 EHRLICHMAN: And did you see any of that analysis?

10 BOWSER: No.

11 EHRLICHMAN: Did you see where, in Exhibit 18, the Applicant's traffic expert
12 acknowledged that crossovers would occur?

13 BOWSER: Um, I don't know if I saw that or not.

14 EHRLICHMAN: Okay. And the Applicant proposed, uh, cro-, uh, to address or
15 mitigate the crossovers on Prairie Road, correct?

16 BOWSER: Right.

17 EHRLICHMAN: But they did not, in their written materials, propose it for, uh,
18 Grip Road, as we just heard, correct?

19 BOWSER: Correct. And the County also knows, because I followed the County
20 truck and pup making test runs on the whole route, and they are very well
21 aware, also.

22 EHRLICHMAN: And when was that?

23 BOWSER: Oh, man, that was early in the process, '18-ish or something like
24 that.

25 EHRLICHMAN: In the year 2018?

1 BOWSER: 2018, 2017, somewhere in that timeframe.

2 EHRLICHMAN: So, based on that observation, is it fair to say that the County
3 was aware that there were risks associated with heavy truck traffic and
4 crossovers?

5 BOWSER: Yeah. They have to.

6 EHRLICHMAN: And did the County, uh, from what you've seen in the record, did
7 the County require the Applicant to analyze and mitigate that on Grip Road?

8 BOWSER: No.

9 EHRLICHMAN: You didn't see that anywhere in the, in the County's...

10 BOWSER: No.

11 EHRLICHMAN: Review?

12 BOWSER: No. They know about it, and it's been written to them by multiple
13 people and they've ignored it.

14 EHRLICHMAN: How do you, let me think about how to phrase this so that Mr.
15 Lynn doesn't object based on the rules of evidence. How do you, uh, account
16 for the fact that this project has been reviewed for, now, six years, the
17 County knew about the crossover problem on Grip Road, and there's nothing in
18 the record from the County, uh, critiquing that or requiring mitigation?

19 BOWSER: Uh, County's had a lot of turnover. They have not been in-depth
20 in my opinion, in their review and questioning of the whole Application
21 process. They've made some mistakes along the way. And they just kind of keep
22 blundering forward. And I, I don't know, there's a lot of things that were
23 never addressed and you get waved off, oh, you don't know anything. There's
24 been snide comments in, in documents that we received, uh, through requests
25

1 and, uh, things like that, in this whole process. So, there's, uh, been a
2 lack of respect at times and it's just...

3 EHRLICHMAN: Well, if, if the County didn't do that analysis and didn't
4 present it into the record, and here we are and the Hearing Examiner is being
5 asked to make a decision, doesn't he need that information to make his
6 decision under the Code?

7 REEVES: I, hold on. I'm, I am going to stay explicitly that I am
8 confident I have the competence as the Hearing Examiner to determine what I
9 need to do know to make my decision. So, let's move to another question.

10 EHRLICHMAN: Well, I apologize, uh, withdraw that question and thank you. W-,
11 when you arrive at this point in the Hearing process, as a witness, and with
12 the experience that you have, in your professional opinion, is this Permit
13 Application ready for decision or should it go back for further study?

14 LYNN: I, I'm going to object to the p-, to, to the statement that he
15 has a professional opinion, unless it's narrowed to what is profession, and
16 it's not a traffic engineer.

17 EHRLICHMAN: Let me, let me, uh, comment on that. He testif-...

18 REEVES: Let's not. Let's not. Let's stop for a second. Essentially,
19 you're asking for, uh, you know, a legal conclusion or a conclusion of a
20 professional. I certainly have heard the testimony, I understand Mr. Bowser's
21 background. I have a pretty strong and good sense of how he feels about the
22 project. Uh, I don't know if it's beneficial for us to ask if he, you know,
23 for these types of conclusions. So, let's ask a different question and, and
24 move on. Mr. Ehrlichman, ask a...

1 EHRlichman: Yeah. I'm, uh, I'm trying to think of the, the question that
2 would survive the scrutiny that we get asking questions in an informal
3 Hearing Examiner proceeding. But, let me think for a minute. This is a, uh, a
4 witness who testified that he has extensive experience in the industry and
5 managing projects. I assume you have, uh, been involved in Permitting for
6 some of these projects? Is that correct, Mr. Bowser?

7 BOWSER: Oh, me? Um, in the refineries and that, indirectly, yes, but I've
8 never met with the agencies in the refineries and dealing with those things,
9 but, but a lot of the supporting documents, estimates, order of magnitude,
10 that kind of stuff, calculations, yes.

11 EHRlichman: Then, then, let me strike the question. I, I was misinformed, Mr.
12 Examiner, I, I had a different assumption in mind, I apologize. Uh, just one
13 last, uh, question here. In your, um, Exhibit A20, you had a video that
14 showed, uh, two bus stops and a, and a, the video was showing the truck
15 traveling at a rate of speed passed those bus stops, correct?

16 BOWSER: Yeah.

17 EHRlichman: Based on the research you've done and your knowledge of the
18 record here, do you have a concern about adding up to 30 truck trips per hour
19 and the impact that could have on the safety of school children on school
20 buses?

21 BOWSER: Absolutely. I wouldn't want my kid waiting by, they couldn't wait
22 there, they need to stand back quite a ways. Uh, it would be a concern.

23 EHRlichman: Thank you. Nothing further.

24 REEVES: And procedurally, I'm now a little confused as to where we are.
25 But are, are we concluded with this witness, I think? Mr. Loring?

1 LORING: I believe so. Sorry, I wasn't sure quite where that was directed.

2 I am done. Thank you.

3 REEVES: Okay.

4 EHRLICHMAN: Y-...

5 REEVES: Mr. Lynn? Are you...

6 LYNN: Well, I, I, I think...

7 REEVES: No?

8 LYNN: I think if Mr. Ehrlichman ask, got to ask questions, I do. But I
9 have no questions.

10 REEVES: Yeah. Let's, okay. So, Mr. Bowser, thank you for your time. Uh...

11 BOWSER: Right.

12 REEVES: That concludes this witness. Uh, I think we're only scheduled til
13 4:00 today and it's almost 3:50. So, uh, let's check in with the Attorneys
14 real quick. Mr. Loring, your sort of plan of attack?

15 LORING: Well, I, I have a witness, uh, who was, who was hoping to get on
16 this afternoon, isn't available tomorrow and I'm checking to see if he can go
17 out of order on Tuesday, if needed. He's Phil Mccloud, he's going to provide a
18 cycling perspective. I don't see it being a lengthy time period, but I also
19 know that we didn't discuss going beyond 4:00, yet, today, either. So, I, I
20 just want to put that out there. I, I think we could be done by, by 4:30, uh...

21 REEVES: I...

22 LORING: With him at the latest.

23 MCLOUD: Can I speak up, please, as the witness?

24 LORING: Hold on, Mr. Mccloud, let's, let's just hear from, uh, the others
25 briefly, unless the Hearing Examiner would like to hear from you.

1 REEVES: Yeah. Mr. Mcloud, what, what, what did you want to say? I
2 apologize, what's...

3 MCLOUD: I am on the east coast, it is, um, going on 7 o'clock here. I'm
4 on vacation. And I've taken time out of my vacation to participate in this
5 Hearing and I would really appreciate it if you could get my testimony taken
6 care of this afternoon. I know that you're, a long day for you, but it's been
7 a very long day for me as well.

8 REEVES: Uh...

9 MCLOUD: I cannot participate tomorrow. Uh, it would be difficult for me
10 to participate next Tuesday.

11 REEVES: I, I understand. It's been a long day for everybody, not just me.
12 I, I would be fine with this. I want to clarify the very limited scope, this
13 is a cycling perspective, if that right, Mr. Loring?

14 LORING: Yes, that's right, Mr. Examiner. Mr. Mcloud is, uh, an
15 experienced cyclist and affiliated with the Skagit Bicycle Club and would
16 provide that perspective, uh...

17 REEVES: Okay. So, quick, quickly, let me ask, uh, uh, Mona Kellogg, if,
18 as the Clerk, you know, she's able to stay past 4:00, wherever she is.

19 KELLOGG: I am able to stay past 4:00.

20 REEVES: Okay.

21 KELLOGG: Yes.

22 REEVES: And, Mr. Lynn, are you able to participate slightly longer today?

23 LYNN: Was that me? Uh, you kind of broke up.

24 REEVES: Okay.

25 LYNN: If it was me, yes. I'm, I'm enthusiastic.

1 REEVES: He's enthusiastic about it. Excellent. Okay. I don't expect,
2 again, well, um, Mr. Ehrlichman, I assume this is a witness that you intended
3 on calling also, at some point, probably?

4 EHRLICHMAN: Uh, Mr. Examiner, I have one question of this witness and it
5 depends on really Mr., where Mr. Lynn takes the questioning as to whether I
6 have more than that. But, currently, I have one simple question.

7 REEVES: All right. Let's just go. Let's do it. That's dive in. Uh, I
8 appreciate Mr. Mcloud making himself available, especially on vacation. So,
9 let's, let's dive right in. I'll swear him in. Do you swear or affirm to tell
10 the truth in the testimony you give here today?

11 MCLOUD: I do.

12 REEVES: And could you state and spell your name for the record?

13 MCLOUD: My name is Phillip [phonetic], I go by Phil, P-h-i-l, Mcloud, M-
14 c-l-o-u-d.

15 REEVES: Go ahead, Mr. Loring.

16 LORING: Thank you, Mr. Examiner. And, uh, thank you for joining us today,
17 Mr. Mcloud. Uh, I'm going to assume that's not your usual cycling kit, uh,
18 but I understand you're a cyclist?

19 MCLOUD: I am.

20 LORING: And do you cycle often?

21 MCLOUD: I do. Uh, I, I cycle with the Skagit Bicycle Club, which is a
22 bicycle club in Skagit County. And we have, um, a minimum of three rides a
23 week. And I normally participate in at least two of those now and I've
24 participated more in the past.

25 LORING: Okay. Do you ever cycle on Prairie Road?

1 MCLLOUD: Yes. Quite frequently, it's a, um, a favorite cy-, cycling area,
2 uh, for our club.

3 LORING: How about Grip Road?

4 MCLLOUD: Uh, yes, we, uh, we cycle, uh, generally uphill on Grip Road, uh,
5 because we find it a challenging r-, um, hill to ride up and, uh, it's a
6 beautiful scenic area and we consequently ride it frequently.

7 LORING: Okay. And what is your current experience when you're cycling
8 those roads?

9 MCLLOUD: Um, they, we consider, uh, the Prairie Road and Grip Road areas
10 for road cycling to be relatively safe. Um, all road cycling in, uh, is
11 inherently a little dangerous because you're dealing with, um, you know, uh,
12 uh, moving vehicles. But we consider those roads relatively safe because they
13 have fairly low traffic volume as it, as it sits right now. And, uh, we can
14 deal with that, despite some of the other limitations of the road.

15 LORING: Okay. We'll talk briefly in just a moment about some of those
16 other limitations. Um, you mentioned that you're part of the Skagit, um,
17 bicycle club. Do you have a role with that organization, an official role?

18 MCLLOUD: Uh, right now, I am a member of the Board of Directors. Uh, in
19 the past, uh, in 2017 and 2018, I was President of the club.

20 LORING: Okay. And do you ever organize some of the rides that you were
21 talking about that travel on Prairie and Grip Roads?

22 MCLLOUD: Yes, I do. I'm currently involved in, uh, organizing at least one
23 ride a week. Um, not all of them are on Prairie Road, but, uh, we, we, uh, we
24 traverse Prair-, Prairie Road and Grip Road, uh, fairly frequently.

1 LORING: Okay. How many riders would you say usually join those trips,
2 those rides?

3 MCLOUD: Somewhere in the order of, um, you know, or probably average
4 around 15, um, so, you know, it's a good group of riders.

5 LORING: Okay.

6 MCLOUD: Sometimes it's more, sometimes it's a little less.

7 LORING: Okay. And you've submitted, uh, a statement in this matter, I, I
8 believe. And we have, uh, we've identified that as Exhibit A30, uh, I'm not
9 going to have you go through that, I'm just stating that for the record so
10 that the Hearing Examiner will have something that he can review later, uh,
11 if he's reflecting on the testimony we'll give today.

12 MCLOUD: Okay.

13 LORING: Okay. And, uh, are you familiar with the Grip Road Gravel Mine
14 Proposal?

15 MCLOUD: Yes, I am.

16 LORING: How did you learn about it?

17 MCLOUD: Um, I learned about it, uh, quite a number of years ago when it
18 was first proposed and, and, um, the, uh, the, the Samish Valley group, uh,
19 held a, held a, kind of a public meeting, um, and I attended that as a
20 representative of the, uh, Skagit Bicycle Club. I think at that time I was
21 Vice President and attended in that, in that capacity.

22 LORING: Okay. And, uh, are you familiar with the transportation, the haul
23 route, for the gravel that is proposed?

24 MCLOUD: Uh, my understanding of that it was primarily going to be Prairie
25 Road. Uh, in listening to, um, Prairie Road down to, uh, Old 99, and

1 listening to various testimonies, I understand that there are considerations
2 of other, other roads in the area, uh, that, that could be affected as well.
3 LORING: Okay. And you say Prairie Road, uh, do you know where the gri-,
4 where the gravel mine entrance comes onto the public road system?
5 MCLLOUD: Yes.
6 LORING: Uh, where is that, what road is that on?
7 MCLLOUD: Uh, where the, where the gravel mine will come onto the, the
8 public roads?
9 LORING: Yeah.
10 MCLLOUD: That, that's on Grip Road.
11 LORING: I just wanted to make sure we were clear, uh, and, yeah, and your
12 understanding of it there, so...
13 MCLLOUD: Yep.
14 LORING: Okay. So, you, you understand it would go Grip and then Prairie
15 out to Old 99, you were saying?
16 MCLLOUD: Yes. Yes.
17 LORING: Okay.
18 MCLLOUD: That's correct.
19 LORING: Okay. Great. Uh, and do you have any concerns about that hauling
20 and, uh, impacts on cyclists from it?
21 MCLLOUD: I think it would have a, uh, a very significant and dangerous
22 impact on, on bicyclists on, um, either of those roads, Grip Road, Prairie
23 Road or, um, F and S Grade Road, any of those. Main, the main problem that I
24 see in, um, and I'll address Prairie road first, is the, the total lack of a
25 shoulder that is rideable by a bicyclist, uh, in, in both the east and

1 westbound directions, there's, uh, there's really no place you can get off of
2 the travel way to avoid traffic and so you're, you're stuck with dealing with
3 that. And it was, uh, testified ear-, to earlier today about the, uh, about
4 the, um, guardrail on Prairie Road makes that, uh, even, even more hazardous
5 in a couple, in one place. And so, the, the lack of a, uh, of a rideable
6 shoulder, uh, is, is certain, is one of my main concerns. The other concerns
7 that I have are, um, lack of sight distance, particularly on Grip Road, and,
8 uh, and on Prairie Road, as you're coming up to Grip Road, uh, the ability to
9 see, for traffic to see and react safely to bicyclists is limited, uh, by
10 sight distance.

11 LORING: Okay. And, uh, did you hear a testimony by, uh, Gary Norris that
12 there were shoulders on Prairie Road? Did you hear that...

13 MCLOUD: Yes, I did. And I, and I saw on the traffic r-, in, the, the
14 traffic consultant's report where he said there were shoulders that were two
15 to four feet wide. And I think...

16 LORING: And you, sorry.

17 MCLOUD: There needs to be a distinction made between, uh, a shoulder that
18 might be talked about in, in the parlance of a, of a highway and a shoulder
19 that is rideable by somebody on a road bicycle.

20 LORING: What's the distinction you would make there?

21 MCLOUD: Well, you might, uh, uh, a person that's, that's designing a
22 highway or, or involved in highway maybe consider a gravel shoulder a
23 suitable shoulder. But it is not a suitable shoulder for, uh, a bicyclist
24 who's trying to get out of traffic when that bicyclist is riding maybe 15,
25

1 uh, 17 miles an hour. You simply can't do it, um, you'll crash and, and
2 perhaps, you know, end up in a very bad way.

3 LORING: Yeah. Okay. Are you familiar with the Skagit Bike Map?

4 MCLOUD: Yes, I am.

5 LORING: All right. I'm going to try to share my screen. I've got this up,
6 it's Exhibit A29. And I just want to share this, for this conversation about
7 the shoulders. Are you able to see that on your screen?

8 MCLOUD: Uh, yes.

9 LORING: Okay. And do you see, uh, I'm hovering over, here's the Grip Road
10 area, I'm trying to hover over that, uh, and then here's Prairie Road over
11 here. Do you see how this map, uh, the Skagit County Bicycle Map
12 characterizes shoulders for those roads?

13 MCLOUD: Um, I, I, I can't see it that well, no.

14 LORING: It might be too, it might be a little small. I'm, I'm over at the
15 legend now, hovering around there, there's a legend for a four foot plus, a
16 two to four foot shoulder and a no shoulder. And do you see how the no
17 shoulder is, uh, just a colored line?

18 MCLOUD: Yes. That's...

19 LORING: Without any, yeah, without any black lines, either, either
20 straight lines or, or hash next to it?

21 MCLOUD: Right.

22 LORING: And, and when you look at Grip Road and Prairie Road, what do you
23 see on those? Which, which does that match up with there?

24 MCLOUD: It would appear it matches up with no shoulder.
25

1 LORING: Okay. Um, and, and so, also, and I'm, also, uh, not the two to
2 four foot shoulder?

3 MCLOUD: That's correct.

4 LORING: I'm just going to scroll, or, actually, I did it already right
5 there. So these stretches, there we go. Okay. Uh, and, and now I'm going to,
6 uh, stop sharing this, uh, but what did you conclude, by the way, when you
7 look at this on the map here, from the shoulders, based on the Skagit County
8 Bicycle Map?

9 MCLOUD: That there's no shoulders that are rideable by a bicyclist.

10 LORING: Okay. And have you, uh, taken any direct observations of
11 shoulders along those roads?

12 MCLOUD: Yes. As a matter of fact, uh, we did a, a ride along Prairie
13 Road, um, uh, this past September 1st, uh, a week ago. And, um, I didn't
14 schedule that ride because we were holding this Hearing. But I took it as an
15 opportunity to, uh, observe the shoulders of Prairie Road very closely that
16 day.

17 LORING: Okay. And you sent me some photos of that, right?

18 MCLOUD: That is correct.

19 LORING: I'm going to share those, just very quickly, we can go through
20 these, uh, you're seeing, um, can, can you see that photo there?

21 MCLOUD: Yes.

22 LORING: Okay. And, uh, what does this show us here?

23 MCLOUD: Well, this shows that, um, the edge of the road, uh, the, the
24 white line, uh, heard it referred to as the fog line, it, you know, it, it,
25 um, that is, everything to the left of that is the travel way for, uh,

1 automobiles and, um, so the only section of this that is pav-, the shoulder
2 that is paved is six to eight inches, uh, to the right of that line. And then
3 the sho-, then the, the paved shoulder drops off very quickly into a sloping,
4 uh, gravel shoulder that if a bicyclist were to, um, try to ride on that,
5 they would, uh, not be able to, to stay upright.

6 LORING: Is, is that a gentle way of saying they would crash?

7 MCLOUD: They would crash, yes.

8 LORING: Okay. And I just, uh, just want to go through some more of these.
9 You said that was along Prairie Road there, that photo?

10 MCLOUD: Yes. Yes.

11 LORING: Okay. Let's move to the next one. Uh, is this also along Prairie?

12 MCLOUD: Yes, it is. And you can see it, it, it, it, the, the shoulder is
13 not sloping so dramatically here, but, um, you can still that there's no
14 paved shoulder to speak of, uh, to the right side of the white line.

15 LORING: Okay. Is this near, uh, Old Highway 99, one of those curves?

16 MCLOUD: Yes. This is, uh, I'm not sure, I, I can't for sure exactly which
17 one of the curves it's headed into, but, yes, it's, it's, uh, it's the curves
18 just to the east of, uh, Old 99.

19 LORING: Okay. I'm going to click on another one here. Uh, you know where
20 this portion is?

21 MCLOUD: Yes. This is farther along east and it's, it's the area that was,
22 uh, alluded to earlier today, where the, um, where the guardrail has been
23 installed, um, along the, the side of the, uh, of the road there. And this
24 essentially prevents, uh, a bicy-, bicyclist, uh, moving any further to the
25 right than, than the white line. I mean, even though you've got another six

1 inches of pavement, your, you're so close to the, um, guardrail there that it
2 would be very easy to lose control at that point.

3 LORING: Okay. Is that loose gravel in the shoulder there, too?

4 MCLOUD: It is. Yes.

5 LORING: Can that cause troubles, uh, for bicycles moving at a normal
6 speed on a road like this?

7 MCLOUD: Certainly. Uh, and what we're talking about here is road
8 bicyclist, road bicycles that have, uh, relatively narrow tires. And so...

9 LORING: Okay.

10 MCLOUD: They would not do well in that gravel.

11 LORING: Okay. Pulling up another one, uh, I, this looked like it
12 reflects, uh, uh, two photos ago, roughly those same conditions?

13 MCLOUD: Yes.

14 LORING: Uh, is there anything else you want to share with us about this
15 one?

16 MCLOUD: I, I'm not sure that it shows anything dramatically different.
17 Uh, these conditions are similar all along Prairie Road, uh, to Grip Road.
18 And, um, you know, they're, what I'm showing here is there is no rideable
19 shoulder anywhere along this road. And that, that is really in both, that's
20 true in both directions.

21 LORING: Okay. Okay. These, uh, these photos haven't been Exhibits in this
22 matter, uh, we ask that they be entered as Exhibits, uh, from Mr. Mccloud,
23 photos of this, and I, I believe that would be up to A60.

24 REEVES: Mr. Lynn, any concern about that?

1 LYNN: No objection. I'd like the bike map to be an Exhibit, too, uh, if
2 we could...

3 LORING: That, that is, that is Exhibit A29.

4 LYNN: I'm sorry.

5 REEVES: Okay. So A29 was the bike map for those following along and, uh,
6 Mr. Loring, you thought this would end up being A60?

7 LORING: I believe so.

8 REEVES: Okay. Uh, yeah. That's fine.

9 LORING: Okay. Okay. And Mr. McCloud, thank you for that, uh, lengthy
10 description of road shoulders on, on Prairie Road. I, I have a couple of
11 follow-up questions on that. And, and that is just that, um, would increased
12 gravel truck and trailer traffic cause you concerns giving the lack of
13 shoulders you've been describing? Lack of rideable shoulders that you've been
14 describing on Prairie Road?

15 MCLOUD: My primary concern would be that there's no place for a bicyclist
16 to get out of the travel way. Uh, that means that if the, if the truck, a
17 large truck is going to, uh, pass the bicyclist, they're going to have to go
18 significantly over into the other lane. Uh, if there's a lot of truck, truck
19 traffic the proposed, uh, 30 trucks per hour that I've heard, um, that would
20 present a lot of opportunities for accidents involving, um, bicyclists, um,
21 accidents involving the, uh, a truck in oncoming traffic in my, in my
22 opinion.

23 LORING: Okay. Uh...

24 MCLOUD: There's no place for a bicyclist to get out of the travel way on
25 those, on those roads.

1 LORING: Right. Thank you. Are you familiar with the auto-turn program?

2 MCLOUD: I am not intimately familiar with it. Um, I listened to the
3 testimony of the traffic expert, um, some days ago and did a little bit of
4 research, uh, on the, uh, on the program and familiarized myself. I'm
5 familiar with AutoCAD and I understand that it's, from my research, that it's
6 a, an add-on to the AutoCAD, uh, program. And, uh, allows the designer to
7 configure roads based on different, um, um, vehicle, uh, requirements.

8 LORING: Okay. And in your listening to the, uh, traffic consultants
9 testify the other day from Miles, did you hear evidence, any evidence that
10 bicycle impacts were studied as part of any auto-turn analysis of the Grip
11 Road hill?

12 MCLOUD: Uh, no. In fact, he specific, as, as my recollection is, he
13 specifically said that bicyclists were not considered.

14 LORING: Okay. Uh, do, would, would the Grip Road hill, uh, you mentioned
15 that cyclists like to cycle up that because it's seen as a challenging hill,
16 that Grip Road hill...

17 MCLOUD: Yes.

18 LORING: Heading, heading east?

19 MCLOUD: Yes, that's correct.

20 LORING: Okay. Uh, would, would cycling up that hill cause any additional
21 challenges if cycling next to, uh, increased gravel truck and trailer traffic
22 on that hill?

23 MCLOUD: It would make it almost impossible to do with, um, um, an
24 increased or frequent usage of that road by large trucks. Because bicycles
25 are going to be going to be going up fairly slow. Uh, trucks are going to be

1 trying to pass them. There's going to be trucks that are coming down the
2 hill. Um, it, it would just make an untenable situation with, as long as
3 there's no place where the, uh, where a bicyclist can safely get out of the
4 travel way. And while I don't have pictures of that, you know, we've seen
5 other pictures of, of Grip Road and there's, there's no shoulders there in
6 most places either.

7 LORING: Okay. And, uh, do you, uh, in your review of the Application
8 materials, have you seen any analysis of the impact of these gravel trucks
9 on, uh, cyclists?

10 MCLOUD: No, I haven't.

11 LORING: Okay. Have you had experiences where you have cycled safely along
12 with gravel truck traffic?

13 MCLOUD: Uh, my, my most, um, the one that I can think of most clearly is,
14 uh, there's a, a quarry on Beaver Lake Road, uh, outside of Clearlake and I
15 don't know whether that's a Miles quarry or, or not, but, uh, it's, there's
16 gravel trucks that come in and out of there. Uh, there, that road has, uh,
17 is, is flat. It has long sight distances, uh, it doesn't have a lot of other
18 traffic on it. Um, and my experience on riding on that road is that, uh,
19 while gravel trucks do pass us occasionally, because they have long sight
20 distances, because in several places on the road there are shoulders that
21 bicyclists can get out of the travel way, I feel fairly safe in riding that
22 road, um, with the large trucks that go by us there occasionally.

23 LORING: Okay.
24
25

1 MCLLOUD: And in my experience, at least, I have never encountered a large
2 number of gravel trucks on that road. They on-, they only go by very
3 occasionally.

4 LORING: Okay. And do those conditions you were describing for that road
5 exist on the Grip Road or Prairie Road?

6 MCLLOUD: Not in my opinion, no.

7 LORING: Okay. Uh, last topic I want to cover with you very briefly here,
8 is traffic counts. Um, did you hear testimony from Gary Norris, I believe he
9 was a traffic consultant you were referring to a moment ago, that Miles had
10 surveyed bicycle use of Prairie and Grip Roads?

11 MCLLOUD: Yes, I did.

12 LORING: And have you seen evidence of that in the Application materials?

13 MCLLOUD: Yes, I reviewed the, uh, the report that was put together and
14 they appeared to do their traffic count in the middle of August of 2020.

15 LORING: Okay. And did that traffic count involve bicycles?

16 MCLLOUD: Uh, they did not note any bicyclists.

17 LORING: And, and when you say they did not note bicyclists, did they have
18 bicycles as a category of those traffic counts? Do...

19 MCLLOUD: I honestly can't remember, Mr. Loring.

20 LORING: And that's fine. I'm going to share my screen with you. This is
21 the last topic, I just want to touch on this briefly here. I'm going to show
22 you, uh, a document. This is from C18, Exhibit C18, it's, it is the, uh,
23 traffic impact analysis. And I'm down into the traffic count section, one of
24 them, there, there are a couple of different ones. Uh, and the one you were
25 talking about, that August, uh, timeframe, and I'm starting with the page

1 that shows the vehicle classification standard groupings. And do you see any
2 bicycles, uh, in, in any of these groupings?

3 MCLOUD: No, I do not.

4 LORING: Okay. Now, I'm scrolling down to the next page, I'm sorry, I
5 forgot to tell everybody where I am. I'm on Page 57 of the PDF itself, in
6 case you're pulling it up, uh, independently. And then I'm scrolling down to
7 Page 58. And, uh, is this that August, uh, 2020 traffic count that you were
8 discussing a moment ago?

9 MCLOUD: Yes, it is.

10 LORING: And do you see how it has different columns, uh, for different
11 types of vehicles?

12 MCLOUD: That's correct.

13 LORING: Do you see any columns there for, uh, bicycles?

14 MCLOUD: No.

15 LORING: Okay. How about pedestrians?

16 MCLOUD: No.

17 LORING: Okay. Um, so, so what would you conclude, looking at this, about
18 whether the Applicant had studied, uh, bicycle traffic counts?

19 MCLOUD: It does not appear, it does not appear that they considered
20 bicyclists or studies bicyclists or pedestrians, uh, when they did that
21 traffic count.

22 LORING: Okay. Thanks for that. And I, and I stopped sharing. Uh, if they
23 had studied bicycle counts in August 2020, would they have found many Skagit
24 Bicycle Club rides?

1 MCLLOUD: They would not have found any, as a matter of fact, because if
2 you recall, August of 2020, was during the height of the COVID crisis and,
3 uh, the bi-, Skagit Bicycle Club, in fact, canceled all group rides for the,
4 virtually the en-, well, from March of 2020 through the remainder of the
5 year. So, we...

6 LORING: Okay.

7 MCLLOUD: We were not holding any group rides, uh, in, at that time of
8 year.

9 LORING: Okay. Okay. Thank you for that, Mr. Mcloud. I don't have any
10 further questions for you. Do you have anything else you'd like to share with
11 us today?

12 MCLLOUD: I'll just say that, you know, uh, the thought of, of trying to
13 ride, uh, a bicycle on, uh, Prairie and Grip Roads with, uh, large gravel
14 trucks frequently, frequenting those roads with the current level of
15 infrastructure, uh, is a very frightening prospect and not one that I would
16 undertake.

17 LORING: Thank you for that. I appreciate that. And Mr. Examiner, uh, I
18 hand over the witness.

19 REEVES: Okay. Uh, I'll go to Mr. Ehrlichman, who had originally said a
20 question, but...

21 EHRLICHMAN: Thank you, Mr. Examiner. Uh, Mr. Mcloud, good afternoon. Um, can
22 you hear me?

23 MCLLOUD: Yes, I can.

24 EHRLICHMAN: Great. Uh, you may not know, but, and these may not be related to
25 your club, but my question is, do you know if any of these, uh, popular

1 fundraisers that involve, um, runners, cyclists, RAGNAR is one of them, uh,
2 utilized Grip Road pre-COVID?

3 MCLOUD: I, I don't know about RAGNAR. Uh, our club, uh, the Skagit
4 Bicycle Club, in fact, does hold a, a fundraising ride, uh, each year, uh,
5 in, and we did one, we missed two years because of COVID, but this past
6 spring we held a ride that we've done for 30-some years that's called the
7 Skagit Spring Classic. And that, uh, one of the, 100-mile routes for the
8 Skagit Spring Classic, in fact, did include, uh, Prairie and Grip Roads.

9 EHRLICHMAN: Thank you for that. Nothing further.

10 REEVES: Okay. Uh, Mr. D'Avignon, any questions of this witness?

11 D'AVIGNON: I just have one question, Mr. Examiner.

12 REEVES: Okay.

13 D'AVIGNON: Uh, Mr. Mccloud, um, you had looked at the bicycle map, um, Mr.
14 Loring put up just a moment ago, when it speaks of shoulders, do you believe
15 those are shoulders that are suitable for bicycling as opposed to shoulders
16 as maybe a technical term used by someone such as a traffic engineer?

17 MCLOUD: Uh, well, obviously, they, since they show Prairie and Grip Roads
18 as having no shoulder, their, uh, considering that for bicyclists.

19 D'AVIGNON: Thank you. Uh, no other questions, Mr. Examiner.

20 REEVES: Okay. Thank you. Mr. Lynn?

21 LYNN: Yeah. Thank you. Um, so, uh, Mr. Mccloud, I take it that the
22 current level of, current volume of traffic, the current absence of shoulders
23 and the current location of guardrails and the current truck traffic is not,
24 uh, sufficiently alarming that you're unwilling to use them for rides, is
25 that fair to say?

1 MCLLOUD: That is correct.

2 LYNN: And how often do you use Prairie and Grip in your, uh, organized
3 rides?

4 MCLLOUD: Uh, Prairie Road gets ridden much more frequently than Grip Road
5 does because Prair-, Prairie Road connects with a lot of other, um, areas,
6 uh, Parsons Creek Road, um, Old 99, Bow Hill Road, uh, so it gets ridden more
7 frequently. And my estimate would be that, uh, we have a club ride that it
8 goes along Prairie Road probably two to two and a half times a month, on
9 average. Uh, Grip Road, probably, more like, uh, once a month, on average.
10 And that's through the, um, that's through the summer months, uh, the winter
11 months, it's going to be, uh, less frequent. Um, and as I said, the, um, the
12 Skagit Spring Classic uses, uh, Prairie and Grip Roads and that, in a normal
13 year, uh, would have about, uh, 50 or more riders, uh, going, uh, along that
14 route.

15 LYNN: Okay. Thank you. Um, is it fair to say that a number of, uh,
16 rural roads in Skagit County do not have rideable shoulders?

17 MCLLOUD: That's probably true. Um, but I can tell you that as a bicyclist
18 that's very concerned about safety, uh, we would not ride on those roads if
19 they had high traffic volume that made it unsafe to, uh, ride on them with no
20 shoulder.

21 LYNN: So, you adjust your routes depending on your safety, your view of
22 the safety considerations?

23 MCLLOUD: Yes. I, I often say that, you know, I choose my, my routes
24 primarily based on safety in terms of, you know, how the traffic and, and
25 other conditions of the road will affect that safety.

1 LYNN: Okay. Um, and the, the map that we have Exhibited, uh, I think
2 it's, is it A29, I'm not sure, um, I guess that was A-, uh, 46, can you help
3 me with that, Kyle?

4 LORING: The map is A29.

5 LYNN: Okay. Thank you. Uh, Exhibit A29 has on it some designated bike
6 routes, correct?

7 MCLOUD: That's correct.

8 LYNN: And, uh, neither Prairie nor Grip is a designated bike route?

9 MCLOUD: Um, I, I don't have that map in front of me, I'm not intimately
10 familiar with every bike route that, that's shown on there.

11 LYNN: Okay. That's all right. If you don't know, that's fine. Um, are
12 you aware that that, um, in terms of dividing roads up in terms of road, uh,
13 traffic volume, it has only three categories, uh, more than 7,000 trips a
14 day, between three and 7,000 trips and then zero to 3,000 trips. Um, are you
15 aware of the amount of traffic on this road and whether it, this would kick
16 it into, uh, one of those categories or another or would it remain with in
17 the low traffic category?

18 MCLOUD: I'm, I'm not qualified to say. I, I don't know that the traffic
19 numbers for, for those roads. I, I can tell you that from personal
20 experience, um, we, our club, club members find that road, as it currently
21 exists, relatively safe to ride on.

22 LYNN: Okay.

23 MCLOUD: Primarily from a volume standpoint.

24 LYNN: Okay. And you're concerned that the additional volume would take
25 it from the safe category to the unsafe category?

1 MCLLOUD: Yes, I am.

2 LYNN: Okay. Would you, uh, there's been testimony, I'm not sure if you
3 heard it or not, that Miles has regular drivers' meetings where they talk
4 about, uh, uh, potential safety issues like school buses. Uh, would your club
5 be willing to provide notice in advance of your organized rides to Miles so
6 that Miles could advise its drivers as to the potential for, uh, increased
7 number of bicycles on either of these roads?

8 MCLLOUD: All of our, all of our rides, uh, are shown on a, uh, on our, our
9 event calendar map and is available to the public at any time.

10 LYNN: Okay. I take it that a yes, then?

11 MCLLOUD: Yes, I, I would say, yes, in that standpoint. I, I'm, I cannot
12 speak for the entire club to say that we're going to send a notice to Miles
13 every time that we have a, that we can, you're talking about volunteers here
14 and that it can, we can definitively say that Miles will be, uh, notified on
15 every single situation.

16 LYNN: Well, I guess, given the concern, wouldn't it be a relatively
17 easy step to include Miles on a mailing list that would notify people of
18 rides? I mean, isn't that just basically a push of the button?

19 MCLLOUD: It is, but not every, what I'm, what I'm trying to tell you is
20 that the rides are, uh, shown on a, an event calendar that is viewable by the
21 public. And, um, the, the routes are not always sent out by an email to
22 everyone that's in the club.

23 LYNN: Okay.

24 MCLLOUD: And so there's not an email that's generated with every ride.

1 LYNN: All, all right. Thank you very much. I'll let you get back to
2 your vacation, at least from my perspective.

3 REEVES: Okay. Uh, Mr. Ehrlichman, I guess if there's any redirect?

4 EHRLICHMAN: No. Thank you, Mr. Examiner.

5 REEVES: And Mr. Loring, any re-direct?

6 LORING: Uh, just a couple of questions. Uh, thank you, Mr. Examiner. Uh,
7 Mr. McCloud, you were asked a moment ago about traffic counts, and whether an
8 increase in traffic on the road would cause concern. Uh, are you concerned
9 just about the volume of vehicles on the road?

10 MCLOUD: Well, certainly, that is, that is a concern, but I'm, my primary
11 concern is the volume of vehicles and the size of the vehicles that we're
12 talking about. We're talking about gravel trucks with trailers. And that
13 increases the, the potential for hazard for bicyclists.

14 LORING: Okay.

15 MCLOUD: Both the volume and the size of vehicles that will be there.

16 LORING: Okay. Uh, you were also, I, I think there was a comment about
17 whether you adjust your routes based on the conditions along those routes,
18 um, and at some point do you run out of routes to adjust to if roads become,
19 um, unsafe to ride?

20 MCLOUD: Well, certainly. And, um, you know, the, the thing that's kind of
21 unique, to me, about Prairie and Grip Roads is one, that they're very, the
22 area is very scenic and the roads allow us to connect with other parts of the
23 County. And, uh, so that we can ride more, more into Skagit Valley and
24 connect to the area more through Sedro Woolley and vice versa. So they're
25 kind of unique roads in that they, uh, are not just nice roads to ride on,

1 but they're also connectors to other areas. And that's why, particularly
2 Prairie Road, gets ridden very frequently.

3 LORING: Okay. Uh, and just the last, you were asked whether the Skagit
4 Bicycle Map maybe was showing shoulders from say a bicyclist point of view,
5 uh, rather than a traffic engineer point of view, is it your understanding
6 that traffic engineers should include an understanding of bicycle use of
7 roads when they're examining their use for all users of those roads?

8 MCLOUD: I would certainly hope so, yes. And I think this is evident in
9 various parts of the County that they, that they do.

10 LORING: Okay. I, I don't have anything else, then. And I thank you,
11 again. And, and really, I do thank you for spending some of your vacation
12 time with us this afternoon.

13 MCLOUD: You're welcome. I'm glad to, glad to participate.

14 REEVES: Okay. Thank you, Mr. Mcloud, very much. And, uh, please enjoy
15 your vacation.

16 MCLOUD: Thank you.

17 REEVES: Okay. I think then, uh, that will end it for the day. Uh, we'll
18 be back, uh, tomorrow at 9:00 a.m., I believe.

19 KELLOGG: Yes.

20 REEVES: And, uh, just real quick, just want to make sure I didn't miss
21 anything before we stop, uh, Mr. Loring [inaudible] morning?

22 LORING: Uh, we're all set. I'll see you at 9:00 a.m.

23 REEVES: Okay. Mr. Ehrlichman?

24 EHRLICHMAN: Uh, that's good, Mr. Examiner. I understand that after the
25 Appellant, then the County would have witnesses, so our witness, uh, Mr., uh,

1 Groda, is not likely to be needed until next week, I just want to inform him
2 of that.

3 REEVES: Okay. Uh, Mr. Lynn, I'm sorry, Mr. D'Avignon, I haven't asked you
4 yet?

5 D'AVIGNON: Uh, nothing, Your Honor, I hope you have a good evening.

6 REEVES: Thank you. Mr. Lynn, anything before we stop?

7 LYNN: Nothing.

8 REEVES: Okay. See everybody at 9:00. Uh, thank you, everybody.

9 D'AVIGNON: Thank you.

10 EHRLICHMAN: Thank you. Good night.

11 LORING: Thank you.

12 [The tape ends.]

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

14 I, Janet Williamson, declare under penalty of perjury, under the laws of the State of Washington
15 that the following statements are true and correct: I am over the age of eighteen (18) years and not a party
16 to this action. That on May 4th, 2024, I transcribed a Permit Hearing, conducted by Andrew Reeves, that
17 took place on 9/8/22 at 3:00 p.m., regarding the above-captioned matter.

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

20 Signed at Mount Vernon, Washington, this 4th, May of 2024.

21 Janet Williamson

22 Janet Williamson