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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  
11 Concrete Nor'West/Miles Sand and )  
12 Gravel, )  
13 and ) PERMIT HEARING 9-13-22 1:00 PM  
14 Appeal of Mitigated Determination of )  
15 Significance by Central Samish Valley )  
16 Neighbors

17 Transcription Date: May 9<sup>th</sup>, 2024

18 Present: Andrew Reeves, Tom Ehrlichman, Jason D'Avignon, Forrest Jones, Bill  
19 Lynn, Kyle Loring

20 REEVES: Ready for Mr. D'Avignon to call his final witness.

21 EHRLICHMAN: Mr. Examiner, I'm sorry to interrupt.

22 REEVES: Oh.

23 EHRLICHMAN: During the break...

24 REEVES: Go ahead.

25 EHRLICHMAN: Uh, during the break, you'd asked me to contact my witnesses and  
see if anyone would be available. Um, after checking in with you all this  
morning, I had let them know that they wouldn't be needed until Friday the  
23<sup>rd</sup>, so I, the one person I hoped I could get said he's already booked his

1 afternoon. So, I apologize, but we would not be able to bring our witnesses  
2 on this afternoon.

3 REEVES: Okay. Well, we'll just cross that bridge, uh, thank you for  
4 informing us, I think, you know, I was being real hopeful regardless, but,  
5 uh, if we do conclude, uh, with this witness early, uh, we can check in with  
6 others and sort of see where we're at. And, uh, make sure we use our time  
7 efficiently, so...

8 EHRLICHMAN: Thank you.

9 REEVES: You're welcome. So, uh, Mr. D'Avignon, you're ready with, uh,  
10 Forrest Jones?

11 D'AVIGNON: I am, Mr. Examiner, he just popped up.

12 REEVES: Okay. I see him Mr. Jones there. So, I'll get you sworn in. Do  
13 you swear or affirm to tell the truth in the testimony you give here today?

14 JONES: I do.

15 REEVES: Thank you. And if you could just state and spell your name for  
16 the audio?

17 JONES: My name is Forrest Jones, F-o-r-r-e-s-t J-o-n-e-s.

18 REEVES: Okay. Thank you for being here, sir. Go ahead.

19 D'AVIGNON: All right. Afternoon, Mr. Jones.

20 JONES: Hello.

21 D'AVIGNON: Can, can we just start with, uh, where you work and what your  
22 title is?

23 JONES: Um, I work for Skagit County, um, Skagit County Public, Public  
24 Works. My title is the Transportation Programs Section Manager.

25 D'AVIGNON: All right. And, and what does your work entail?

1 JONES: Uh, my work entails many different things from traffic safety,  
2 uh, public concerns with traffic, uh, crash responses, planning and scoping  
3 projects, grant writing, right-of-way issues, franchise agreements. I'm also  
4 the lead bridge inspector. And I recently took over the management duties of  
5 Development Review.

6 D'AVIGNON: All right. And are you familiar with the proposed gravel mine off  
7 of Grip Road that we've been...

8 JONES: I am.

9 D'AVIGNON: Okay. And when did you first get involved in this, reviewing this  
10 Application?

11 JONES: Um, I think I remember emails going back into 2016, 2017.

12 D'AVIGNON: So, you, you've been with this for the long haul?

13 JONES: Yes. Kind of in and out of it. Um, I believe actually the County  
14 Engineer at the time, who is no longer with the County, had taken the lead on  
15 this, but, but, yes, I was involved with it and worked, worked hand-in-hand  
16 with the County Engineer at the time.

17 D'AVIGNON: Okay. Um, so, you're familiar with the various traffic studies?

18 JONES: Yes.

19 D'AVIGNON: And would you be able to just kind of walk us through kind of the  
20 history of the traffic studies in this matter?

21 JONES: Uh, yeah. I believe we got the original traffic, uh, traffic  
22 study, the TIA from, uh, I believe it's DN Consulting [phonetic]. They  
23 submitted that, uh, myself and the County Engineer and another traffic guy in  
24 our group, we did a, uh, review of that traffic, traffic study. Then, uh, we  
25 actually decided to have it go out and get a third-party review. Got that

1 third-party review by Gibson Traffic Consultants [phonetic]. So, they did  
2 their review, uh, gave us a summary of their findings and, um, and I believe,  
3 again, we started to go out a second time with HDR and have them review it.  
4 Based on those two...

5 D'AVIGNON: Do you recall why we, I'm sorry...

6 JONES: Just, I think it was, it was such a hot, hot topic, um, we just  
7 wanted to make sure we did our due diligence. And, uh, it just wasn't as  
8 doing the review, wanted to put it out there, uh, to other professionals, get  
9 their take on it and make sure we weren't missing anything. Uh, so we did  
10 that. And they gave their summaries and findings of that and then, uh, I  
11 believe Di-, DN Consulting, they did their final TIA assessment and, or  
12 report and submitted it.

13 D'AVIGNON: And, and that was the one that was submitted in, I believe,  
14 September of 2020?

15 JONES: Yes.

16 D'AVIGNON: I'm taking a couple of steps back. Can you explain what the, the  
17 County Road Standards are and, and how they might relate to a Traffic Impact  
18 Assessment like the one that was submitted in September 2020?

19 JONES: Um, are you talking about level of service or are you just  
20 talking road standards?

21 D'AVIGNON: Um, uh, let's start with level of service, um, I guess, what is a  
22 level of service?

23 JONES: So, yeah, level of, level of service, there's, um, two different  
24 types of level of service, there's intersection level of service and that's  
25 based off of, uh, delay at the intersection. So, A) being you, pull up, pull

1 up to an intersection, um, you have to wait ten seconds or less, uh, that's  
2 Level Service A, as, as you wait, as you wait, it gets worse and worse all  
3 the way to a F. So, there's a second type of level, type of level service  
4 called, um, like road segment level of service. So if you're just driving  
5 down a road segment and, again, it's A, you know, A through F and that's  
6 based on percent time following. So, say you're following a dump truck on  
7 Prairie Road, if that per-, if that percent time following is forty-, 40% or  
8 less on that road then that's an A and so on and so forth til you get to an  
9 F.

10 D'AVIGNON: Okay. And do you know what, and then does the County Road  
11 Standards define what a Traffic Impact Assessment ought to look like in,  
12 well, what you would expect to see when one is provided?

13 JONES: Yeah. Basically, um, we have a, in the County Road Standards,  
14 that calls that a Level 1 and a level 2. A Level 1 is, uh, based on if the  
15 project, uh, generates 25, 25 or more peak hour trips. Um, and Level, Level 2  
16 is, Level 2, I have to get it right here, so, Level 2 is if it creates 50 or  
17 more peak hour trips. And it goes, goes into some other criteria, so, but I  
18 think you're all aware of it so I won't read it off verbatim.

19 D'AVIGNON: Okay. And what is the different between a Level 1 and a Level 2,  
20 in terms of the content of that assessment?

21 JONES: Um, a Level 2 gets, basically, a Level 1 is just pretty much  
22 looking at the level of service, at the, at the intersection, during the peak  
23 hour. So, Level 2 gets, uh, gets more into, uh, you know, looking, looking at  
24 properties and said crash history and things like that.

1 D'AVIGNON: And for this project, the Grip Road mine, what level of a traffic  
2 impact analysis was required?

3 JONES: Um, it was a Level 1. Uh...

4 D'AVIGNON: And...

5 JONES: That's because it gen-, it generated less than 25 peak hour  
6 trips.

7 D'AVIGNON: If, if it generated less than 25 peak hour trips, why would there  
8 be a Level 1?

9 JONES: Uh, well, that's a good question, um, part of the Road Standard,  
10 they didn't need to have one, but just based on it being a gravel mine and  
11 trucks and stuff like that, we thought it best to have a Level, minimum a  
12 Level 1 of analysis, so...

13 D'AVIGNON: And was the, the Traffic Impact Analysis that was provided in  
14 September 2020, which for the record, one more time, is Exhibit C18, um, was  
15 that a Level 1 analysis or did it go above and beyond a Level 1?

16 JONES: Um, it was a Level 1, but it did exceed, exceed the Level 1  
17 criteria.

18 D'AVIGNON: Okay. And how is that?

19 JONES: Um, it, it took a look at, uh, not only the Level of Service,  
20 but, uh, crash data, uh, other, I think, bicycles, bicycle and, while it  
21 didn't capture that much, it, it just, uh, it, it had more things, um...

22 REEVES: Mr. Jones?

23 JONES: Yes.

24 REEVES: I'm sorry to break in. I think when you turn your head away, it's  
25 cutting out a little bit. I don't think I've missed too much, but could you

1 maybe just reiterate that answer? Uh, you were essentially, you know, you  
2 didn't use the term, but sort of Level 1 plus, as it were. And I think you  
3 were trying to explain how this particular TI-, TIA went beyond what would  
4 normally be in a Level 1, if I understood the line of questioning right.

5 JONES: Yeah. The, typically, a Level 1, Level 1 just basically looks at  
6 the Level of Service, does it meet Level of Service Standards, um, per the  
7 Comp Plan, Comprehensive Plan? Um, this went a little bit above that. It  
8 looked at intersections, sight distance, um, different routes and how those  
9 routes broke, broke up. Uh, and some, some of the crash, uh, crash history  
10 there, too, so...

11 D'AVIGNON: So, back to, I guess, Level of Service, what did the traffic  
12 impact assessment find in terms of the anticipated impact to the Level of  
13 Service at the various intersections?

14 JONES: Yeah. Basically, it found there would be, uh, virtually no  
15 impact. I think it went, went out a few years and, uh, it might have dropped  
16 it, uh, I'm trying to, trying to remember what, what exactly it was. I have  
17 it here so I was just trying to look it up here, um...

18 D'AVIGNON: Okay. And if you've looking up, um, at the Traffic Impact  
19 Assessment, would you just let us know what page you're, you're looking at so  
20 we can follow along?

21 JONES: Yeah. I'm, uh, right now on Page 17...

22 REEVES: And this is C, C18, right, Mr. D'Avignon?

23 D'AVIGNON: Uh, yes.

24 REEVES: Okay. Just want to make sure.

1 D'AVIGNON: So, looking at this Table there on Page 17, the, you know, it has  
2 two columns, one says Without Project LOS, Level of Service, Delay and then  
3 with Project Level Service for Delay, by comparing those two numbers, we can  
4 see the impact that this project would have at those intersections?

5 JONES: Yes, that is correct.

6 D'AVIGNON: And the, the Delay is in seconds?

7 JONES: Yeah. You'll see, um, so, um, let's look at Prairie Road at Grip  
8 Road, so without the project, uh, that has, uh, two turn moments, you got  
9 southbound left and westbound approach. So, uh, first one is 7.7 and 9.6.  
10 With the project, the 7.7 stays the same and A goes up slightly.

11 D'AVIGNON: So, what that's telling us is for the southbound left turn,  
12 there's not going to be any impact for the Level of Service. But there's  
13 going to be a .9 second extra delay on the westbound?

14 JONES: Correct.

15 D'AVIGNON: And these were, this analysis was done based on an average daily  
16 trucks, correct?

17 JONES: Um, kind of, um, it, it, this is based on the, the peak hour  
18 movement. So, what they did in the traffic analysis, they basically, you  
19 have, uh, 46 trips, um, well, and they used 10%, call that, what they call  
20 the K factor. So, basically, that's the K factor is a percentage of, of the  
21 daily trips. And convert that into a peak hour trips, so 10% of 46 would be  
22 four-, uh, 4.6 trips in the peak hour. I believe I read, so...

23 D'AVIGNON: But because it's an average, it's, you know, possible and maybe  
24 on certain days likely that the peak hour traffic would be above 4.6, right?

25 JONES: That is correct.



1 D'AVIGNON: Uh, didn't they also do a, I believe they used the term, worst  
2 case scenario of 30 trucks per hour, um...

3 JONES: Yes.

4 D'AVIGNON: And is your understanding that that number was reached by  
5 assuming that every available truck in Skagit County would be working this  
6 mine?

7 JONES: Yes, that's, that's what I, that's what I read in the report, um,  
8 the email, I can't remember if it was in a report or an email, but, yes.

9 Basically, that, that is throwing all, all of the Concrete Nor'West or Miles  
10 Sand and Gravel trucks available at, at the site, which would be 30 trucks.

11 D'AVIGNON: And even at that level, worst case scenario, did that impact the  
12 Level of Service?

13 JONES: No. It would still stay under the, the Standard of C, Level  
14 Service of C.

15 D'AVIGNON: Okay. Given that, in this worst case scenario, in the off chance  
16 that were to occur, um, why wouldn't that trigger a Level 2 Traffic Impact  
17 Analysis?

18 JONES: Um, if you had 50 peak hour trips or more.

19 D'AVIGNON: Shouldn't, uh, I mean, I guess, we, we heard testimony earlier, I  
20 don't, I don't know if you heard it, that a large sand and gravel truck with  
21 a pup should count for more than one vehicle?

22 JONES: Yes, I did hear that testimony.

23 D'AVIGNON: Is that normally how the County deals with that situation?

24 JONES: Um, it, it's not really called out in the Road Standards, uh,  
25 just says peak hour trips. It doesn't, doesn't ring out, uh, truck counts for

1 two or three or whatever, it just says peak hour trips, so, um, by letter of,  
2 by letter of the Road Standards, uh, we can't take that into consideration.

3 D'AVIGNON: So, I, maybe another way to think about this is, is the traffic,  
4 excuse me, the traffic impact analysis met to evaluate what actually might  
5 occur and not some far off hypothetical?

6 JONES: Yeah. I mean, you, to look at, what the trip, trip generation  
7 manual and, uh, basically it goes off those numbers, they pull those numbers  
8 out of there. Now, in this case, the trip generation manual is more for kind  
9 of a, is kind of for an unknown, um, based on studies throughout the country.  
10 But in this case, it's, uh, Concrete Sand, um, Miles and Gravel really have  
11 their trip, they know their operation so they're able to provide relatively  
12 hard numbers of what they're going to be operating out of there.

13 D'AVIGNON: Okay. And, in terms of the chip, trip generation and I'm now  
14 looking at Page 13 of C18, the Traffic Impact Analysis, is it your  
15 understanding that these averages were derived over an anticipated year's  
16 production?

17 JONES: Yes. That is correct. That's my understanding.

18 D'AVIGNON: So, you know, moving forward and thinking about what, what 46  
19 average trucks per day means, we would be thinking about that over a 12-month  
20 period?

21 JONES: Yes.

22 D'AVIGNON: Okay. Um, as to, I'm going to, move onto maybe the safety  
23 considerations, what did the Traffic Impact Analysis find as for, I guess,  
24 the safety concerns that were present in, in this proposed project?

1 JONES: Well, I believe the main concerns were the sight distance that,  
2 the intersection of, uh, Grip Road and Prairie Road and, uh, the haul road  
3 coming into Grip Road, the curve, sight distance on those also.

4 D'AVIGNON: And, uh, are there any conditions, um, that would seek to address  
5 that, those concerns?

6 JONES: Yes. The, um, the conditions were to, uh, install, uh, flashing  
7 beacons that were triggered by, uh, traffic loops in the, in the pavement.  
8 So, if a truck was, came up to the intersection of Grip and Prairie Road, it  
9 would trigger that flashing beacon with a warning sign that's saying, hey,  
10 there's a truck here, be a little more cautious, he may be pulling out. And  
11 same thing if they were making a left turn, uh, same thing would apply.

12 D'AVIGNON: And does the County...

13 JONES: [Inaudible.]

14 D'AVIGNON: Oh, go ahead.

15 JONES: No, I'm sorry. And the same thing would happen there at the haul  
16 road at, uh, Grip Road.

17 D'AVIGNON: Okay. And there at the intersection of Grip and Prairie Road, um,  
18 has the County taken any other safety precautions there recently?

19 JONES: Yeah. We actually, uh, cut the bank back on Prairie Road, uh,  
20 there's a, there's a big embankment there, um, we cut that back as far as we  
21 could to our right-of-way lane and also with respect to the, that Samish  
22 River there, we didn't want to get too close to the Samish River and get, uh,  
23 dirt or materials into that, so, but we cut that back, yeah.

24 D'AVIGNON: Was the bank cut, um, in way related to this proposal?  
25

1 JONES: No, that's a project we've actually been talking about for years.  
2 Um, oh, uh, yeah, I mean, I've been here for twenty-, going on 24 years and,  
3 uh, I remember discussing that with the Operations Manager, uh, oh, probably  
4 as far back as 15 years ago. Uh, and we also had another project that we're  
5 doing out there, kind of a, uh, highway safety improvement projects where we  
6 were installing additional signing and, uh, striping. We actually received a  
7 federal grant for this and so, uh, we did the bank cutting back in  
8 conjunction with that project also.

9 D'AVIGNON: Okay. And I don't, I don't recall if this has actually been  
10 testified to, but it certainly maybe, uh, asserted by an Attorney, but is  
11 there a relationship between a nominal increase in traffic and accident  
12 rates?

13 JONES: Um, I mean, you, obviously, you put more traffic on the road, you  
14 increase the exposure for such accidents. Um, but that doesn't necessarily  
15 mean the accident rate will go up. Put 100 more cars on there, if there's no  
16 more, no accidents, then that rate is actually going to go down. But, yeah,  
17 there is a, an increased exposure. But that doesn't necessarily mean crashes  
18 will occur more frequently. It's kind of, it's hypothetically, little bit  
19 hypothetical, um, and I like to try to deal in, in facts and not, not  
20 hypothetical stuff like that.

21 D'AVIGNON: Okay.

22 JONES: I know you can, you can make argument if the truck, you got  
23 trucks on there so now they're going slower so you can say, well, traffic is  
24 going to be, accidents may be less because you've got slower traffic, so it  
25 just, it can go both ways.

1 D'AVIGNON: So, I mean, I guess one way to maybe think about this is, as a  
2 hypothetical, you have a road that now has a bunch of gravel trucks on it  
3 that didn't used to be there, um, so now the teenagers can't use it as a drag  
4 strip?

5 JONES: Correct.

6 D'AVIGNON: And that can have an effect on safety?

7 JONES: Yep.

8 D'AVIGNON: Um, you know, one of the criticisms that's been made about the, I  
9 think the traffic impact analysis and the County's, um, MDNS, is that it does  
10 not specifically prescribe a route. Uh, can you speak on why a particular  
11 route wasn't prescribed?

12 JONES: Um, I, well, I think in the TIA they, they, they indicate their  
13 main haul route which would be obviously Grip Road, Prairie to Old 99, um, to  
14 their other pit off Old 99. Um, so, but, uh, I know F and S has been brought  
15 up, uh, I know Grip Road to the east has been brought up. Um, I, I guess my  
16 opinion why it wasn't put that or why we didn't think it rel-, relevant is,  
17 um, Grip Road to the east, they say 5% of the traffic, um, 5% of the traffic  
18 of 23 trucks a day of 46, I think it's, uh, a truck and a half, so, um, would  
19 be going that route.

20 D'AVIGNON: Just, so, I guess that would be significantly under the limit for  
21 requiring a Level 1 Traffic Analysis?

22 JONES: Correct.

23 D'AVIGNON: Um, as to the route, too, I, I believe it's the Bellevue Pit, um,  
24 the MDNS says, you know, seems to acknowledge, uh, a primary route, um, down  
25 Old Highway 99. But then says, if the truck is too heavy for the bridge on

1 Old Highway 99, to take I-5. Is it your understanding that that condition is  
2 a requirement, you're either taking Old Highway 99 or you're taking I-5 and  
3 it's not a, a mere suggestion?

4 JONES: Um, that would be my opinion of the MDS, yes. So, um, Old, Old  
5 99, we have the, uh, Samish River bridge as being, being the Bridge Inspector  
6 for the County, um, we have load restrictions on the Samish River Bridge on  
7 Old 99 and, uh, we have actually had discussion, not necessarily for this,  
8 uh, for this project, but just in general with, uh, Miles Sand and Gravel  
9 about, you know, what trucks are allowed over that bridge and what weight  
10 they can be, so...

11 D'AVIGNON: Um, and then also, the MDNS imposed, you know, anticipates  
12 imposing, uh, a normal working time hours. And then leaves open the option of  
13 extended hours. Is that something that your Department has dealt with before?  
14 I just wanted...

15 JONES: Um, not, not necessarily in this type of scenario. But, uh, there  
16 were instances, um, the Tulip Festival for instance, so we, on a daily basis,  
17 all those roads out there are fine, they all operate decently, um, operate  
18 with a Level of Service. But the Tulip Fes-, Tulip Festival comes to town and  
19 you have a month of people coming into town to come to look at all the  
20 tulips, go to all the fields, uh, you know, uh, generally it's going to  
21 inundate the system. To help alleviate that, uh, we put increase in Sheriff's  
22 Deputies out there, we put multiple signing out there. Um, the Sheriff's, uh,  
23 flag the intersections, uh, just general stuff like that, so...

24 D'AVIGNON: So, I guess using that example, um, Beaver Marsh Road which  
25 appears to go right in front of RoozenGaarde, that road is, I guess, designed

1 and maintained for normal traffic and not for the one month out of the year  
2 when it is heavily traveled?

3 JONES: That is correct.

4 D'AVIGNON: And we would do the same thing here, we're, we're concerned about  
5 what regular operations look like and we would address increased traffic at  
6 the time, given the circumstances?

7 JONES: Yeah. Yeah. Exactly.

8 D'AVIGNON: So...

9 JONES: If they're, if they're going to increase, increase above that 30,  
10 30 trips an hour, then we, I believe the MDNS says they are to contact Public  
11 Works and we would get that the data from them, what are they going to run,  
12 what are they going haul, we would like a look at their routes and all that  
13 and, uh, decide what needs to be done, if anything. Um, uh, maybe put  
14 flaggers up the, up the intersections. Uh, or you put up temporary signals,  
15 it just depends, depends on what they're doing and where they're hauling  
16 material.

17 D'AVIGNON: Just, just for clarification, is it your understanding that the  
18 normal operations are 46 truck, trucks per day, or trips per day..

19 JONES: Correct.

20 D'AVIGNON: But the, the maximum under extended hours is 30 trucks per hour?

21 JONES: Yes.

22 D'AVIGNON: So, the, the extended operations would be triggered if the  
23 operation went above the forty-, average of 46 per day?

24 JONES: Correct.

1 D'AVIGNON: Okay. Perfect. So, I want to talk a little bit about shoulders.  
2 What is a shoulder on a road?

3 JONES: Um, a shoulder can be anything from a paved shoulder to a gravel  
4 shoulder to an earth shoulder, um, basically from our standpoint, we, we have  
5 what we call a road log, um, the road log says, okay, on this section of  
6 road, we have, uh, 11 foot lanes and four foot shoulders, on one side, maybe  
7 you have four foot on the other side. So, that's your cross, cross section,  
8 um, like, I, like I said, it could be gravel paved, whatever. Basically, it's  
9 an area to recover for a vehicle. I heard them bring up, uh, bicycles and  
10 earlier testimony is a, is a gravel shoulder good for a bicycle, um, I would  
11 say, no. From a car's standpoint, it's considered a shoulder.

12 D'AVIGNON: Okay. So, in general, when the County is dealing with shoulders,  
13 we're, we're looking at their use in certain circumstances by vehicles and,  
14 and not by bicycles or other maybe pedestrians?

15 JONES: Yeah. It could be used, I guess, a gravel shoulder can be used by  
16 pedestrians, too, so, um, and depending on the bike, too. If it's a mountain  
17 type bike, yeah, they could use the gravel shoulder, but a road bike, no. I  
18 wouldn't, uh, I wouldn't consider that a useable shoulder for a road bicycle.

19 D'AVIGNON: Okay. And does Grip Road have shoulders?

20 JONES: Uh, yeah. It has, uh, depending on, depending on where you look,  
21 but they vary anywhere from four to two feet. Um...

22 D'AVIGNON: And, um, you know, it's been, it's been asserted that, that Grip  
23 Road does not, and I believe Prairie Road as well, do not meet County Road  
24 Standards, is that true?



1 JONES: Yes, that's true, um, but that's, that's true for probably 90% of  
2 the roads within Skagit County. So, um, so...

3 D'AVIGNON: And why is it the case that, you know, maybe 90% of the roads in  
4 Skagit County don't meet Skagit County Road Standards?

5 JONES: Well, you know, as, as time goes on, most likely, when a lot of  
6 the roads were built 100 years ago or, or so, they maybe met that, that Road  
7 Standard for that time, but as time goes on, the Road Standard safety stuff  
8 increases, so, um, like, for Prairie or Grip Road, depending on the traffic,  
9 uh, it would depend on the Road Standard for today if we were to build that  
10 road today on Prairie Road or would most likely have 11 foot lanes and six  
11 foot shoulders.

12 D'AVIGNON: So, I mean, I guess, maybe to put this in another way, an  
13 analogy, is it similar to, like, the building code? That a house built in  
14 1970 probably does not meet the 2022 building code?

15 JONES: Correct.

16 D'AVIGNON: Okay. And I, I think I'm almost done, Mr. Examiner, let me just  
17 indulge me while I double check my notes, make sure I didn't miss anything.

18 REEVES: Sure. I had a couple, I guess, questions while you're looking,  
19 but I don't want to throw your flow off.

20 D'AVIGNON: Oh, you're fine. No worries.

21 REEVES: Okay. So, I, I, question going back, uh, you were talking about  
22 cutting back the, the bank and, apologies, I think I missed it, was that on  
23 Prairie or Grip we were talking about?

24 JONES: Um, it was at Prairie Road at, at the, on Prairie Road, just,  
25 just east of the intersection of Prairie and Grip Road.

1 REEVES: Just east. And then, uh, when, when did that happen, Mr. Jones?

2 JONES: Um, I believe it happened in 2021.

3 REEVES: Okay. And then you had testified that that was a sort of long-  
4 term plan? Do you happen to know if that was on, I assume the County has a  
5 TIP or a, a transportation improvement plan where certain projects are  
6 identified and that gets updated. We usually refer to a 6-year TIP. Was that  
7 something identified on one of those long-term plans?

8 JONES: Yeah. Um, actually, it was not identified on our six-year TIP.  
9 Uh, we did it as a maintenance project. So, as a maintenance project, that  
10 typically would not go on the 6-year TIP.

11 REEVES: Got it. But just so I don't confuse your testimony, you were  
12 saying that whether it was identified on the TIP or not, which obviously we  
13 don't need to get into the funding and all that, uh, the, it was something  
14 identified unrelated to the mine proposal?

15 JONES: Yeah.

16 REEVES: Is that your, your testimony?

17 JONES: Yes. We had, we had been discussing this for years, you know, uh,  
18 how [inaudible] is, you know, probably 15 years ago, um, we've talked about  
19 this. Um, but we never really have acted on it, um, just 'cause to, to be  
20 honest with you, there has been very few crashes at that intersection. Um,  
21 whether because of the lack of sight distance or the, uh, the curve is a 20,  
22 20-mile an hour curve, um..

23 REEVES: Lack of teenagers.

24 JONES: Yeah. It's kind of, I kind of liken it to an intersection, you  
25 come up to an intersection where it's wide opened, you can see if anything is

1 coming so you just drive right through it, you don't stop. But if you have  
2 trees or something else, or some obstruction, um, on either side, most people  
3 say, well, I can't see so I'm going to slow down.

4 REEVES: Per the natural traffic calming measures?

5 JONES: Yeah. Yeah.

6 REEVES: Great. Uh, I do have another one, but if you wanted to wrap up,  
7 Mr. D'Avignon?

8 D'AVIGNON: Uh, thank you, Mr. Examiner. I think I just really have one thing  
9 to go over. Um, so, Mr. Jones, uh, do you recall any discussions, um,  
10 regarding a, a third-party review of the September 2020 traffic impact  
11 assessment?

12 JONES: Yeah. I, I actually, um, you guys were discussing it earlier, I  
13 actually brought up the email. Um, like Brandon said, he did not CC me on his  
14 email. But I found the one that I sent Kevin. Um, and basically, we didn't,  
15 at that time, we didn't realize that MD-, MDNS had already went out.

16 Basically, the review would have been just to verify that the final TIA  
17 incorporated the, the things that were found in the previous third-party  
18 reviews.

19 D'AVIGNON: Was it your understanding, though, that the Traffic Impact  
20 Assessment that, the most current one, did, in fact, incorporate the, the  
21 concerns found in the previous third-party reviews?

22 JONES: Yes. That's my understanding.

23 D'AVIGNON: Um, so, do you think that a third-party review would have been  
24 necessary?

1 JONES: Oh, probably not. I think my, my thought process on that was, you  
2 know, just kind of close the loop on it.

3 D'AVIGNON: Okay. But you had no reason to believe that the, the current  
4 traffic assessment, the one that we're talking about, was deficient or  
5 inadequate in any way?

6 JONES: No.

7 D'AVIGNON: Okay. Um, I have no more questions at this time, Mr. Examiner,  
8 thank you, Mr. Jones.

9 REEVES: Thank you. I'm going to ask my next one and then I'll, I'll, uh,  
10 send you to Bill Lynn after that. But, Mr. Jones, earlier you were talking  
11 about, um, this sort of calculating trips and, and that portion earlier in  
12 your testimony and Mr. D'Avignon asked you a few questions about that. And I  
13 think part of the function was determining Level 1 versus Level 2, are you  
14 tracking what we're, is that a yes? Okay. So, essentially, so I understand  
15 and I think you were saying normally you look at a trip generation manual, is  
16 that typically the ITE that we're talking about there, the Institute of  
17 Transportation Engineers Manual?

18 JONES: Yeah. Exactly. So...

19 REEVES: Sure. So just trying to walk through in my head, uh, you know, so,  
20 often with the TIA, you know, let's say it's a new fast food restaurant, you  
21 could look at the ITE and, and it's got data that says a new fast food  
22 restaurant is likely to produce this many trips.

23 JONES: Yes.

24 REEVES: Is that accurate?

1 JONES: Yeah. That's, uh, for example, we're, uh, up, up at the Port of  
2 Skagit, uh, which some, they're building some warehouses up there, so,  
3 basically, they don't know what's even going in these warehouse at that time,  
4 so, basically, we tell them to look at the worst case scenario, what could,  
5 you know, what's going to go in there, what do you think is going in, is it  
6 storage, is it, you know, whatever that will, that trip generation manual say  
7 okay, we'll actually give you different, different ways it will tell you the  
8 PM peak, if this, if this warehouse has this many square feet, it's going to  
9 generate this many peak hour trips or it's going to generate this many a.m.  
10 peak hour trips. It's going..

11 REEVES: Sure.

12 JONES: To do this much traffic through work week or this much traffic on  
13 the weekend.

14 REEVES: But these, in this case, under these circumstances, uh, a gravel  
15 mine, or, uh, you know, maybe a mine in general is not the type of use common  
16 enough that the ITE Trip Generation Manual has, sort of prepackaged data, is  
17 that an accurate assessment in your...

18 JONES: Um, yeah, I, I don't know that for a fact. I would say it has  
19 something in the Trip Manual, but in this case, uh, I understand it at Miles  
20 Sand and Gravel, they, they know how big it is, they know what their  
21 operation is and they can provide that data themselves without having to go  
22 to the Trip Generation Manual.

23 REEVES: Sure. Okay. So, I guess just a final clarifying question from me,  
24 Miles Sand and Gravel essentially said, you know, based on our analysis, we  
25 think it will be 46 average trips, 46 daily trips, on average, so we've

1 talked about, I think it ends up being 23 in, 23 out, the course of the day  
2 and then based on hours of operation, I think it's ten hours, essentially 4.6  
3 ends up being the, the p.m. peak, uh, that often is used for calculating, you  
4 know, things like LOS?

5 JONES: Yeah.

6 REEVES: Am I correct thus far?

7 JONES: Yes. That's correct.

8 REEVES: Okay. Uh, I, I guess my question is, you know, you reviewed that  
9 and, and it appears you, you agreed. I guess my question is, they also did  
10 say, though, there is the possibility that at certain times we will have up  
11 to 30 trips in an hour, I'm, my, I guess my question is, why does that not  
12 trigger that Level 2 requirement? Is it because it's, it's not the average  
13 p.m. peak? I, I guess I'm trying to determine what triggers Level 1, Level 2,  
14 no TIA, is it always based on what the average p.m., verses some other, I, I  
15 just want to...

16 JONES: Yeah. The, the Level 2 would trigger at 50 trips. So even at 30  
17 trips, it would still be under Level 1.

18 REEVES: Sorry, and that's, that's peak, peak hour tips?

19 JONES: Peak hour trips.

20 REEVES: Oh, got it. Okay. So, I don't know why I have 25 in my head. So,  
21 the, really, Level 2 is triggered at 50, so even...

22 JONES: Yeah.

23 REEVES: Here under the, uh, max operating scenario, 30, it wouldn't  
24 trigger Level 2 based, based on that?

1 JONES: Yeah. It wouldn't, it wouldn't trigger Level 2 until, um, 50  
2 trips, peak hour trips.

3 REEVES: Got it. Thank you for clarifying that for me. And, uh, Mr.  
4 D'Avignon, you have any follow-up based on that before I pass the witness?

5 D'AVIGNON: I, I guess just maybe a quick one of clarification, um, is it  
6 your understanding, Mr. Jones, that the, the 30 hours per hour, 30 trucks per  
7 hour, was something that was anticipated or was simply the, the worst case  
8 scenario?

9 JONES: Well, I think it was the worst case scenario, based on the number  
10 of, uh, trucks they had available.

11 D'AVIGNON: That's the only question I have, Mr. Examiner, thank you.

12 REEVES: Okay. Thank you. Uh, I'm going to pass you next to Bill Lynn.

13 LYNN: Good afternoon, Mr. Jones. Uh, and I'm just going to have a  
14 couple of questions. Um, you were asked if you had other situations in the  
15 County where you were, uh, uh, have the authority to approve, uh, extended  
16 hours. Are you familiar with the Miles Bellville site and if so, do...

17 JONES: Uh...

18 LYNN: Oh, sorry, go ahead.

19 JONES: Yes, I am familiar with it.

20 LYNN: And do you know whether or not they have a similar provision  
21 there that allows for extended hours?

22 JONES: Um, I am not aware of it. Uh...

23 LYNN: Okay.

24 JONES: That doesn't mean they don't, I'm just not aware of it.

1 LYNN: Okay. Is it, um, is it fair to say that a request for extended  
2 hours could vary considerably, you could have a request, for example, that,  
3 uh, where Miles says, we want to continue traffic at our average rate, but we  
4 want to go until 10 o'clock tonight because of a Public Works project, in  
5 which case, you might not have any additional mitigation, would that be how  
6 you would view that?

7 JONES: Uh, yeah. Pos-, possibly. You know, like I said, it would just  
8 depend on the number of trucks and what's running. Um, if they're going above  
9 and beyond that, we would, at the very minimum, maybe put out a public notice  
10 that, that they're going to be operating, uh, longer hours, a few more  
11 trucks.

12 LYNN: So, okay. So, is it because of, uh, there's been some criticism  
13 of the fact that the mitigation measures aren't spelled out. Is the reason  
14 for that that there's so much variability in the level of requests that they  
15 might make, the length of time, the number of trucks and, uh, the time of  
16 operation?

17 JONES: Yeah. It would, it just depends on what's, you know, what's going  
18 on. How, how is it going to impact the network, uh...

19 LYNN: Okay.

20 JONES: Maybe, maybe we, uh, have something else going on and maybe we're  
21 doing construction work in the area, so it just depends.

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

23 REEVES: Okay. Uh, Mr. Ehrlichman?

24 EHRLICHMAN: Thank you, Mr. Examiner. Mr. Jones, good afternoon. Uh, thank you  
25 for appearing today, uh, to answer questions in my case. Uh, we are



1 presenting a case here, uh, that the Hearing Examiner has authority to impose  
2 safety conditions to protect, um, our clients, who reside on Grip Road, near  
3 the mine, they're within 470 feet of the mine. I, uh, understood that you  
4 said, um, a Level 1 Traffic Analysis was not needed, but that you, uh, went  
5 ahead and asked them to do that because the nature of the, the operation,  
6 that there were heavy trucks, uh, is that the case?

7 JONES: Yeah. I, um, I wouldn't say I, I was the one that made that  
8 decision, that was the County Engineer at the time that made that decision.

9 EHRLICHMAN: Oh, okay. But how about in your testimony today, you said that a  
10 Level 1 analysis wasn't needed, but you went ahead and, the County went ahead  
11 and asked them to do it. Isn't that what I heard?

12 JONES: Yes. That's correct.

13 EHRLICHMAN: And do, do you agree with that determination by the prior  
14 engineer?

15 JONES: Yeah. Based, based on the operation and, uh, truck traffic, I  
16 thought it was, uh, prudent to look at the Level of Service.

17 EHRLICHMAN: Okay. Do you agree, uh, with the prior determination of the, uh,  
18 prior engineer that a Level 1 study was not required?

19 JONES: Uh, based on our Road Standards, that is correct, it was not  
20 required.

21 EHRLICHMAN: Okay. And you are, I mean, it's your job to administer the Road  
22 Standards, correct?

23 JONES: Correct.  
24  
25

1 EHRlichman: Doesn't the requirement for the Level 1 Traffic Analysis the Road  
2 Standards say it's required if you have so many trips or if the project is  
3 not exempt from SEPA?

4 JONES: It does.

5 EHRlichman: So, is a Level 1 Analysis required in this case, since it wasn't  
6 exempt from SEPA?

7 JONES: Um...

8 D'AVIGNON: Mr. Examiner, I'm going to object. I think this is immaterial  
9 since we did, in fact, do the Level 1 analysis.

10 REEVES: And I will sustain the objection. I, they did the analysis. I  
11 don't understand, Mr. Ehrlichman, maybe clarify the thought process here?

12 EHRlichman: The thought process is the witness testified a Level 1 analysis  
13 isn't required, the question is, doesn't, don't the Road Standards require  
14 it?

15 REEVES: But they did a Level 1, I'm, I...

16 EHRlichman: I'm not asking whether the County did a Level 1 or the Applicant...

17 REEVES: Right.

18 EHRlichman: I'm asking whether...

19 REEVES: Right. I'll sustain the objection as it, as this is an immaterial  
20 line of questioning. So we can move on.

21 EHRlichman: Well, Your Honor, the, the expertise of the witness and the  
22 credibility of the witness is material.

23 EHRlichman: Okay. I sustained the objection, we'll move on. The objection has  
24 been noted.

1 EHRlichman: Very good. Mr. Jones, uh, you don't believe a Level 1 analysis is  
2 required under the Road Standards, um, and then I thought I heard you also  
3 say that a Level 2 analysis wasn't required. But wasn't the Applicant trying  
4 to meet the Level 2 Standards in that Exhibit 18? Did they go through the  
5 different steps of a Level 2 analysis?

6 JONES: Um, yeah. I would say Level 2 wasn't required and I was basing  
7 that on peak hour trips, but there's obviously other, other things that come  
8 into play with that. So, um...

9 EHRlichman: So Exhibit 18, the TIA, as we call it, did contain the elements  
10 of a Level 2 analysis, didn't it?

11 JONES: Yes. Some of them.

12 EHRlichman: Can you tell us which ones weren't included? Let me ask it this  
13 way, let's go through what wasn't in the Level 2, what from the Level 2  
14 analysis wasn't in, strike that. Let me ask you some specific questions about  
15 the analysis they did and whether the following items are included. Did they  
16 identify schools in the study area?

17 JONES: No, they did not.

18 EHRlichman: And there are two school districts involved here, aren't there,  
19 on Grip Road?

20 JONES: I believe so, yes.

21 EHRlichman: Do you know what they are?

22 JONES: Um, I believe Sedro Woolley and, um, Bayview, Burlington.

23 EHRlichman: Okay. Thank you. Did Exhibit 18, their TIA, identify local bus  
24 stops on Grip Road?

25 JONES: Not to my knowledge.

1 EHRlichman: Did they i-, did they describe the bus service on Grip Road?

2 JONES: Not to my knowledge.

3 EHRlichman: Or the usage of Grip Road?

4 JONES: Uh, you broke up a little it, can you repeat that one?

5 EHRlichman: Yeah. No problem. Let's, let's move forward, uh, did they  
6 identify, um, hospitals in the vicinity?

7 JONES: No.

8 EHRlichman: Okay. Did they do an analysis of the probability that accidents  
9 will increase with the addition of the project traffic?

10 JONES: Not to my knowledge, no.

11 EHRlichman: Okay. So, those three things were not included in their Exhibit  
12 18 TIA, correct?

13 JONES: Correct.

14 EHRlichman: Okay. And did you hear the testimony of Gray Norris when he said  
15 that his safety analysis did not, was not performed at the rate of 30 trucks  
16 per hour?

17 JONES: Uh, yes, vaguely.

18 EHRlichman: Okay. Thank you. Were you, um, uh, were you the supervisor in  
19 charge of sending over the proposed MDNS Condition #13 related to traffic?  
20 Over to, I'm sorry, over to, uh, Kevin Cricchio when he set, uh, proposed  
21 conditions on traffic safety?

22 JONES: Um, that would have been the responsibility of the County  
23 Engineer at the time. Um, that being said, I was involved with that decision.

24 EHRlichman: And that was in February of this year, wasn't it?

25 JONES: Yes.

1 EHRlichman: Didn't you say you are the Manager for Development Review and  
2 Land Use Permits in Public Works?

3 JONES: At that time, I was not the Manager for Development Review, that,  
4 uh, laid underneath the County Engineer. Uh, today I am the manager for them.

5 EHRlichman: At the time the MDNS is issued, who in Public Works signed off on  
6 the condition that was sent over to Kevin Cricchio for inclusion in the MDNS?

7 JONES: That would be Paul Randall Grueder [phonetic], he was the County  
8 Eng-, Engineer at the time. He is no longer with the County.

9 EHRlichman: And did you advise him on that language?

10 JONES: Um, yeah, I knew we had meeting between, uh, Public Works and  
11 Planning and discussed it.

12 EHRlichman: Okay. Did you hear the testimony of Kevin Cricchio and Brandon  
13 Black this morning saying that they did not author that condition on traffic  
14 safety?

15 JONES: Yes, that's correct. They, they had the meeting, we discussed,  
16 they discussed with us what we wanted to say and...

17 EHRlichman: Okay.

18 JONES: Provided that language.

19 EHRlichman: So, is it fair to say that Condition 13 as written in the MDNS  
20 was approved by your section in Public Works?

21 JONES: Uh, yes, I would...

22 EHRlichman: Okay. Thank you.

23 JONES: That's fair to say.

24 EHRlichman: Yeah. And I don't want to, you know, belabor this or drill down  
25 too much further here, but, um, so far everyone has said, uh, gee, you have

1 to ask the County what the MDNS means. And when we asked the Planning  
2 Department what the MDNS Condition 13 means, they said that you would be the  
3 one who know what it means. They also said that you have to reference the,  
4 the TIA, that section that Mr., um, D'Avignon asked you about, where the  
5 Applicant calculated through to get to the 46 trips. Did you review, uh, as  
6 you were writing that condition, did you review that section of the TIA where  
7 the Applicant described their operation, proposed operations and arrived at  
8 the 46 average per day?

9 JONES: Yes.

10 EHRLICHMAN: Okay. And you testified just a moment ago that that was based on  
11 a calendar year, correct?

12 JONES: Correct.

13 EHRLICHMAN: Okay. Can you tell us what their calculation was for the total  
14 number of trips per year to get to that average? By looking at that TIA  
15 Exhibit 18?

16 JONES: I, I don't see a total number of trips per year, but I think if  
17 you calculate it, it's 11,000 and something.

18 EHRLICHMAN: Well, let's take a look, I think it's there. It certainly was in  
19 the earlier reports that you reviewed. Let's look at Page 13 of Exhibit 18.  
20 The same section that Mr. D'Avignon showed you, where they describe the, uh,  
21 trip generation as occurring between, for ten hours, 7:00 to 5:00 p.m.,  
22 correct?

23 JONES: Correct.

1 EHRlichman: And they go through a calculus there. And they arrived at an  
2 average of 46 daily trips. Now, that's based on their t-, operating 260 days  
3 a year, correct?

4 JONES: Correct.

5 EHRlichman: And if you look at their earlier studies that were peer-reviewed,  
6 don't they have that total annual number there?

7 JONES: Uh, I don't recall. I'd have to look at the previous studies.

8 EHRlichman: Okay. Would it surprise you, you said that it was 11,000-  
9 something. Is that your testimony?

10 JONES: I believe so. I, well, I just calculated it.

11 EHRlichman: And what did you come up with when you calculated that?

12 JONES: Um, I, 11,046 or 460, something like that.

13 EHRlichman: So, when you calculate 46 trips per day, on average, and multiple  
14 it by 260, what do you get?

15 JONES: Let me tell you here, 11,960.

16 EHRlichman: Okay. Thank you. Now, as the Public Works official involved in  
17 recommending this condition to the Planning Department, did you have in your  
18 mind that the 46 trips per day average would work out to approximately 11,960  
19 trips per year?

20 JONES: Um, did I do that calculation in my head? No, I did not, sir.

21 EHRlichman: No, that wasn't my question. Apologize. I'll, I'll rephrase the  
22 question. When you recommended that condition to the Planning Department, on  
23 behalf of Public Works, did you have a sense that the total number of annual  
24 trips would be as high as in the 11,000s, somewhere in that range?

25 JONES: Oh, I, I, did I make a point of that, recognizing that?

1 EHRlichman: No.

2 JONES: My question would be, no, I did not.

3 EHRlichman: No, my, my question is whether you had an understanding in your  
4 mind, at the time you were reviewing that condition, as to what the extent of  
5 the total annual trips would be, whether it was a range of 200 to 300 trips a  
6 year, 11,000 a year or 25,000? Did you have a sense as to what the, the  
7 gravity of the total number might be per year?

8 JONES: Uh, no.

9 EHRlichman: Okay. Fair enough.

10 JONES: Six, there's 600 cars a day on the road, so what's 600 times, you  
11 know, it's...

12 EHRlichman: No, I didn't ask, I didn't ask.

13 JONES: We don't, we don't, we don't really relate traffic, um...

14 EHRlichman: That's okay. I'm not asking that. I'm...

15 LYNN: I would, I would, I would like to ask that witness be allowed to answer  
16 the question you asked.

17 EHRlichman: I would like to have him answer the question I asked and not go  
18 off on an explanation that doesn't relate to the question.

19 LYNN: You, he was explaining that traffic is a matter of context, not annual  
20 numbers.

21 EHRlichman: Mr. Lynn, that's your testimony.

22 REEVES: And let's just take a deep breath, everybody. Uh, Mr. Ehrlichman,  
23 uh, I believe the witness was trying to, well, that's a good question, I'll  
24 break in. Mr., uh, Jones, do you want to clarify the, an answer you just gave



1 to the extent that you had a number, right, 46 daily trips. You're saying you  
2 didn't do any mental math on what that might be in a year?

3 REEVES: No.

4 JONES: Okay.

5 REEVES: [Inaudible.]

6 JONES: Basically, we look, we look at the annual average daily traffic,  
7 so. We don't typically look at how much traffic is on a road for a year.

8 REEVES: Got it.

9 EHRLICHMAN: So, when it comes time to determine whether the Applicant has  
10 complied with the MDNS Condition, can you walk us through how you would  
11 calculate whether they've complied with the 46 trips on average?

12 JONES: Um, as a, um, compliance issue, that's something we do not really  
13 do. With that being said, we do, uh, part of my group or section, we do  
14 counts, um, traffic counts. Prairie Road is not a road we typically would  
15 count. Um...

16 EHRLICHMAN: Is that laid down by, uh, those wires you set across the road?

17 JONES: Yeah. Yeah. We typically do, uh, they're call, they're called two  
18 counts.

19 EHRLICHMAN: Two counts.

20 JONES: Two counts, they catch, uh, speed, they also catch, uh, vehicle  
21 classification, so, uh, it will tell me whether or not a dump truck or any  
22 other kind of truck or car or...

23 EHRLICHMAN: Okay. And if the Hearing Examiner, in this case, wanted to add a  
24 condition that would allow monitoring of compliance with that average, would  
25

1 it, could he specify that two counts be installed there at the driveway  
2 entrance?

3 JONES: Um, typically, we would not, uh, put a count at the driveway  
4 entrance, um, on the haul road. Um, we could, yeah, we could put one on Grip  
5 Road and...

6 EHRLICHMAN: Yeah. You could put one on Grip Road and you'd have to have one  
7 on the east side of the entrance and one on the west side, uh, but the  
8 Hearing Examiner could impose a condition that required regular counting of  
9 what, of the trips, regardless of how you do it or where you do it? There's a  
10 way to do that, correct?

11 JONES: I'd, I'd leave that up to the Hearing Examiner, I can't answer  
12 for him.

13 EHRLICHMAN: Well, no, I'm not asking you to answer whether the Hearing  
14 Examiner should do that, I'm asking whether, from a technical standpoint,  
15 your Department has a way of counting and you answered yes, you do, didn't  
16 you?

17 JONES: Yes. We do.

18 EHRLICHMAN: Okay. So, you...

19 JONES: That is correct.

20 EHRLICHMAN: So, the Hearing Examiner could, uh, ask that that be done,  
21 couldn't he?

22 D'AVIGNON: I'm, I'm going to object, I think the Hearing Examiner's  
23 authority is well beyond Mr. Jones', um, expertise.

24 Q; Yeah. That wasn't the question, but thank you.

1 REEVES: Yeah. Let's, let's move on. I'm confident I, you know, I know  
2 what my authority is, but...

3 EHRLICHMAN: Yes. And now we know there's a technical answer to the monitoring  
4 question. And I'd like to ask the App-, or the, um, witness whether there  
5 also is a way to increase the safety of school bus activity on Grip Road.  
6 Would it lead to fewer encounters with buses on Grip Road when this mine is  
7 in operation, if there was a condition that limited the truck traffic during  
8 the school bus hours?

9 JONES: I'd ask to ask the question again?

10 EHRLICHMAN: Yeah. Do you agree that a condition that keeps the trucks off of  
11 the road when the school buses are on the road would reduce the likelihood of  
12 accidents with school buses?

13 JONES: Uh, I guess you would reduce the exposure. But, again, it's  
14 hypothetical, um, school, school bus is big and yellow, it has big flashing  
15 lights on it, so, uh, I would hope not only a truck, but any vehicle would be  
16 able to see flashing lights and a stop sign on a school bus.

17 EHRLICHMAN: Did you just say that it would reduce the likelihood of an  
18 encounter?

19 JONES: I said it would reduce the exposure.

20 EHRLICHMAN: And, and what do you mean by that when you say exposure, is that  
21 the same thing as the number of encounters?

22 JONES: Uh, uh, I'll agree with that, yeah.

23 EHRLICHMAN: Okay. I'd like to have you look at our Exhibit 47S 1B, I believe  
24 it is, or 1C, excuse me, a photograph that Neil Mcleod introduced, Mr.

1 Examiner, of the shoulder at the Grip Road curve. And I'd ask Mr. Loring  
2 whether he'd might, uh, be able to share that...

3 REEVES: Well...

4 EHRLICHMAN: On the screen since I'm unable to.

5 REEVES: Let's see if Mr. D'Avignon can do it, just because I, A) Mr.  
6 Loring's had some internet issues. Mr. D'Avignon, are you able to share that?  
7 Uh, you're pulling a Bill Lynn there, you're muted. Are you able to, to  
8 share, to share, uh, S47, I'm sorry, 74S, was it 13, Mr. Ehrlichman?  
9 D'AVIGNON: I, I believe I have it. I got, um...

10 EHRLICHMAN: It's the shoulder

11 D'AVIGNON: S-, S1C?

12 EHRLICHMAN: Yeah. It's a picture of the shoulder on Grip Road.

13 D'AVIGNON: Um, well, S1C I have road width Grip Road.

14 EHRLICHMAN: No, it would be the, the photographs and there's a photograph...

15 D'AVIGNON: 1B.

16 EHRLICHMAN: Of a shoulder. 1B, thank you. So, this is Exhibit 47S1, Sub B.

17 D'AVIGNON: All right. I'm just getting it maybe a little bit bigger.

18 EHRLICHMAN: Thank you.

19 REEVES: I do note, while he's doing this, I referenced pulling a Bill  
20 Lynn, in terms of talking when your microphone is not working. But I will  
21 note, he has not done that once as far as we know today, so...

22 D'AVIGNON: I guess it's been transferred to me.

23 REEVES: There we go. Uh, so it's pulled up, but it's not very big.

24 EHRLICHMAN: Thank you. Mr. Jones, is this one of the shoulders on Grip Road  
25 that you testified is between two and four feet in width?

1 JONES: I, I don't know where this on Grip Road, but I'll say, yes.

2 EHRLICHMAN: Strike that question, then. You testified that, that the  
3 shoulders on Grip Road were between two and four feet. Looking at this  
4 Exhibit, are you willing to, will you agree that Grip Road does not uniformly  
5 have shoulders that are at least two feet in width?

6 JONES: I, I believe my testimony was they vary. Uh, you could have  
7 sections that have one foot, you could have sections that have four foot, you  
8 could have sections that have three foot. In this case right here, I would, I  
9 would guess that's a foot and a half.

10 EHRLICHMAN: Okay. So, is it your testimony that Grip Road has shoulders, but  
11 they aren't between two and four feet, they're between 1.5 feet and four  
12 feet? Would you like to modify that answer, earlier answer?

13 JONES: Uh, yes. I agree.

14 EHRLICHMAN: Okay. And can I draw your attention to Exhibit 18 again, uh, the  
15 bottom of Page 5, there's a section entitled Grip Road. Do you disagree when  
16 the Applicant's TIA says, in the project vicinity and study area, Grip Road  
17 is approximately 20 to 22 feet wide with one lane in each direction. There  
18 are virtually no shoulders along the roadway. Do you disagree with that  
19 statement?

20 JONES: Um, without, I haven't gone out there and putting a tape measure  
21 on that. I can't agree or disagree.

22 EHRLICHMAN: But wasn't it your testimony earlier that you had reviewed this  
23 TIA and found it to be adequate and no mistakes in it?

24 JONES: That is correct.

25 EHRLICHMAN: So, is, do you take this statement as a correct statement?

1 JONES: I do.

2 EHRLICHMAN: Because they went out and, and looked at, didn't they?

3 JONES: Who went out and looked at it?

4 EHRLICHMAN: The person who wrote this report. This is based on their  
5 observations. So, you agree with the statement that there are virtually no  
6 shoulders along Grip Road, correct?

7 JONES: That there are no shoulders?

8 EHRLICHMAN: There are virtually no shoulders along the roadway, Grip Road.  
9 Let's move on.

10 REEVES: Are, are we done sharing the screen, as well?

11 EHRLICHMAN: Yes. Thank you, Ex-, Mr. Examiner.

12 REEVES: Okay.

13 EHRLICHMAN: Um, Mr. Jones, when asked by Mr. D'Avignon, um, why you had  
14 suggested a third-party review for this same Exhibit 18, I believe you  
15 explained that it was only to determine that the Applicant had provided the  
16 information requested in the two prior peer-reviews, correct?

17 JONES: Correct.

18 EHRLICHMAN: Wouldn't there have been another reason to have had a third-party  
19 peer review as well, if you had not gone out and reviewed the statements like  
20 this one in the TIA on Grip Road?

21 JONES: I don't understand the question.

22 EHRLICHMAN: Was, would a third-party review examine this, Exhibit 18, beyond  
23 the questions asked in the two prior peer-reviews? Wouldn't they have looked  
24 at the things in this report that weren't included in the prior reports? Like  
25 an assessment of Grip Road shoulders?

1 JONES: Possibly, yes.

2 EHRLICHMAN: Okay. Would, would they also have examined the statements, or the  
3 lack of statements, uh, identifying school districts and school buses?

4 JONES: Uh, based on a Level 1 TIA, I don't think they would address  
5 that, on a Level 2, yes, they would.

6 EHRLICHMAN: Sir, my question isn't whether they would analyze compliance with  
7 Level 1 or 2 TIA requirements. My question is, if you had conducted a peer-  
8 review, if the County had conducted a peer-review of this report, wouldn't  
9 they have noted that it did not include the things that you and I agreed were  
10 not included, like an identification of school buses, a location of bus  
11 stops...

12 REEVES: Well...

13 EHRLICHMAN: And...

14 REEVES: Sorry. I need to, I need to hop in to make sure I haven't totally  
15 misunderstood. Because Mr. Jones, I understood from your testimony much  
16 earlier, I think, uh, talking to Mr. D'Avignon, you had said this was a Level  
17 1 TIA and they sort of did a, a Level 1 plus. And, and then you clarified and  
18 said in addition to the normal Level 1 things, they did, they looked at these  
19 three or four additional things. But I don't recall you ever saying a Level 2  
20 TIA occurred here, w-, did I misunderstand, Mr. Jones?

21 JONES: No. Uh, you are correct on what I said. Level 2 was not  
22 performed.

23 REEVES: Okay. So, I guess I'm confused because I think you were trying  
24 to, I think you testified to, you told Mr. Ehrlichman that, yes, none of  
25 these other Level 2 things were analyzed and then you just said, you know,

1 that, that you wouldn't look at things like that without a Level 2 being  
2 required. Is that not what you just testified to?

3 JONES: Yes.

4 REEVES: Okay. Go ahead, Mr. Ehrlichman. I think I'm now on track.

5 EHRLICHMAN: Um, Mr. Examiner, I, I have to object to the interjection into my  
6 case here with a topic that I did not even ask the witness about. I didn't  
7 ask the witness whether he, he thought that the peer-review would look at the  
8 Level 2 requirements, I never mentioned Level 2. My question to this witness  
9 is whether or not a peer-review would have called out the fact that the final  
10 TIA for the project never mentioned conflicts with school buses.

11 REEVES: Okay. And I note your objection. Although, I need to stress that  
12 as the Hearing Examiner, I have the prerogative of asking questions and I  
13 ultimately am the one that needs to make a decision. And so, I closely guard,  
14 uh, you know, the, my ability to ask clarifying questions. But go ahead, Mr.  
15 Ehrlichman.

16 EHRLICHMAN: Mr. Jones, why did the County never require the Applicant to  
17 study the impact of this project on school bus activity on Grip Road?

18 JONES: Because it was a Level 1 TIA assessment, not a Level 2.

19 EHRLICHMAN: Well, earlier you testified that a Level 1 wasn't even required.  
20 And yet, you asked them to do things, uh, because you were concerned about  
21 heavy trucks, the nature of the vehicles being added to the road, correct?

22 JONES: Correct.

23 EHRLICHMAN: Okay. So, here a Level 2 isn't required, but the concern about  
24 the heavy truck traffic at 30 trips per hour, wouldn't that lead the County  
25



1 Public Works Department to have some concerns about potential conflicts with  
2 school buses?

3 JONES: Um, I had no concern about that.

4 EHRLICHMAN: Okay. Thank you. At 30 trips per hour, how many trucks would be  
5 on Grip Road, uh, how, how frequent, in terms of minutes?

6 JONES: Thirty trips an hour? How many, how many trips would be, how many  
7 b-, how many trucks would be on the road?

8 EHRLICHMAN: Wouldn't that be one truck every two minutes, on average?

9 JONES: Could, yes.

10 EHRLICHMAN: Okay. I mean, that's just the math of it, isn't it?

11 JONES: Yeah.

12 EHRLICHMAN: Okay. And isn't it possible that there would be two trucks on  
13 Grip Road at the same time at that rate?

14 JONES: It's possible, yeah.

15 EHRLICHMAN: Okay. Now, given the curve shown in that photo I just showed you,  
16 and the lack of shoulders, let's imagine a school bus coming down and  
17 delivering kids after school and two trucks are coming in the opposite  
18 direction. Is your testimony that that is of no concern to the Planning  
19 Depart-, or the Public Works Department?

20 JONES: Uh, can you restate the scenario?

21 EHRLICHMAN: Yeah. At the rate of, uh, one truck every two minutes on Grip  
22 Road, isn't it possible that you're going to have two trucks on the road at  
23 the same time? I believe your answer was yes. Now, if you had two trucks  
24 coming to that place in the photograph I showed you, and a school bus  
25

operating in the same area. Are you, is it your testimony that Public Works has no concerns about the safety of school children on Grip Road?

JONES: I, we always have, uh, concerns of safety for any type of vehicle, pedestrians, school children alike. Uh...

EHRlichman: And yet none of the traffic studies for this project discuss school buses, do they?

JONES: No, they do not.

EHRlichman: And you didn't require it, did you?

JONES: No, we did not.

EHRlichman: And you proposed a condition for the Special Use Permit, in the recommendation, that didn't mention school buses, correct?

JONES: Correct.

EHRlichman: And you also recommended that bus, that truck travel be allowed between the hours of 7:00 a.m. and 5:00 p.m., correct?

JONES: Correct.

EHRlichman: And that's the time that school buses are on Grip Road, aren't they?

JONES: Um, I'm not aware of the time they travel on Grip Road, but probably in that timeframe, yes.

EHRlichman: Probably? Is it unlikely?

JONES: Is it unlikely?

REEVES: I think it's been...

JONES: I don't know the school bus schedule, so I can't, I can't tell you what time...

1 EHRlichman: Okay. Okay. Very good. Would it reduce the chance of an accident  
2 with a school bus if the, if there was a condition that precluded truck  
3 traffic during the window when school bus conceivably travel on Grip Road?

4 JONES: Would it reduce the what?

5 EHRlichman: Would it reduce the possibility of an encounter between a, a  
6 gravel truck and a school bus if there was a condition that kept those trucks  
7 off the road at Grip Road during school bus travel times?

8 JONES: Um, it would reduce the, reduce it, it would take it away.

9 EHRlichman: Very good. Thank you. Nothing further, Mr. Examiner.

10 REEVES: Okay. Uh, let's see, it's 2:40. I think Mr. Loring's probably  
11 going to have several questions. I'm thinking maybe we take our, uh, short  
12 afternoon break, come back and, and hear from Mr. Loring. That makes sense to  
13 everybody?

14 LORING: Does to me, Mr. Examiner.

15 REEVES: Yes, it does. If that's...

16 LORING: Yes, it does.

17 REEVES: I don't know why I asked. I'm just trying to pretend like I'm  
18 nice. But let's, uh, we'll come back...

19 EHRlichman: Mr. Examiner, I apologize. I thought it might be nice to end on a  
20 positive note. We have a stipulation...

21 REEVES: Oh, good.

22 EHRlichman: Signed by the parties.

23 REEVES: Great. And...

24 EHRlichman: And I...

1 REEVES: That can be sent to around to that group email, uh, I'll have,  
2 I'll give that a look. But let's come back in 11 minutes, let's say 2:50.  
3 And, uh, Mr. Loring, uh, will then have an opportunity to cross-examine Mr.  
4 Jones.

5 EHRLICHMAN: Thank you, Mr. Examiner.

6 LORING: Sounds good.

7 REEVES: Okay.

8 LORING: Thank you, Mr. Examiner.

9 REEVES: Thank you.

10 [The tape ends.]

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

12 I, Janet Williamson, declare under penalty of perjury, under the laws of the State of Washington  
13 that the following statements are true and correct: I am over the age of eighteen (18) years and not a party  
14 to this action. That on May 9<sup>th</sup>, 2024, I transcribed a Permit Hearing, conducted by Andrew Reeves, that  
15 took place on 9/13/22 at 1:00 p.m., regarding the above-captioned matter.

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

18 Signed at Mount Vernon, Washington, this 9<sup>th</sup>, May of 2024.

19 Janet Williamson

20 Janet Williamson