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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 9-23-22 11:00 AM
14 Appeal of Mitigated Determination of)
15 Significance by Central Samish Valley)
16 Neighbors)

17 Transcription Date: May 11th, 2024

18 Present: Andrew Reeves, Kyle Loring, Jason D'Avignon, Bill Lynn, Ross
19 Tilghman, Tom Ehrlichman, Mona Kellogg, Brandon Black, Gary Norris

20 REEVES: Back with, uh, Mr. Tilghman, for the second time. And Mr. Loring,
21 do you have any questions for this witness?

22 LORING: Uh, no, I don't, Mr. Examiner, thank you.

23 REEVES: Oh, thank you. Mr. D'Avignon?

24 D'AVIGNON: Uh, no questions.

25 REEVES: Okay. Uh, Mr. Lynn?

LYNN: Uh, thank you. Good morning, Mr. Tilghman.

TILGHMAN: Morning.

1 LYNN: [Cough] uh, you mentioned, um, sorry, I've got a little thing
2 going on here. Um, you mentioned that you, uh, the work that you described
3 was done as part of a team, is that correct?

4 TILGHMAN: Um, number of projects I do as part of a team, some I do, uh,
5 independently.

6 LYNN: Well, most of Mr., um, Ehrlichman's questions were phrased in
7 terms of teams so I want to ask you about those teams. Would those teams
8 include a traffic engineer?

9 TILGHMAN: Um, many times, yes.

10 LYNN: Okay. It that typically who would, who, who you would team up
11 with in any kind of traffic analysis?

12 TILGHMAN: Uh, it depends on the, um, the nature of it, but, I frequently
13 team with traffic engineers to do, uh, specific tasks in the analysis, yes.

14 LYNN: Okay. And would the specific tasks in the analysis that would be
15 performed by a traffic engineer included things like conflict analysis and
16 the evaluation of crash data?

17 TILGHMAN: Um, they may well part of it. Um, not necessarily the only ones
18 doing that.

19 LYNN: [Inaudible] doing that?

20 REEVES: Sorry...

21 LYNN: Others on the team?

22 REEVES: Mr. Lynn, you cut out significantly there.

23 LYNN: Okay. Uh, I'll, I'll withdraw the question. Um, so, you mentioned
24 that, uh, you, you used the term several times, we're introducing truck
25 traffic on this road. Aren't there already trucks on this road, on Grip Road?

1 TILGHMAN: Uh, there are some trucks, yes.

2 LYNN: And that percentage is identified in the traffic analysis?

3 TILGHMAN: I believe it was mentioned, yes.

4 LYNN: Well, it wasn't mentioned, it's part of the analysis, isn't it?

5 TILGHMAN: Yes, it's there.

6 LYNN: Yeah. There's a breakdown...

7 TILGHMAN: Gen-...

8 EHRLICHMAN: Between all the different, I'm going to object here, when he
9 answers a question, Mr. Lynn doesn't need to badger him about his use of
10 terminology. He can just ask the question.

11 REEVES: All right. Mr. Ehrlichman, Mr. Lynn, we're just, we're going to
12 get through this. I acknowledge the objection, I didn't see it particularly
13 anything wrong with it, but we'll move forward.

14 LYNN: Well, if the purpose of the objection was interrupt my train of
15 thought, it did because now I've lost my place. Um, the traffic information
16 con-, contains a specific breakdown in the counts as to the type of vehicles
17 that were present, does it not?

18 TILGHMAN: That's correct.

19 LYNN: And there are worksheets, uh, numerous worksheets attached to the
20 traffic study that breaks that down as to every one of the counts that were
21 performed, correct?

22 TILGHMAN: That's right.

23 LYNN: Okay. So, it's pretty clear what the percentage of trucks is
24 versus other vehicles, is it not?

25 TILGHMAN: That's right.

1 LYNN: Okay. Uh, you, uh, first of all, you would acknowledge that crash
2 history is safety information, correct?

3 TILGHMAN: It's historical information, yes.

4 LYNN: And, and isn't historical crash data commonly used in the traffic
5 field to, uh, not only look at what's happened in the past, but to identify
6 places of note where accidents might happen in the future, isn't that its
7 purpose?

8 TILGHMAN: Um, yes, that's right.

9 LYNN: Okay. And in addition to looking at intersection crash data,
10 didn't Mr. Norris testify that he also looked at crash data for segments of
11 roads?

12 TILGHMAN: Um, I don't recall, I don't recall specific testimony on that
13 point, but I know the TIA stated specifically that the crash data was
14 reported for intersections and not for road segments. I did..

15 LYNN: Did you hear his testimony about inter-, the segment crash data?

16 TILGHMAN: Um, if I did, I don't recall that part of it, sir.

17 LYNN: Okay. You were asked questions about hours, uh, and some, uh,
18 supposed proposal by the Applicant, uh, to limit hours, wasn't that just a
19 way of presenting information by Mr., uh, Norris to, um, more, uh, closely
20 compress the traffic impacts for evaluation? It wasn't a specific proposal by
21 the Applicant, was it, to limit traffic to those hours?

22 EHRLICHMAN: I'm going to object to the question, Your Honor, on the basis
23 [inaudible] testify about what Mr. Norris thought or what the Applicant
24 prosed. What the testimony was, what appeared in the specific memorandum.

25 LYNN: Uh, and...

1 REEVES: I'm confused at this point, but, so...

2 EHRLICHMAN: He doesn't know...

3 REEVES: Should...

4 EHRLICHMAN: He doesn't know what Mr. Norris was thinking any more than, uh,
5 Bill Lynn thought I could tell, ask Mr. Norris what the County Staff were
6 thinking when they issued the MDNS. The question, just ask the question about
7 what was in the document, Bill, and he can answer that.

8 LYNN: Well, the reason I'm as-, the reason I was asking it is you
9 presented it as if it was a Miles proposal, which it was not. But we can make
10 that point a different way. So, to get this moving, I will move on. Um, with
11 reference to pedestrian crossings, uh, tell us, in your experience, what
12 happens when school buses stop on a two-lane rural road?

13 TILGHMAN: When a school bus stops, um, they generally have flashing lights
14 and a stop sign that then, uh, is projected on the, uh, left side of the bus.
15 On a two-lane road, then traffic in both directions is supposed to stop, um,
16 until the bus retracts its sign.

17 LYNN: And where pedestrians from the school bus are crossing, the bus
18 doesn't leave until the children have crossed, does it?

19 TILGHMAN: Uh, that's generally correct, yes.

20 LYNN: Well, it's, it's, it's the way it works, isn't it? Isn't that the
21 rule, isn't that the way it operates?

22 TILGHMAN: That's the way it's supposed to work, yes.

23 LYNN: Okay. And with reference to turnarounds, doesn't the school
24 district select the locations where buses turn around and wouldn't you expect
25 them to select locations that are safe for their children?

1 EHRlichman: Same objection, he's asking him to tell us what the school
2 district thinks.

3 REEVES: And I'm going to overrule the objection to the extent that my
4 understanding of the question was essentially based on this witness'
5 experience, you know, have, have you not, you know, what is your experience
6 with how school districts pick bus stops. Trying to get through this.

7 EHRlichman: That wasn't what Mr. Lynn said, but that is a question that he
8 could answer. Thank you.

9 REEVES: Thank you, Mr. Ehrlichman. Can you answer my questions, Mr.
10 Tilghman?

11 TILGHMAN: Um, I would expect that they would choose safe places. Um, but
12 obviously [inaudible] may not prove to be a good, good location should other
13 conditions change.

14 LYNN: Uh, is auto-turn something that you, uh, would use, is that a
15 program that you would use in your work?

16 TILGHMAN: Um, yes, I commission its use.

17 LYNN: And who would actually perform the work?

18 TILGHMAN: Um, entities that, um, own and operate auto-turn.

19 LYNN: And aren't those typically traffic engineering firms?

20 TILGHMAN: That's right.

21 LYNN: Okay. Uh, well, let me just go back, uh, before we finish with
22 auto-turns. You test-, when asked about, uh, studies that you performed as a
23 team...

24 REEVES: Mr. Lynn, I don't know where your microphone is, but as you're
25 flipping your papers, it is quite loud.

1 LYNN: Okay. I'll, I'll stop...

2 REEVES: So, it's hard hearing you ask, ask questions while you're
3 flipping is all I'm saying, so...

4 LYNN: Uh, okay. I'll stop flipping. Uh, when you were asked questions
5 about, uh, safety analysis in teams, you answered with, uh, a discussion
6 about traffic studies that you had found inadequately discussed safety. Is it
7 fair to say that a substantial part of your work on a day-to-day basis is a
8 review and commentary on traffic analysis performed by others?

9 TILGHMAN: Well, that is one thing that I do, it is not the only thing that
10 I do.

11 LYNN: Okay. Isn't it a substantial part of what you do in cases where
12 you give testimony?

13 TILGHMAN: Yeah. In cases where I give testimony, I've been asked to review
14 transportation documents for the project they invariably included traffic
15 impact analyses, so, yes.

16 LYNN: And more often than not, aren't you on the side of challenging or
17 criticizing or however you want to characterize it, the work done by other...

18 EHRLICHMAN: Objection.

19 LYNN: In traffic analysis?

20 EHRLICHMAN: What is the, what is this, where are we going with this? Is, is
21 the point that Ross Tilghman is a professional opponent of gravel mines?

22 REEVES: Uh, Mr. Ehrlichman, A), uh, the, the nature of the objection and
23 the frequency of these objections is making it difficult to get through this.
24 Uh, you know, we tried to give you a little leeway, uh, while you were asking
25 your questions. But, ultimately, I'll sustain the objection to the point that

1 I, I don't find it ultimately helpful for me, the Hearing Examiner, that
2 needs to ultimately make the decisions. So, Mr. Lynn, why don't we move on
3 with a different question?

4 LYNN: I will be happy to move on to something that's, ...isn't, uh, an
5 auto-turn analysis a form of safety evaluation in that it looks to see where
6 vehicles of a particular type might cross over, uh, a center line?

7 TILGHMAN: Um, yes. It, it identifies, um, potential conflicts between
8 vehicles based on the geometry of the roadway they're traversing.

9 LYNN: So, uh, and didn't the Applicant perform, uh, auto-turn analysis
10 in two most likely pa-, places where a conflict might arise?

11 TILGHMAN: Well, in the, uh, the TIA, it identified, um, conflicts on
12 Prairie Road, um, much closer to Old Highway 99. The TIA, um, didn't report
13 use of auto-turn at any other location. We've subsequently seen this, um,
14 this newest, um, auto-turn, um, for, um, the S-curve on Grip Road, but that
15 wasn't part of the TIA or a factor in the original, uh, County decision.

16 LYNN: That wasn't my question. My question was, didn't the Applicant
17 perform auto-turn analysis, which are essentially forms of conflict analysis
18 at S-curves on both Grip and Prairie?

19 TILGHMAN: They have done now, yes.

20 LYNN: Okay. And, uh, haven't they proposed mitigation at both of those
21 locations to reduce conflicts?

22 TILGHMAN: Um, I'm aware of the, uh, mitigation proposed on the Prairie Road
23 section. I, I have not seen in writing or testimony specifics about Grip Road
24 so I'm, I, I'm unaware of what may have, may or may not have been proposed.

1 LYNN: Would you agree that, um, widening to be consistent with the
2 auto-turn analysis would be a useful safety mitigation measure on Grip Road
3 S-curves and Prairie Road S-curves?
4 TILGHMAN: Uh, that would be a very good step, yes.
5 LYNN: Okay. That's all I have. Thank you.
6 REEVES: Okay. Any, any redirect based on that, Mr. Ehrlichman?
7 EHRLICHMAN: Y-, yes, I, I have a quick question, uh, for Mr. Tilghman. Uh,
8 did you see the Applicant, or Mr. Lynn's submittal the other day of the, what
9 they call the auto-turn analysis for Grip Road? I think he just referred to
10 it, the two drawings?
11 TILGHMAN: Yes.
12 EHRLICHMAN: And when you reviewed that, did you notice the scale, uh, legend
13 that was in the upper right-hand corner?
14 TILGHMAN: Yeah. There's a scale legend there.
15 EHRLICHMAN: Does that scale appear to correspond to any of the dimensions for
16 the truck/trailer combination shown in the graphic? Uh, for example, we know
17 that the truck/trailer combination they're proposing is 74 feet 11 inches you
18 testified, does the scale, uh, for that rough dimension shown in their legend
19 map match up to what they're showing on the, the graphic?
20 TILGHMAN: No. The legend appears to be at odds with the, uh, dimensions
21 noted in the graphic.
22 EHRLICHMAN: So, in other words, the leg-, the distances shown on the legend,
23 uh, don't appear to be accurate compared to the distances shown in the
24 graphic?
25 TILGHMAN: That's how it appears, yes.

1 EHRlichman: Can you tell from that graphic at all, what dimension they used
2 to show the width of Grip Road lanes?

3 TILGHMAN: Um, no, from the graphic as presented, um, and given the
4 inconsistency of the scale to the, the graphic, um, cannot tell directly. One
5 might be able to work it out, but, um, but it, it's not obvious.

6 EHRlichman: In terms of a professional traffic analysis, is the graphic
7 presented for Grip Road, uh, capable of being analyzed? Let me, let me...

8 LYNN: He's already testified he does not...

9 EHRlichman: Let me rephrase the question.

10 LYNN: Perform such analysis.

11 EHRlichman: Sorry, let me...

12 REEVES: And I acknowledge Mr. Lynn's objection and...

13 EHRlichman: Rephrase that.

14 REEVES: That Mr. Tilghman just testified a few minutes ago that he...

15 EHRlichman: Withdrawn.

16 REEVES: Himself did not analyze the auto-turn analysis.

17 EHRlichman: That's why I'm withdrawing the question and...

18 REEVES: Oh, okay.

19 EHRlichman: Rephrasing.

20 REEVES: I'm...

21 EHRlichman: Thank you. Um, Mr. Tilghman, can you tell from the graphic, uh,
22 if you can't tell from the graphic what the widths of the lanes are, is the
23 graphic meaningful, a meaningful portrayal or representation of the crossover
24 conclusion?

1 TILGHMAN: Um, well, I think it, one, one would want additional
2 clarification on the actual dimensions. Um, the graphic does illustrate that
3 the vehicles would encroach both over the edge of the road, the so called fog
4 line, and they'd encroach, um, over the center line. And you can see, at
5 least the relative degree of encroachment, if you can't work out the exact
6 dimensions. Um, and I think that shows the, while the details may need, um,
7 verif-, verifying, um, I think the graphic shows the value of this kind of
8 analysis that it, it actually illustrates a problem that, um, residents and I
9 had, uh, suggested was the case previously. That, yeah, the trucks are too
10 large to, uh, negotiate the S-curves and stay in their lane. So, again, more
11 detail is wanted to, uh, confirm things, but at root, it, um, it shows the
12 inherent conflict, um, due to the, um, the narrowness of the road and the
13 size of the trucks.

14 EHRLICHMAN: So, that is one of the elements that we talked about in your
15 testimony of a conflicts analysis, right? To identify a potential problem.

16 TILGHMAN: Yes.

17 EHRLICHMAN: Okay. And do you know whether the Applicant submitted any other
18 segments on Grip Road, for the auto-turn analysis or was it just these two
19 curves?

20 TILGHMAN: I'm not aware of any other, just these are the only ones I have
21 seen.

22 EHRLICHMAN: And since the, you have seen nothing in writing as to what
23 mitigation is proposed as a result of identifying these problems, can you
24 tell...

1 REEVES: Sorry, Mr. Lynn, would you mind muting for a minute there? Yeah,
2 we're getting some feedback. Sorry to interrupt, Mr. Ehrlichman.

3 EHRLICHMAN: Thank you. Since we, uh, you testified that you have not seen
4 anything in writing from the Applicant, uh, proposing mitigation for these
5 two curves shown in the auto-turn analysis, correct?

6 TILGHMAN: Yeah. That's correct.

7 EHRLICHMAN: So, we don't know where the pro-, purported or proposed
8 mitigation is to improve the road to the County Standard?

9 TILGHMAN: Um, no, we don't know. At least, I don't know.

10 EHRLICHMAN: And do you have any reason to believe that the County Standard
11 applicable here, is for a 34-foot width surface?

12 TILGHMAN: Um, I believe, yeah, 34 feet of pavement would be the, um, the
13 standard for, um, Grip Road's classification.

14 EHRLICHMAN: And you, and you are looking at the Standard in that, uh, figure
15 B6, is that where you got that?

16 TILGHMAN: Uh, yes. And, yeah, it's out of the, the County Road Standards.

17 EHRLICHMAN: And it's also attached to Exhibit 18 toward the end, isn't it?

18 TILGHMAN: That's right.

19 EHRLICHMAN: Okay. And Mr. Examiner, the excerpt of that is at our Exhibit 49
20 S14.i have nothing further. Thank you.

21 REEVES: Okay. I tend to give a little leeway, but, uh, Mr. Lynn, are we
22 done with this witness?

23 LYNN: Yes.

24 LORING: M-...

25 REEVES: Uh, Mr. Loring might have a question. Uh, Mr. Loring...

1 LORING: I...

2 REEVES: I'll give a little leeway. What, what do you have here?

3 LORING: I just have a, a, a couple of questions about the amount of
4 traffic that would be introduced by the mine. Sorry, I, uh, I was hoping to
5 follow-up on Mr. Lynn's question, my internet was a little fuzzy right
6 between that and Ehrlichman. Be pretty quick here.

7 REEVES: I'll allow it. Uh...

8 LORING: Okay. Uh, Mr. Tilghman, you testified earlier that this Grip Road
9 mine would introduce, um, fair amount of truck traffic onto the road. Uh, and
10 then Mr. Lynn asked you whether there was already truck traffic. Uh, do you
11 recall that part of your testimony?

12 TILGHMAN: Yes, I do.

13 LORING: Okay. Have you reviewed the amount of truck traffic similar to
14 that proposed that, uh, is already on the road according to the Applicant's
15 traffic counts?

16 TILGHMAN: Um, yes.

17 LORING: And is it your understanding that their, their traffic counts did
18 not find vehicles like the ones proposed and used for the auto-turn analysis
19 on the road?

20 TILGHMAN: Um, that's, I believe that's correct. Um, there may have been one
21 or two, um, vehicles that had say more than five axles, um, but certainly
22 didn't, um, didn't reflect any, um, repeated or continual use by anything
23 like a dump truck with pup trailer.

24 LORING: Okay. And it's your understanding that the trucks and trailers
25 that would be used, and this is based on the auto-turn diagram for the trucks

1 that would be used, it's your understanding that those would have more than
2 five axles?

3 TILGHMAN: Uh, yeah. What's shown has at least, um, six axles contacting the
4 road and depending on conditions, uh, could deploy up to two others.

5 LORING: Okay. And I just want to share my screen and ask you just one
6 more question as I scroll through some of those traffic counts. And I said
7 the roads, I should have said Grip Road, uh, as we're discussing this. So,
8 I'm going to, hopefully this will work. I just want, I'm looking at Exhibit
9 C18. Are you seeing that there on your screen?

10 TILGHMAN: Yes, I do.

11 LORING: And this is, uh, I'll show you, I'm, I'm scrolling up, this is at
12 the end of that traffic impact analysis. And you can see here is the page
13 where it identifies a vehicle classification. Now, I'm on page 58 in the PDF,
14 do you see how many, um, multi-vehicle trucks, uh, have greater than five
15 axles, based on this survey that they did on, uh, August 17th, 2020?

16 TILGHMAN: Yeah. This is for the westbound, uh, lane on Grip Road, um, east
17 of Prair-, about a quarter mile east of Prairie. And there are, um, no
18 vehicles were recorded that day, uh, that had five axles or more.

19 LORING: Okay. And so, when you say that, do you understand that to mean
20 that there were no vehicles, uh, similar to the vehicle that Miles is
21 proposing to put on the road there?

22 TILGHMAN: On this particular count day, that's correct.

23 LORING: Okay. Just as couple more questions. I just want to scroll down.
24 Do you see now we're looking at the Tuesday, 8/18/2020, uh, vehicle traffic
25 counts?

1 TILGHMAN: Yes.

2 LORING: How many vehicles did they, uh, survey on that day that showed up
3 with a vehicle the size of the Miles' truck proposal?

4 TILGHMAN: Uh, there were none on that day.

5 LORING: Okay. Uh, how about Wednesday, I just scrolled down to Wednesday,
6 August 19th, how many that day?

7 TILGHMAN: There were two vehicles that had six or more axles.

8 LORING: Okay. I won't go through every data sheet, I think we can stop
9 there. Uh, what's your understanding of the maximum amount of vehicle traffic
10 that would be allowed, according to the, uh, Mitigated Determination of Non-
11 Significance Conditions, along this stretch of Grip Road, for the mine, I
12 should say.

13 TILGHMAN: Uh, the maximum in a, well, there was an hourly maximum discussed
14 and then based on the number of operation hours, there's an implied daily,
15 uh, maximum. Um, and it was 30, well, it's a, the MDNS talks about a maximum
16 of 30, uh, trucks in an hour. And they talk about a ten-hour day, so it's
17 basically 300, I think it was 296 trucks or something like that, but
18 essentially 300 daily trucks.

19 LORING: Okay. And is that more than we just saw now based on the traffic
20 counts for the site, according to Miles?

21 TILGHMAN: Yes, it is.

22 LORING: Would you call it quite a bit more?

23 TILGHMAN: Yeah. I mean, it's, um, there's basically less than 1,000 trips,
24 daily trips on Grip Road in total now, so adding 300 that are exclusively
25 heavy trucks, would be a very significant increase both in terms of

1 proportion and then obviously in terms of heavy trucks. Go from effectively
2 zero to 300 a day.

3 LORING: Thank you for that. I don't have any further questions. I
4 appreciate your time.

5 REEVES: Okay. So, I think we can move on from this witness, at this
6 point. Great. Thank you, uh, for coming back a second time, Mr. Tilghman. And
7 I think, Mr. Ehrlichman, you have one final witness, is that right?

8 EHRLICHMAN: We do. Uh, I'd like to call, uh, Wallace Groda.

9 REEVES: I see a Wallace G. Might need to hit unmute on your own device.

10 EHRLICHMAN: Wally, if you're there, we aren't hearing you yet.

11 REEVES: Okay. They've raised their hand. I, we certainly would like to
12 hear from you Wallace Groda. I think you need to hit the unmute button as
13 opposed to the raised hand. Maybe the microphone, hit the microphone. I'm not
14 sure how else to, I don't think I have the power to unmute you. No, I don't.
15 Mona Kellogg has, Ms. Kellogg is there.

16 KELLOGG: Doesn't look like I can unmute him.

17 REEVES: Right. I think it's on his end he needs to unmute himself, is
18 that your understanding?

19 KELLOGG: It is.

20 REEVES: So, at the bottom of your screen, Mr. Groda, there should be a
21 microphone, I think you have to hit that.

22 EHRLICHMAN: Mr. Examiner, I just called him, uh, he's been hitting the mute
23 button, nothing happened. I suggested he log out and log back in.

1 REEVES: Okay. And while, while we try to get Mr. Groda back, uh, Mr.
2 Lynn, question for you, do you have a sense of, uh, if you're bringing any
3 initial witnesses in rebuttal?

4 LYNN: Uh, I think we will have just two witnesses and they'll be
5 relatively brief.

6 REEVES: Okay. Great. Thank you.

7 EHRLICHMAN: Can we know who those are, per chance?

8 LYNN: Uh, I expect to call Mr. Norris and Mr. Barton.

9 EHRLICHMAN: Mr. Cox is staying away today?

10 LYNN: He's, he's present, but he's not planning to testify. I, this is
11 follow up to Mr. Barton's earlier testimony.

12 EHRLICHAMN: Okay. Thank you.

13 LYNN: I, and I, I don't know what you mean by staying away, but I think
14 it's kind of, uh...

15 REEVES: I...

16 LYNN: Im-, implying something.

17 REEVES: I....

18 LYNN: And I didn't...

19 EHRLICHMAN: Didn't mean anything by it.

20 REEVES: I'm trying to keep, I'm trying to keep control of the sandbox as
21 well as I can. I promise, I'm not going to give any weight to the way any of
22 these Attorneys characterize any of these witnesses, so...

23 EHRLICHMAN: No, I apologize, I, that sounded loaded, I didn't mean it that
24 way, so apologies.

1 REEVES: All right. Do we have Mr. Groda yet?

2 KELLOGG: No, he hasn't tried to log back in yet.

3 REEVES: And...

4 EHRLICHMAN: So, Jason, how does the future look for Zoom and Skagit County?

5 D'AVIGNON: I don't, I don't really know, it's a little above my paygrade, I

6 think there's, you know, we do have some sort of license, that's what the

7 commissioners use, but getting to part of it is not a decision I get to make.

8 REEVES: Well, and Jason, there's no expectation of any further Appeals

9 after this one in Skagit County, right? We're just, this was the last and,

10 uh...

11 D'AVIGNON: I have every hope that this is the last seven-day Hearing in

12 Skagit County, at least during my tenure.

13 REEVES: Excellent. All right.

14 EHRLICHMAN: Mr. Examiner, I'm going to suggest that maybe if I could get Mr.

15 Groda on my phone, that you all might be able to hear him. Would that be...

16 REEVES: Well...

17 EHRLICHMAN: Acceptable?

18 REEVES: I think there's a way he can call in if you can...

19 EHRLICHMAN: Oh, okay.

20 REEVES: Why don't you mute and call him and tell him the call-in number.

21 EHRLICHMAN: Okay.

22 REEVES: Mona, is that right? There is a call-in number?

23 KELLOGG: Yes. Yes.

24 REEVES: And Tom, where can Tom Ehrlichman find that number?

25 EHRLICHMAN: Or can you give it to me or is it a long...

1 REEVES: Yeah. Perfect.

2 KELLOGG: Let me go back here and I will get it for you. It's, um, posted
3 on our website. So, tell me when you're ready.

4 EHRLICHMAN: All ready.

5 KELLOGG: Okay. He needs to dial the 1 first, 323-553-1010.

6 EHRLICHMAN: Okay. And then are there prompts or something or?

7 KELLOGG: Yes. And so, how it's listed and then it has two commas after
8 that, 1, 1, 6, 8, 7, 1, 6, 0, 4 and then the pound sign.

9 EHRLICHMAN: Okay. I will email and call him. Thank you for your patience.

10 REEVES: And I see Brandon Black, we don't need him as a witness, I'm
11 assuming he's wearing a Hawaiian shirt. I just, if so, I'm curious which
12 Hawaiian shirt Brandon Black is wearing on a lovely Friday. There we go. I,
13 I, we, we know. We know. And I note for the record, Brandon, go ahead if you
14 wanted to tell us about your Hawaiian shirt. This is obviously, we're just
15 waiting to get witnesses. Uh, you're muted. And this is...

16 BLACK: I didn't want to disappoint, so I made a point of making sure I
17 had the Hawaiian shirt today.

18 REEVES: Excellent. Very sharp.

19 LORING: Speaking of muted, though, it, it is a little quieter as Hawaiian
20 shirts go.

21 REEVES: It is, uh, hey, well played. It is a muted Hawaiian shirt and,
22 uh, that was an excellent pun, or maybe not a pun, but an excellent use of,
23 uh, a homonym, homonym, I think is the right word I'm looking for there in
24 terms of, uh, same, same word two different meanings. Uh, I note that I did
25 order and apparently there's a company that now makes long-sleeve Hawaiian

1 dress shirts. I ordered one, sadly, it did not arrive in time for our Hearing
2 today. But, maybe, uh, of, of course, no more Appeals are expected, at least
3 seven-day ones, but in the future, on a Friday, if necessary, perhaps I will
4 wear a long-sleeve Hawaiian shirt. Uh, but...

5 D'AVIGNON: We look forward to that.

6 REEVES: There you go. And, and Mona, did you have any further, let's see...

7 KELLOGG: Nothing is happening.

8 REEVES: Oh, okay. Just wanted to make sure.

9 KELLOGG: Okay.

10 REEVES: All right. And then, further while we're waiting on the, the
11 vote, of course, can occur later, I went a little, little brighter than
12 normal, but on my tie, I just want to note, this is a Jerry Garcia tie that
13 was given to me by Phil Lesh, bassist of the Grateful Dead. So, I was trying
14 to really bring it in terms of winning the tie competition. I guess we never
15 established if I myself am allowed to win, but, uh, I have given the
16 background on my tie.

17 EHRLCIHMAN: I, I don't think you can just drop that on us without telling us
18 the back story.

19 REEVES: Well, so, while we're waiting, Phil Lesh, uh, every now and again
20 we would ski, uh, together because I had a ski lesson that seemed to line up
21 right after his, uh, when I was a kid at what used to be called Squaw Valley
22 [phonetic] in Northern California. And being a local nerd sort of lover of
23 the Grateful dead, I, I asked him about, uh, Jerry Garcia and he said, you
24 know, happened to know he was going to see me and brought me this, uh, Jerry
25 Garcia tie. So, that's, that's the background there. Uh, you know, I, uh,

1 that's, that's all I got, but, uh, it's not a monkey tie. I couldn't find any
2 animal ties, but I thought at least I had a tie with a good story.

3 REEVES: Well, Bill Lynn, you pulled a Bill Lynn, you're talking, but
4 you're muted.

5 LYNN: I, I, I know, I'm, uh, I, I said it's a great story. And then I
6 decided it wasn't worth unmuting.

7 REEVES: All right. All right. And Tom, if you can give us an update any
8 point on where we are with this witness?

9 EHRLICHMAN: We have spoken and he has the call-in number and that's all I
10 know. I'm hopeful.

11 REEVES: Okay.

12 EHRLICHMAN: I can tell you what our, uh, presentation entails with Mr. Groda
13 as a preamble if you'd like?

14 REEVES: Uh, sure, it says guest waiting to join, I'm hoping maybe that
15 might be him, but wait one sec.

16 EHRLICHMAN: Okay.

17 KELLOGG: That's not him.

18 REEVES: Okay. Very, very briefly, this was another area resident, right,
19 Mr. Ehrlichman?

20 EHRLICHMAN: It is. He's calling me, hold on a sec. we may have to submit his
21 testimony in writing, hold on one sec. He still can't get it. I was going to
22 qualify him as a witness who's capable of using a tape measure, but I forgot
23 to ask him if he can use Microsoft Teams or a phone. Um, I, I would suggest,
24 Mr. Examiner, that to save time here, we offer his testimony in writing. Um,
25

1 it could be subject to objection by Mr. Lynn or the County, um, but I think
2 that we could do it in writing.

3 REEVES: I'd be fine. So, just a declaration and, and if there's any sort
4 of objections from others, they can bring them up. I, I certainly think
5 that's probably the sensible move at this point. But, Mr. Lynn, do you have
6 any problem with that, as a procedure. Just to clarify, and, again, this is
7 not an expert witness, other than you noted he can use a tape measure. Um,
8 but...

9 EHRLICHMAN: Okay.

10 REEVES: Your thoughts, Mr. Lynn?

11 LYNN: No objection to that. I mean, I'd like to see it first, but I,
12 just conceptually, I don't have a problem with it.

13 REEVES: There you go. Okay. And, uh, same question to, uh, Mr. D'Avignon
14 and Mr. Loring just any, one at a time.

15 D'AVIGNON: No objection.

16 REEVES: Okay. Mr. Loring?

17 LORING: That's all right. No objection, either, to it being submitted.

18 REEVES: Okay. Okay. So, Mr. Ehrlichman, then, uh, let's just plan on you
19 producing that declaration, uh, in a reasonable period of time, uh, you know,
20 next week or so. Uh, and, and if there are objections, obviously the parties,
21 I'm confident, will bring them up to me after they've read, uh, whatever is
22 produced there. Okay.

23 EHRLICHMAN: Thank you for that. Um, I'd like to close out here just by, uh,
24 reminding the Examiner, again, that we had already heard the testimony of
25 Neil Mcleod and also while I realize not everyone sees the world the way I

1 do, um, we endeavor to present our case through, uh, questions to hostile
2 witnesses, if you will. We folded that into the cross-examination part of the
3 Hearing so we wouldn't have to call folks, uh, at this segment. But I just
4 wanted to, uh, share that as well. So, our, our, uh, we're, we're resting, if
5 you want to look at it that way, based on, uh, Mr. Mcleod's testimony and the
6 testimony you heard today, our written testimony of Wallace Groda and the
7 questioning that I did of the other, uh, witnesses. And, of course, we'd like
8 to participate in any post, uh, Hearing briefing.

9 Q; Great. Thank you, Mr. Ehrlichman.

10 EHRLICHMAN: Thank you.

11 REEVES: Okay. Uh, then, moving on, uh, with that, uh, Mr. Lynn, are you
12 prepared at this point to call any other, any rebuttal witnesses you intended
13 on calling?

14 LYNN: I can call Gary Norris and that's the next witness, so, yes.

15 REEVES: Okay.

16 LYNN: Assuming he's, assuming he's on, I think he is.

17 REEVES: Gary Norris, are you available?

18 NORRIS: Yes, I'm, I'm available. I have to apologize, I didn't think I
19 had to wear my tie until after lunch, but since we, I didn't have a
20 competition tie, either, so I apologize for that.

21 REEVES: Uh, you, no need to apologize. And, uh, certainly, we'll leave it
22 at that. I'm going to swear you in, Mr. Norris. Do you swear or affirm to
23 tell the truth in the testimony you give here today?

24 NORRIS: I do.

1 REEVES: And you've explained, you've spelled your name, et cetera
2 earlier, so we don't need to get into that. And Mr. Lynn, if you can very
3 briefly remind us, have Mr. Norris remind us who he is. I don't think we need
4 to dive too deeply into his background at this point.

5 LYNN: Uh, Mr. Norris, could you just, uh, remind us of what your role
6 has been in this project to date?

7 NORRIS: My role has been working with, uh, uh, Concrete Nor'West to
8 evaluate the possible ramifications and the, uh, traffic related impacts of
9 the gravel hauling operation on the County's road network serving the site.

10 LYNN: Okay. And, uh, you are a professional engineer?

11 NORRIS: Yes, I am.

12 LYNN: And just a related question to that, when you submit a report or
13 drawing, does it bear your professional stamp?

14 NORRIS: Yes, it does. And I would like to add also, I am certified as a
15 Road Safety Professional by the Institute of Transportation Engineers, also,
16 which is a, a more extensive, um, training and certification for, uh, traffic
17 safety analysis.

18 LYNN: And just a, a question about the stamp, when you stamp something
19 as an engineer, what does that entail? What does it obligate you to do?

20 NORRIS: It means that you're bearing responsibility for the accuracy and
21 the integrity of the analysis and the work that's being done.

22 LYNN: Okay. So, you testified previously about some auto-turn analysis
23 that, uh, you had completed. And then you, uh, subsequently submitted to me
24 and I submitted to the parties, uh, a two-page, um, document that reflects,
25 uh, auto-turn information. I don't think we have assigned that a number, Mr.

1 Examiner, but, uh, if we could, at this point, on the chart that Jason
2 prepared, it, uh, it just following the numbers, it would seem to be, um,
3 sorry, I got to go through this myself, um, Exhibit 1A, or I'm sorry, B102,
4 um, and so I'd like to, if Jason, would you mind putting that up, that's the
5 auto-turn analysis that I sent out on, I think, Tuesday of this week? Thank
6 you.

7 REEVES: Sorry...

8 LORING: Mr...

9 REEVES: Oh, Mr. Loring, you have...

10 LORING: I was going to, this is Mr. Loring, uh, Mr. Examiner, uh, Central
11 Samish Valley Neighbors continue to object to the entry of this document for
12 the purposes of the SEPA Appeal. And therefore, we recommend that, at least
13 at this point, it be given a number within the County's numbering system
14 which applies to the Application.

15 REEVES: Oh. Got it. Um, A) I understand the objection, B) I think that
16 makes sense. Uh, in terms of a number, then, Mr. D'Avignon, if we use your
17 chart with the understanding that there was an update and we will, after the
18 lunch break, hopefully we can really nail down the numbers. But, uh, if we
19 give this the sort of C number, uh, and add it to the Cricchio main file,
20 where would that put us?

21 D'AVIGNON: I believe that would put us at C53.

22 REEVES: Okay. Got it.

23 LYNN: Okay.

24 D'AVIGNON: And then, and Bill, which, which one was it? The, uh...

1 LYNN: Uh, sorry, it was, it's the auto-turn analysis, there are two
2 pages. I sent it on Tuesday.

3 D'AVIGNON: Okay.

4 LYNN: Uh...

5 D'AVIGNON: What are looking for, oh, it's foot, though, of course.

6 LYNN: Yes. That's fine. I think it's sufficient for these purposes,
7 although I would like to have the scale, um, shown if we can. So, um, Mr.
8 Lorris [sic], Mr. Norris, is this the auto-turn analysis you prepared for
9 Grip Road S-curves?

10 NORRIS: That is the, one of the pages of it. There are actually two pages
11 to it. This one had, um, from, uh, let's see, I got the, there's one section
12 for Station, get the number here, 24 plus 00 to, um, 30 plus 00. And then I
13 believe there's a, another page, although I'm not seeing it here right away
14 either. This might be a compilation of both, um, but we essentially evaluated
15 the Grip Road, uh, through the, the turns that...

16 LYNN: Okay.

17 NORRIS: Were in question.

18 LYNN: And, um, so, does this, does this, uh, Exhibit C53 depict your
19 auto-turn conclusions about that?

20 NORRIS: Yes.

21 LYNN: And, and what, does it show that there is sufficient room that
22 you can, uh, widen the paved surface such that a, uh, pup and truck, truck
23 and pup can get through without crossing over the center line?

24 NORRIS: Yeah. The, the, um, diagram depicts the right-of-way line along
25 the corridor in that skipped line that's on the boundary of the, uh, travel

1 path of the vehicle. So it does illustrate, uh, and the, um, drawing
2 identifies the length of the encroachment on the center line and the length
3 of the encroachment over the fog line for both directions of travel.

4 LYNN: So, from this can you determine whether it's possible to widen
5 the lanes or the, the paved surface such that a truck of the type proposed
6 can be, um, can travel the segment without encroaching over the center line?

7 NORRIS: Yes.

8 LYNN: Okay. And, uh, so, I'd like to have, uh, Jason, if you don't
9 mind, sorry, but, uh, the, the, uh, drawing that accompan-, accompanied that
10 was a dimensioned drawing of, uh, the Miles's truck and pup, uh, the clean
11 version of the document that Mr., uh, Ehrlichman put up this morning. So,
12 that and I think can we make that Exhibit, uh, C54?

13 REEVES: Yeah.

14 LYNN: And I'd like to offer that as a, as, as an Exhibit with that
15 designation.

16 NORRIS: Uh, yeah. I think that would make sense.

17 LYNN: Okay. Um, Mr. Norris, is the truck that you used as an input to
18 the, uh, auto-turn analysis?

19 NORRIS: Yes, it is.

20 LYNN: Okay. And w-, was that information presented to you by, uh, Miles
21 Sand and Gravel?

22 NORRIS: Yes, it was.

23 LYNN: Okay. So, there's been some testimony that this longer than the
24 truck that was depicted in an earlier, uh, exhibit. Can you explain, uh, that
25 earlier exhibit? And I, maybe we should assign that a number, I'm not sure

1 it's been given one. On the list that Jason put out, it was right after
2 [coughs] I'm sorry, B98. So, I would have assigned it B99, but I guess if
3 we're using the County's letters, it might be C55. And...

4 REEVES: Sor-, okay. I got lost a little bit there. So...

5 LYNN: Okay.

6 REEVES: There was, I, so on the, what Mr. D'Avignon helpfully put
7 together, there's something identified as truck and pup diagram, there's a
8 second item identified as truck and pup diagram two. Is it, are we trying to
9 talk about a difference between these two things, Mr. Lynn, or are you trying
10 to suggest a difference between one of these truck and pup diagrams and some
11 other potential item that was, that was included at some point over the...

12 LYNN: Yes. Yeah. I, I think I created some confusion by sending out on
13 September 2nd a drawing that looks different than this one. And I think Mr.
14 Norris may have given some testimony about it previously. He's just testified
15 now that this is, in fact, the truck he has used, but I'd like to go back
16 and, and just have him explain why, why that other document was presented and
17 how its, how it relates to his analysis.

18 REEVES: Sure. But just so that I'm not confused, Mr. Ehrlichman, can you
19 clarify again, there's identified as other applicant exhibits, in what Mr.
20 D'Avignon sent out, his, his sort of list. There are two items identified as
21 Truck and Pup Diagram. We just...

22 LYNN: Yes. And...

23 REEVES: So, please...

24 LYNN: Sorry.

1 REEVES: What, what exhibit number, we gave an exhibit number to this, is
2 this in your mind the Truck and Pup Diagram or Truck and Pup Diagram 2?

3 LYNN: Uh, this, this would be Diagram 2, which is the one I sent out on
4 Tuesday. The other one might be properly labeled Diagram 1 and it's the one
5 that was sent on September 2nd and discussed in his earlier testimony.

6 REEVES: Okay. So that I think clarifies it. And just to be clear, Mr.
7 D'Avignon, if you're there, did that, when he sent this out, is that what you
8 were thinking there's, uh, one diagram, another diagram, is that what you
9 were trying to do there on the...

10 D'AVIGNON: Um, that is correct. There was the diagram that was sent out in
11 earlier this month and then just the one from yesterday got tacked onto the
12 end. That's the Auto-Turn Analysis two pages and the Truck and Pup Diagram 2.

13 REEVES: Okay.

14 D'AVIGNON: Just how I was thinking about it when I put that together.

15 REEVES: Excellent. Okay. So, and that one we have not, we don't think,
16 given an exhibit number to, but it would helpful to give it an exhibit number
17 so it can, just to make things even more confusing, we'll call this slide
18 truck and pup Diagram 2 as C54, the auto-turn analysis was C53 and now the
19 other earlier truck and pup diagram, Mr. Lynn, you wanted to have and discuss
20 would be C55?

21 LYNN: That's correct.

22 REEVES: Make sure that everybody is tracking, so...

23 LYNN: That would be helpful. And if we could put that up just so we can
24 briefly look at it and have Mr. Norris explain its role in the analysis.

1 REEVES: And I think it goes without saying, Mr. D'Avignon has accrued
2 gold stars for, uh, taking on, uh, this task of putting up others' exhibits.

3 LYNN: I, I'm trying to think of ways to repay him, but probably ending
4 the Hearing early is the best I can do. Uh, so, uh, Mr., uh, Mr. Norris, this
5 diagram, Dump Truck with Pup Number 1, uh, which is Exhibit C55, was
6 presented before. Uh, could you tell the Hearing Examiner what the origin of
7 this is and how it played into the analysis?

8 NORRIS: Yes. It's, um, as I was explaining my original testimony, the
9 auto-turn, uh, program presents alternative, uh, vehicle configurations and,
10 uh, they did not have a configuration that, uh, met the r-, um, the
11 consistency of what Miles is proposing with their designs. We had to create a
12 vehicle that would reflect what, uh, Miles was going to use for this
13 operation. And this was the original attempt of doing that, subsequently
14 modified by the more detail, uh, Kenworth drawing that was, uh, presented
15 here this last week.

16 REEVES: And I'm going to cut in for one sec, Mr. Norris, when you say you
17 had to create a vehicle, I assume you mean you had to create or sort of
18 impose dimensions into the computer program, uh, that would reflect what the
19 thought of what Miles would be using is, is that right? I mean, there wasn't
20 a pre-input, that's what you mean by create a vehicle, right?

21 NORRIS: That, that's correct.

22 REEVES: Okay. Sorry to interrupt, go ahead, Mr. Lynn.

23 LYNN: So, um, Mr. Norris, so vehicle, the Diagram Number 2, the one we
24 looked at, uh, earlier, uh, Exhibit C54, is the one that was used to, uh,
25 create the auto-turn analysis that you've submitted here as Exhibit C53?

1 NORRIS: That's correct.

2 LYNN: Okay. So, basically, this diagram, uh, the, the number one
3 diagram, it really is not material to any of your conclusions?

4 NORRIS: That's correct.

5 LYNN: Did, you heard Mr., um, Tilghman ask some questions about the
6 scale on your auto-turn analysis. Could you tell the Hearing Examiner whether
7 you stand by the outcome or the output of your auto-turn analysis despite
8 whatever Mr. Tilghman said about scale?

9 NORRIS: Well, I think the, the pertinent thing is, uh, the values that
10 are important here are the ones that are dimensioned on the drawing itself.
11 So, that is what is displayed as being the encroachments and so, uh, I can't
12 really speak to any issues with what might be erroneous about the scale,
13 other than if it was, uh, a, uh, a width view as opposed to a, a length view.

14 REEVES: And, sorry, one sec. uh, Jason, would you mind going back to C53?
15 Which, which is the auto-turn, at least a page of it, so that, can you, sorry
16 to, I'm going to dive in just 'cause I probably should under-, understand
17 this testimony. Can you clarify sort of based on pointing out things here on
18 this diagram, Mr. Norris, if you could clarify what you were just explaining?

19 NORRIS: Okay. So, the question was about the scale of the drawing and,
20 and when I said I wasn't really terribly concerned about what the scale of
21 drawing was because of the, uh, dimension lines illustrate where, though the
22 auto-turn analysis, where the vehicle was, uh, going over the, uh, edge of
23 the pavement. And so we were talking also about, uh, whether or not, uh,
24 there was adequate room within the right-of-way to accommodate widening, uh,
25 of the roadway to provide, uh, adequate width. And as I was saying that the

1 dip lines along the, the side of the right-of-way delineations, the, uh,
2 dimension lines, it says 214 feet brings us encroachment over center line.
3 So, that's where the vehicles encroaching over the center line and then it's
4 225 feet encroachment over the fog line. So, those are the, uh, two pertinent
5 d-, dimensions that would be used in the, uh, roadway design to address the,
6 uh, deficiency of the, of the road and the impact of the truck and pup.

7 REEVES: Okay. Thank you for clarifying. Mr. Lynn, go ahead.

8 LYNN: Thank you. Um, Mr. Norris, in your, uh, opinion, or experience,
9 is, is an auto-turn analysis a component of safety analysis and the review of
10 potential conflicts?

11 NORRIS: I believe it's used to determine the impact of the, the vehicle
12 path that's obviously a safety, safety issue in the, uh, in the conversation.
13 So, yeah, I would say, yes.

14 LYNN: Okay. Uh, how else was safety analyzed in your, uh, work?

15 NORRIS: Uh, we, uh, first off, we looked at the sight distance at the
16 intersections and that's what resulted in the, the signing that we were
17 proposing and the flashing beacons to notify, uh, the roadway users of the
18 existence of truck traffic. Uh, we looked at the crash history for the
19 intersections and the segments and we did a, uh, crash analysis of the
20 intersections that determined that the, uh, rates of crash were not
21 significant, uh, that would warrant concern, uh, over the standard crashes
22 that occur normally on a roadway network. Um, so, and then obviously the
23 Level of Service Analysis also plays into the safety component, uh, from the
24 standpoint of congestion that creates, uh, issues with rear-end crashes and
25

1 those kinds of things. So, we did those elements to determine the, uh, safety
2 of the, um, site impact on the roadway network.

3 LYNN: Okay. Uh, a question came up, uh, during somebody's testimony, I
4 can't even recall wh-, uh, who, about bus pull outs and maybe whether bus
5 pull outs would be appropriate, do you have, uh, uh, an opinion about bus
6 pull outs and whether those would actually help safety or have another, um,
7 impact?

8 NORRIS: My experience with bus pull outs, and this relates to my time as
9 a City Traffic Engineer, where the buses did not want to leave the, the
10 roadway or pull out or, uh, even prefer to have pull outs designed for them
11 to do that because of the impacts on safety about, uh, reentering the roadway
12 and the traffic stream. So, in general, uh, buses do not want to have pull
13 outs.

14 LYNN: Okay. Uh, are there other, um, and I don't want to really get
15 into the traffic engineer qualifications, but could you just tell us what
16 elements of your work, um, fall into the engineering, uh, arena versus some
17 other field of, uh, expertise?

18 NORRIS: Um...

19 REEVES: And I think...

20 NORRIS: I, I have a, uh, have a, uh, undergraduate degree in Traffic
21 Engineering and a Master's degree in Transportation Planning...

22 EHRLICHMAN: Mr. Examiner, excuse me, Mr. Norris. Mr...

23 REEVES: Mr. Norris is mid-answer, Tom Ehrlichman.

24 EHRLICHMAN: Yeah. I have an objection to the question, I'm late in filing,
25 I'm sorry. My objection is the same objection I got from Mr. Lynn and from

1 you when I tried to present testimony of Mr. Tilghman's qualifications, you
2 said you already knew what they were.

3 REEVES: [Inaudible.]

4 EHRLICHMAN: I'm assuming we already know what Mr. Norris' qualifications re.

5 REEVES: Mr. Ehrlichman, I, I acknowledge your objection, uh, but the
6 question was specifically asking this witness to explain the work he's doing
7 that is, you know, different than other types of work. I'm going to allow the
8 answer. We were mid-answer when the objection came in. Mr. Norris, if you
9 could just give a quick response. We don't need to go into your undergraduate
10 degree history, just explain, as an engineer, what you're doing that is
11 different than what a non-engineer would do.

12 NORRIS: All the technical analysis of Level of Service, uh, crash
13 analysis, uh, accident rates, exploring the impacts of different crash types,
14 what are the issues associated with them? What mitigation measures are
15 available to address them? What are the crash, uh, modification factors that
16 can be introduced to, uh, eliminate those, uh, impacts? So, a lot more
17 technical, uh, evaluation and analysis.

18 LYNN: Uh, and since we haven't had a chance to talk since, uh, Mr.
19 Tilghman's testimony concluded, is there anything you feel compelled to add
20 as a response to any of his testimony?

21 NORRIS: Uh...

22 LYNN: And I'm not looking for you to add something just to add
23 something, I just, uh, want, want to make sure that I haven't missed
24 something important.

1 NORRIS: Well, I, I want to make sure that the clarification is, is clear
2 that we complied with the Road Standards for the safety analysis that was
3 performed. The County gave two options to do that, it was either through a
4 records analysis or through a conflicts analysis. Based upon the availability
5 of the crash data, a conflict analysis was not required, under the, uh,
6 Accident Standards and wasn't necessarily a typical thing that's done anyway.
7 So, we really rely heavily on crash data to formulate opinions about safety
8 and what issues need to be addressed.

9 LYNN: And, um, one last question about crash data, why is crash data
10 used not just to look at what used to happen but what may well happen in the
11 future. Why is it predictive?

12 NORRIS: Uh, there's a certain randomness to crashes, but there's also a
13 very special [inaudible] to crashes where you have, uh, for instance, if you
14 have, um, a number of rear end crashes at an intersection, it's pretty well
15 predictable, unless something is done, that those rear end crashes will
16 continue to increase as volumes increase. So, it's, and then also the
17 conditions of the roadway are all predictive of, um, to crash potentials. So,
18 all those things are, are, come out of the crash history and the data that's,
19 we collect.

20 LYNN: Sorry, I, I muted because there was some background noise here.
21 Uh, that's all I have for Mr. Norris. Thank you.

22 REEVES: Okay. I'll go to Mr. D'Avignon next. Any questions here?

23 D'AVIGNON: Uh, no, Mr. Examiner.

24 REEVES: Okay. Uh, Mr. Loring?

1 LORING: Thank you, Mr. Examiner. Uh, before I start, I do just want to
2 clarify that we maintain an objection to Exhibits, uh, C-, C55 and 55, as
3 well, those are those, and I'm talking about the SEPA Hearing, I understand
4 there may be different exhibits based on the aspect of the Hearing we've been
5 discussing, so, I just wanted to put that out there. Those are the drawings
6 about the truck and trailer.

7 REEVES: Yep.

8 LORING: Thank you.

9 REEVES: Noted.

10 LORING: Okay. Um, um, Mr. Norris, I want to talk with you briefly, uh,
11 uh, still nonetheless about some of the information you have been, uh,
12 discussing just a moment ago and so that does relate to your, uh, auto-turn
13 conclusions. So, you're, you're now not claiming that the dimensions on that
14 auto-, those auto-turn documents that are at C53, you're not claiming the
15 dimensions would be accurate now if we applied the scale that's on that
16 document, right?

17 NORRIS: I, I don't know what your specific Exhibit you're referencing
18 right now.

19 LORING: Okay. Let me pull it up here, that may, always makes it easier.
20 So I'm going to share my screen right now and I've got Exhibit C53 up on the
21 screen. And I'm looking at the first page, I've combined these into one, I
22 know they were two separate pages when I received them. Uh, but here's a
23 picture of Grip Road. So, my question was you're not now claiming that the
24 scale on this picture actually matches up with the widths of the road that
25 are on here, right?

1 NORRIS: No. I'm not claiming that.

2 LORING: Okay.

3 NORRIS: I'm claiming that...

4 LORING: Why...

5 NORRIS: The pertinent fact is what's delineated by the arrow diagram.

6 LORING: Okay. Now, when I look at the arrow diagram, that would be much

7 longer than 225 feet if I applied the scale to that portion, too, right?

8 NORRIS: Uh, could be. I, I don't know, I didn't check it.

9 LORING: Okay. Is that common for you to not check your measurements on

10 here, on exhibits that you put together?

11 NORRIS: Uh, I'm not checking it against the scale, I'm checking it

12 against the, uh, output from the model.

13 LORING: Okay. And, uh, the output from the model also doesn't get the

14 scale correct either?

15 NORRIS: Well, that could be, I, I haven't confirmed it one way or the

16 other, so, I wouldn't know.

17 LORING: Okay. Uh, these, you mentioned fog lines, and I believe it's even

18 written on here, there's a word fog line, there are no fog lines on this

19 stretch of Grip Road, right?

20 NORRIS: Um, I don't believe so, no.

21 LORING: Okay. So, we don't know what that reference is when it refers to

22 fog line here?

23 NORRIS: It would be the edge of the pavement.

24

25

1 LORING: Okay. You mentioned that, uh, well, you don't know where the edge
2 of the pavement is or the width of the road based on this drawing here,
3 right?

4 NORRIS: Uh, I believe it's, uh, traced out in the drawing, yeah.

5 LORING: So, if I were to apply the scale to the, the actual image of the
6 road, I'd be able to get the width of the road and each lane?

7 NORRIS: I believe so, yes.

8 LORING: Okay. So, I did that just a moment ago with my ruler. And I get
9 50 feet, is your contention that Grip Road in this stretch is about 50 feet
10 wide?

11 NORRIS: Um, okay. So, the, what I'm going to tell you is probably the
12 correction there, is that you're dealing with half-scale drawing. So, the
13 scales, the scales are not always corrected on the, uh, when you shrink a
14 drawing down. You go to half-scale on it, this would be printed out at a much
15 larger scale, which would then the scale would be measured correctly. But if
16 you, uh, shrink it down to put it in a document like this or something, it
17 would not come out the same scale.

18 LORING: Okay. And you testified you didn't check that when you created
19 this document?

20 NORRIS: Correct.

21 LORING: Okay. Now, you've talked about two different, uh, truck images,
22 I'll say diagrams and, and now we've got them called, uh, I believe C55 and
23 C54, I'll stop sharing. When you spoke with us last time, you didn't have the
24 correct diagram for the truck, is that right?

25 NORRIS: That's correct.

1 LORING: Uh, and yet you shared a diagram with the parties as an exhibit
2 in this matter that wasn't correct?

3 NORRIS: Apparently so.

4 LORING: Okay. So, do you believe, um, sorry, you, in this auto-turn
5 analysis that you've conducted, you didn't evaluate the bicycle impacts are
6 part of that auto-turn analysis, right?

7 NORRIS: No. At the time we were doing our analysis, there was no bicycle
8 traffic, uh, that was being observed on the corridor.

9 LORING: Okay. And is part of the auto-turn encroachment, I'm bouncing
10 around a little bit, sorry for that, but you, you identify encroachment over
11 different lines as part of this auto-turn, uh, at what speed did you model
12 that encroachment?

13 NORRIS: It would be the posted speed limit.

14 LORING: Okay. So, you didn't model that at traveled speeds on the road?

15 NORRIS: What's your definition of travel speed? The, what the, uh, what
16 the passenger cars are traveling at?

17 LORING: Well, that, that's a good question, let me take it a second back,
18 because that's what we discussed last time during your testimony, I know. Let
19 me ask you this, uh, what speeds do gravel truck and pup travel along this
20 stretch of Grip Road?

21 NORRIS: Uh, I haven't measured it, I couldn't tell you.

22 LORING: Okay. That, I don't have much more, just a little bit here. Uh,
23 you were talking about crash data a moment ago and have you asked community
24 members about crashes in that area?

25 NORRIS: No, I have not. Why would I do that?

1 LORING: Do you have any knowledge about the amount of crashes or the
2 number of crashes that occur that are not reported somewhere?

3 NORRIS: I know for a matter of fact there's a lot of unreported crashes,
4 uh, consistently throughout our transportation network that are never
5 reported, don't meet the damage thresholds and therefore do not show up in
6 the data records.

7 LORING: Okay. Uh, but you limited your review to just the crash data that
8 show up in the records, right?

9 NORRIS: That's the typical approach to evaluating crash history, yes.

10 LORING: Okay. Thank you for your time. I have no further questions.

11 REEVES: Thank you. Mr. Ehrlichman?

12 EHRLICHMAN: Thank you, Mr. Examiner. Uh, good afternoon, Mr. Norris. It's
13 12:07.

14 NORRIS: Good afternoon.

15 EHRLICHMAN: Couple of questions following up on what Mr. Lynn asked you
16 about. He, uh, asked you, uh, what the elements were of your safety analysis.
17 And I believe you testified, uh, that you analyze sight distance, crashes at
18 intersections and segments and rates of crash and also Level of Safety to the
19 extent it plays into a safety component concerning congestion and rear end
20 crashes, correct?

21 NORRIS: Level of Service, not Level of Safety.

22 EHRLICHMAN: Uh, I meant Level of Service, thank you, a Freudian slip there.
23 Um, so, your, your expertise in, and it is considerable, in, uh, traffic
24 engineering that you talked about, didn't lead you to look further, uh, at,
25

1 at a safety analysis that would include, uh, the types of maneuvers by school
2 buses, correct?

3 NORRIS: That's correct.

4 EHRLICHMAN: And yet you also testified that one of the, um, types of, of
5 problems, you testified just now that one of the types of problems is when
6 school buses, um, are re-entering the roadway, uh, in a turnaround, isn't
7 that correct?

8 NORRIS: No, I don't believe that characterizes my testimony.

9 EHRLICHMAN: Well, let's go back and, and look at it.

10 REEVES: You, the testimony, if I recall correctly had to do with a pull
11 off, right, Mr. Norris?

12 NORRIS: Correct.

13 EHRLICHMAN: Yes.

14 NORRIS: That, that's correct, it was, did not deal with a turnaround.

15 REEVES: There we go.

16 EHRLICHMAN: Okay. I used the wrong word. So, your safety analysis didn't
17 include school bus maneuvers, correct?

18 NORRIS: That's correct.

19 EHRLICHMAN: Okay. And yet you testified that bus pull outs pose safety
20 concerns, uh, related to buses re-entering the roadway, did you not? Just
21 now?

22 NORRIS: I, I think you're mischaracterizing my testimony. My testimony
23 was that, uh, typical, uh, bus operators do not want to pull off the roadway
24 because of the safety issues of re-entering the roadway.

1 EHRlichman: Thank you. That's exactly right. And yet, you didn't analyze that
2 safety issue as part of your safety analysis. Next question...

3 NORRIS: Because, because that isn't known to be a safety issue here of
4 concern. There's no, uh...

5 EHRlichman: One...

6 NORRIS: Information that the buses pull off to...

7 EHRlichman: It's one that you didn't identify or analyze?

8 REEVES: Right.

9 NORRIS: It was, no.

10 EHRlichman: In your r-, in your traffic report in Exhibit 18, did you
11 identify...

12 REEVES: It's been...

13 EHRlichman: That as a safety...

14 REEVES: Asked and answered.

15 EHRlichman: Issue? In Exhibit 18, go ahead, Mr. Examiner.

16 REEVES: Um, I believe, unless I totally missed it, Mr. Norris testified
17 multiple times now that, uh, this was an issue that wasn't addressed, uh,
18 there was no analysis specifically of school bus pull outs, partially because
19 as far as we know, there are no pull outs. Is that right, Mr. Norris?

20 NORRIS: That's my understanding.

21 REEVES: Okay. Go ahead, Mr. Ehrlichman.

22 EHRlichman: Mr. Examiner, I just want to note for the record that during my
23 questioning of Mr. Norris, I tend to get a high level of interruptions or
24 questions from the Hearing Examiner that dissuade me from asking the question
25

1 I'm trying to ask. Here's the question, your Exhibit 18 didn't even mention
2 school buses, did it?

3 NORRIS: No, it didn't.

4 EHRLICHMAN: And, yet, you had a section on there concerning Grip Road, didn't
5 you?

6 NORRIS: I don't understand your question.

7 EHRLICHMAN: In Exhibit 18, did you, did you have a segment or a section and a
8 heading in Exhibit 18 called Grip Road?

9 NORRIS: Yes, I did.

10 EHRLICHMAN: Okay. And you identified there that Grip Road didn't have
11 shoulders, correct?

12 NORRIS: That's correct.

13 EHRLICHMAN: Okay. So, you identified one safety issue there. That the road
14 was substandard yet you didn't identify another safety issue which has to do
15 with school bus use of Grip Road, correct?

16 NORRIS: Well, first off, I want to clarify, just by the...

17 EHRLICHMAN: That's a yes or no question?

18 NORRIS: I want to clarify your question, by virtually...

19 EHRLICHMAN: I don't, I don't...

20 REEVES: Mr. Ehrlichman. Mr., Mr. Ehrlichman, we're not in Superior Court,
21 we're not strictly bound by the rules of evidence. I'm going to allow the
22 witness to try to clarify his answer and we're not going to limit to yes or
23 no after a blah, blah, blah, isn't that right type question. We're trying to
24 get through this. This is frustrating.

25 EHRLICHMAN: The question...

1 REEVES: To me, obviously, but Mr. Norris, if you want to try to clarify
2 whatever understanding, I'm going to allow you to do it. Go ahead, Mr.
3 Norris.
4 EHRLICHMAN: Could we...
5 REEVES: Hold on Mr. Ehrlichman.
6 EHRLICHMAN: Could we repeat the question?
7 REEVES: Mr. Norris, please say what you want to say and then Mr.
8 Ehrlichman, you can follow up as needed. Go ahead, Mr. Norris.
9 NORRIS: I want to clarify for Mr. Ehrlichman and the Appellants that just
10 because a road doesn't meet the current Road Standards does not mean it's
11 unsafe.
12 EHRLICHMAN: Mr. Norris, my question is, in the Grip Road section of Exhibit
13 18, you didn't even mention school buses, did you?
14 NORRIS: I think I answered this many, many times.
15 REEVES: Thank you. I, you testified school buses...
16 EHRLICHMAN: It's a yes or not.
17 REEVES: Are not mentioned anywhere in your report, correct, Mr. Norris?
18 EHRLICHMAN: And I wanted, I wanted the witness to confirm that.
19 REEVES: He has multiple times.
20 EHRLICHMAN: Why can't he answer it this time?
21 REEVES: Well, because we don't need to ask the same question seven times.
22 Mr. Norris, you have confirmed buses are not mentioned in your report,
23 correct?
24 NORRIS: That's correct.
25 EHRLICHMAN: Thank you.

1 REEVES: And by report...

2 EHRLICHMAN: Thank you.

3 REEVES: That means every section internal to the report, correct?

4 NORRIS: Correct.

5 REEVES: There we go. Okay. Go ahead, Mr. Ehrlichman.

6 EHRLICHMAN: That's exactly what we were looking for and appreciate that. Mr.

7 Norris, so with your expertise on the technical matters that you talked

8 about, uh, Level of Service, crash analysis, accident rates, impacts from

9 different crash types, mitigation to address, uh, uh, potential crashes, with

10 that expertise, you never thought it important to identify or analyze the

11 conflicts of these gravel trucks with school buses on Grip Road, correct?

12 NORRIS: Uh, as a specific analysis, no, there was nothing in the record

13 that indicated that there was a safety issue with buses, or school buses, on

14 these roads. The volumes of buses and trucks was recorded as part of our

15 traffic counts. But we did note that. Uh, we've seen that here, it's been

16 presented in this testimony. There was no indication that there was a safety

17 issue related to bus, school buses or bicycles for that matter, as well.

18 EHRLICHMAN: Other than the fact that there are school buses uses Grip Road,

19 uh, four times a day?

20 NORRIS: That doesn't mean there's a safety issue with them.

21 EHRLICHMAN: That didn't indicate to you a possible safety issue?

22 NORRIS: No, it did not.

23 EHRLICHMAN: Okay. Thank you. Did the study area for your traffic analysis

24 include the Grip Road segment east of the mine entrance?

1 NORRIS: Uh, explain your question, I'm, I'm not sure I understand what
2 you're asking exactly.

3 EHRLICHMAN: Didn't you testify on September 2nd in this proceeding that your,
4 uh, traffic study did not include the geographic area east of the mine
5 entrance on Grip Road?

6 NORRIS: In what, in what way?

7 EHRLICHMAN: Any way.

8 NORRIS: Well, we identified a, a potential for 5% of the traffic in the,
9 uh, extreme hourly analysis, the high end, with 30 trips, we identified a 5%
10 impact of traffic on the east, uh, east of the Grip Road mine access. And
11 this could take the form of, uh, uh, employees working on the site or other
12 trips coming to the site.

13 EHRLICHMAN: Right. But my question was whether you testified on September 2nd,
14 that your study area did not include the road segment east of the mine
15 entrance.

16 NORRIS: I disagree with your, uh, representation that our study area did
17 not include that. Because we did identify a percentage of our trips going
18 that direction.

19 EHRLICHMAN: So, it's not my representation, I'm asking whether you testified
20 to that effect or not. If you, if your position today is that you didn't,
21 we'll just pull the tape and compare it. It's a yes or no question. You don't
22 recall...

23 NORRIS: Well...

24 EHRLICHMAN: That's fine.

25 NORRIS: Restate your question.

1 EHRlichman: On September 2nd, in this proceeding, did you not testify that
2 your traffic study area did not include any part of Grip Road east of the
3 mine entrance?

4 NORRIS: I don't like the clarification that it's our study area. Our
5 study area did consider that. In terms of the actual conditions of the road
6 and, and physical features of it, it did not consider that.

7 EHRlichman: Say that again?

8 NORRIS: In terms of the physical features of the road, uh, the
9 constraints or things like that, we did not consider that. It did, it was
10 included in our study area because we defined the trips for that area.

11 EHRlichman: Okay. So, it's within your study area. Did you do auto-turn
12 analysis on it?

13 NORRIS: No.

14 EHRlichman: Then it wasn't within your study area.

15 NORRIS: Yes, it was within our study area. I don't do every, uh,
16 particular point of the analysis throughout the study area. So, it's limited
17 to the issues that are present.

18 EHRlichman: The issues that are of concern?

19 NORRIS: And are present, yes.

20 EHRlichman: Okay. Is a 90 degree turn at, uh, with, with, uh, sight distance
21 problems, is that an area of concern?

22 NORRIS: Uh, with the volume of traffic that's expected to use that road,
23 no, it was not an area of concern.

24 EHRlichman: Okay. And with a 74 foot, 11 inch vehicle set up, it's not an
25 area of concern?

1 NORRIS: Uh, with the volume of traffic that was going to use that segment
2 of the roadway, it was not a concern.

3 EHRLICHMAN: No, with one truck at 74 feet, 11 inches on a 90 degree turn,
4 that's not an area of concern that would be subject to auto-turn analysis?

5 NORRIS: You're, you're assuming, though, that it was a truck. The 5% is
6 trucks. There's other trips that are coming to the mine site beyond the truck
7 trips. We've got employees that are coming there, uh, who else might be
8 coming there, overall analysis assessed 5%.

9 EHRLICHMAN: Okay. But...

10 NORRIS: So, it could be, it could be a truck trip, but it may not
11 necessarily be.

12 EHRLICHMAN: Let's, let's not talk in hypotheticals. You assigned trip
13 distribution through that 90 degree turn, but you did not perform auto-turn
14 analysis even though it's a 74 foot truck, would go in that direction,
15 correct?

16 NORRIS: I told you it may not be a truck that's going there. It's trips
17 that are generated by the site.

18 EHRLICHMAN: Not...

19 NORRIS: In which case...

20 REEVES: Mr. Norris, you did...

21 EHRLICHMAN: Not me.

22 REEVES: Mr., hold on, Mr. Norris, I'm asking a question now. Did you
23 perform auto-turn analysis of that particular road, yes or no, please?

24 NORRIS: No.

25 REEVES: There no. It wasn't performed, Mr. Ehrlichman. Go ahead.

1 EHRlichman: Well, then, Mr. Examiner, we're asking a question about why he
2 performed it everywhere else on Grip Road, but not east of the mine. He said
3 it wasn't of concern. I'm asking him why. That's a legitimate question with a
4 74 foot long truck trip pup trailer rig that can't make a 90 degree turn.

5 REEVES: Mr. Norris, can you please try to just answer with, I understand
6 you object yourself to the way the question is being characterized. Let me
7 ask the hypothetical, then, which is let's assume a 74 foot or whatnot truck
8 needs to make that turn. Is that a problem in your mind that would
9 necessitate an auto, uh, turn analysis?

10 NORRIS: That, as a, uh, situation itself, would necessarily, uh, want to
11 consider an auto-turn, but by virtue of the expected traffic and, uh, the
12 type of traffic, it was not deemed to be a significant issue because most of
13 the traffic from the site is going to the west, to the Bellville pit and to
14 destinations to the north. So, it was not a major consideration.

15 REEVES: Thank you.

16 EHRlichman: You testified that, uh, you distributed the trips the way that
17 you did solely based on what the Applicant told you, right?

18 NORRIS: Basically, with some, uh, adjustments for existing counts in the
19 area.

20 EHRlichman: So, the Applicant must have told you they're not going to take
21 their truck pup trailer rigs to the east, is that correct?

22 NORRIS: In general, that was the statement, yes.

23 EHRlichman: The statement to you by the Applicant was that they would not be
24 taking truck, pup trailer rigs to the east, what, except on rare occasion,
25 except once a day?

1 NORRIS: Rare, rare occasions. We tried to nail down what, what would be
2 the level of intensity of truck traffic that direction and I was told it was
3 very small. So we assigned 5% to it.

4 EHRLICHMAN: Okay. Thank you. So, we didn't have a, a, an auto-turn analysis
5 performed there. If you did perform an auto-turn analysis there, what would
6 you expect the result would be if you plugged in the truck pup trailer, uh,
7 dimensions?

8 NORRIS: Uh, on tight turns, I expect we would see encroachment.

9 EHRLICHMAN: Okay. Now...

10 NORRIS: I have, I have...

11 EHRLICHMAN: [Inaudible.]

12 NORRIS: I want to, I want to tell you something else as a point of
13 clarification here.

14 EHRLICHMAN: Mr. Norris...

15 NORRIS: No, no, no, no, no, you can't get away with that.

16 EHRLICHMAN: I'm asking you questions.

17 REEVES: Hold on. Hey. Everybody stop. Okay. Mr. Norris, Mr. Norris, I
18 understand that you would like to clarify and that you are getting frustrated
19 by the questions, but ultimately, you know, I have to make a decision on
20 this. And I also, you know, grasp the idea of the math involved in the 5% and
21 where it all came from. So, I, you know, I don't think it's going to
22 ultimately be helpful to just have you and Ehrlichman fighting with each
23 other. Let's just move on. Uh, Mr. Ehrlichman, do you have another question?

24 EHRLICHMAN: I was delivering my other question. That, there's a 90-degree
25 turn at that, uh, first corner there that we talked about this morning with

1 the bus stop and then there's another 90-degree corner to the north of there,
2 isn't there?

3 NORRIS: I don't know, I don't look, I didn't look at it.

4 EHRLICHMAN: You're not familiar with, uh, the Grip Road geography east of the
5 mine?

6 NORRIS: I, I'm going to back to my point that I wanted to make before.

7 EHRLICHMAN: No.

8 NORRIS: We do not, we do not design our roads...

9 EHRLICHMAN: Is there not a second 90-degree turn?

10 NORRIS: I, I don't know.

11 EHRLICHMAN: Okay. Thank you. Beyond that second 90-degree turn you're not
12 aware of, is there not a railroad crossing on a very sharp curve?

13 NORRIS: I, I don't know.

14 EHRLICHMAN: Okay. So, even though you contend in response to my questions
15 that the area east of the mine entrance was part of your study area, you
16 really don't know the geography there, correct?

17 NORRIS: Correct.

18 EHRLICHMAN: Okay. And you didn't do auto-turn analysis there, correct?

19 NORRIS: Correct.

20 EHRLICHMAN: And you didn't do sight distance analysis there, correct?

21 NORRIS: Correct.

22 EHRLICHMAN: Okay. So, clearly, that area to the east of the mine entrance
23 didn't receive the same kind of traffic analysis that you provided, uh, in
24 response to Mr. Lynn's questions, to the west of the entrance?

25 NORRIS: I think I stated that, yes.

1 EHRlichMAN: Okay. Thank you. This is important because we've got heavy bus
2 traffic on those areas, as you heard and...

3 REEVES: You can make the arguments later in the proceeding, Mr.
4 Ehrlichman.

5 EHRlichMAN: Okay. All right. But this is, this is the prime traffic expert
6 engineer qualified, uh, I think a little leeway is, is...

7 REEVES: I've given a ton of leeway. Just ask the questions you need to
8 ask. I don't need...

9 EHRlichMAN: I, I...

10 REEVES: [Inaudible.]

11 EHRlichMAN: Mr. Examiner...

12 REEVES: Move on, Mr...

13 EHRlichMAN: I, I am trying to ask these questions and I keep getting
14 interrupted. If I could just ask the witness the questions and get his
15 testimony yes or no we would be done by now.

16 REEVES: How many more questions do you think you have, Mr. Ehrlichman?

17 EHRlichMAN: Approximately 20.

18 REEVES: Are, really?

19 EHRlichMAN: He, he doesn't answer the question directly. I got to keep
20 asking.

21 REEVES: All right. I need, I need a five minute break. We'll come back in
22 five. I just...

23 EHRlichMAN: Thank you.

24 REEVES: I'm going to catch my breath.

25 NORRIS: [Pause] not yet. No. Yeah.

1 KELLOGG: Hey, Gary, hi, it's Mona, the Clerk, can you hear me?

2 REEVES: [Pause] and I'm back. Okay. It's shortly after 12:30. Uh, it is
3 part of my prerogative to try to, uh, you know, control, uh, how these
4 proceedings happen. Uh, Mr. Ehrlichman, I think 15 minutes, uh, further is
5 the most that I'll be able to grant in terms of additional questions of this
6 witness. So, please go right ahead.

7 EHRLICHMAN: Thank you, Mr. Examiner. Mr. Norris, this is a yes or no
8 question. Do you work for Miles Sand and Gravel on any of their other mining
9 projects?

10 NORRIS: I think historically I have worked on another one, yes.

11 EHRLICHMAN: Do you know what mine that was?

12 NORRIS: Uh, I think it was Butler.

13 EHRLICHMAN: Okay. That's in the past. Currently, are you working for Miles
14 Sand and Gravel, Concrete Nor'West on any other, um, mining proposal, on any
15 other, on traffic analysis for any other mines?

16 NORRIS: No, I'm not.

17 EHRLICHMAN: Okay. Did anyone at, um, did anyone of your client, did anyone
18 from your, uh, clients at Miles, Concrete Nor'West, Lisa Inc, did any of them
19 ever ask you not to include school buses in your reports?

20 NORRIS: No, they did not.

21 EHRLICHMAN: Okay. And did you ever discuss school bus safety with them?

22 NORRIS: No, I did not.

23 EHRLICHMAN: Okay. Other than assigning 5% of the trips to the roadway, Grip
24 Road roadway east of the mine entrance, other than assigning 5% of the trips

1 in your distribution, did you perform any traffic analysis east of the mining
2 entrance, Grip Road?

3 NORRIS: Not any specific analysis other than just, um, driving the route.

4 EHRLICHMAN: Okay. Let's talk about the, uh, auto-turn graphic that, uh, was
5 just admitted into the record as Exhibit, uh, C54, I believe. No, strike
6 that...

7 REEVES: 53.

8 EHRLICHMAN: C53, thank you. You prepared this for submittal into the record
9 in this proceeding, correct?

10 NORRIS: Yes.

11 EHRLICHMAN: Okay. And yet the document you prepared for this proceeding does
12 not label the right-of-way width at all, does it?

13 NORRIS: No.

14 EHRLICHMAN: Okay. Does it label the fog line location?

15 NORRIS: It does, does not label them, no.

16 EHRLICHMAN: Okay. Does it provide a dimension for the existing roadway width?

17 NORRIS: Not on the graphic, no.

18 EHRLICHMAN: Okay. Does it provide a, a width for the existing right-of-way?

19 NORRIS: No, it does not.

20 EHRLICHMAN: Okay. And you have already confirmed that there is nothing in
21 writing from the Applicant describing their offer to make improvements at
22 those two locations, correct?

23 NORRIS: I, I don't know about that.

24 EHRLICHMAN: Have you seen anything in writing from the Applicant ever, at any
25 time, describing their offer to widen Grip Road in those two locations?

1 NORRIS: No, I have not.

2 EHRLICHMAN: All right. So, you don't know what width the Applicant is
3 proposing for the widening of those two curves, correct?

4 NORRIS: I know that they're proposing to widen the road to incorporate
5 the truck path within the pavement.

6 EHRLICHMAN: Has the Applicant communicated to you a commitment to widen Grip
7 Road to a certain dimension at those two curves?

8 NORRIS: Not to a certain dimension. I think those details are being
9 worked out. I don't think there's been an iron determination yet.

10 EHRLICHMAN: Okay. Thank you. So, as of this proceeding, we don't yet know
11 what the proposed mitigation is. You've just identified the problem. Is that
12 correct?

13 NORRIS: That's correct.

14 EHRLICHMAN: All right. Mr. Tilghman testified, um, identifying the problem is
15 the first step, that's an important, um, finding, if you will, of yours, uh,
16 that there would be truck crossovers and also trucks, uh, edging over the
17 edge of the roadway, correct?

18 NORRIS: Correct.

19 EHRLICHMAN: Okay. So, why didn't you label the right-of-way and the
20 dimensions?

21 NORRIS: Um, because that was not deemed to be a pertinent, uh, point of
22 the matter at this point in time. This is an engineering design decision, not
23 a Hearing Examiner, uh, mitigation issue.

24 EHRLICHMAN: And how do you know that?
25

1 NORRIS: Because we've already been in, uh, contact with the County Staff
2 in the design of the Prairie Road curves and have been working on that
3 process and, uh, expect to have a proposed solution to that, just as we will
4 for Grip Road. So, it was not anticipated that that would be a major issue in
5 this Hearing.

6 EHRLICHMAN: You made that judgement call or someone told you that?

7 NORRIS: Uh, with my experience dealing with Hearing Examiners, that's
8 been my experience.

9 EHRLICHMAN: Okay. So, in your experience, you didn't need to label the right-
10 of-way or the dimensions for the Hearing Examiner?

11 NORRIS: Yeah. That's right.

12 EHRLICHMAN: Okay. Because you didn't think the solution to the problem you
13 identified was a major issue in this proceeding, correct?

14 NORRIS: I didn't think the design of the solution was a major, uh,
15 consideration in this Hearing. The requirement that that mitigation measure
16 be implemented would be a requirement of this Hearing, not the actual, uh,
17 design.

18 EHRLICHMAN: How do you know that?

19 NORRIS: Um, my experience in dealing with these issues.

20 EHRLICHMAN: You assumed that?

21 NORRIS: My experienced in dealing with these issues.

22 EHRLICHMAN: Okay. So, as you can now tell, the dimensions are important.
23 Correct?

24 LYNN: Is that...

25 EHRLICHMAN: They matter.

1 REEVES: I...

2 LYNN: Is that a question and...

3 REEVES: Uh...

4 EHRLICHMAN: It is a, it's a serious question. Do you still maintain that it's
5 not a major issue to show the dimensions?

6 NORRIS: The, uh, illustration of the dimensions for this Hearing is not a
7 major issue. In regards to the, uh, construction and, or design and
8 construction of this mitigation measure, the design dimensions will be a
9 major issue.

10 EHRLICHMAN: Sure. So, you've offered this only to indicate that you're going
11 to design something. You didn't offer it to show the Hearing Examiner the
12 nature of the problem?

13 NORRIS: I don't, I disagree with that characterization, in fact we did
14 show what the nature of the problem was. I've given you a, a drawing that
15 shows the, um, dimensions of the encroachment, both the center line and fog
16 line or edge of pavement, that we will be working to resolve with the County
17 as we go forward. It's fine tuning of the design is what we're talking about.
18 It's not normally a process of the Hearing Examiner.

19 EHRLICHMAN: But to show the nature of the problem, don't you have to at least
20 show the width and show where the fog line is? You just, you just testified
21 that you showed the fog line, you didn't. It is important in this proceeding
22 to the public, the Hearing Examiner, the County to be able to look at your
23 identification of the problem and determine whether the identification of the
24 problem is correct. Isn't that a major part of this proceeding?

1 REEVES: I, I, just Mr. Norris, is your answer to that question, the one
2 you've repeated multiple times, which was that you did not, in your mind,
3 think this would be an issue that, that would need to be resolved or
4 thoroughly reviewed by the Hearing Examiner in this stage and it would be
5 addressed during, uh, design review were to this approved as a condition. Is
6 that your, your answer I've understood multiple times?

7 NORRIS: That, that's basically my answer. But Mr. Ehrlichman's question
8 is did I label the fog line or did I label the right-of-way line and for, in
9 terms of the drawing, those are not labeled on there, but the legend or the
10 I, I explained to the Hearing that the right-of-way is the dashed line along
11 the side and you can see where the vehicles approaches it. You can also see
12 where the edge of the pavement is in the design and the center line. I didn't
13 purposely go through and mark every one of those lines so everybody could
14 understand what they were because I thought we gave a, an example of where
15 these issues were occurring and where they needed to be addressed.

16 REEVES: Okay.

17 EHRLICHMAN: But isn't one of the, the questions...

18 REEVES: You only have two minutes, Mr. Ehrlichman, so be judicious here.

19 EHRLICHMAN: Well, I hopefully get credit for, um, time that wasn't
20 efficiently provided on...

21 REEVES: [Inaudible.]

22 EHRLICHMAN: [Inaudible] side. Mr. Norris, wasn't it important for the Hearing
23 Examiner, the public, my clients to be able to evaluate the accuracy of the
24 drawing that you submitted?

25 NORRIS: Are your clients, uh, engineers and able to do that?

1 EHRlichman: Well, you have a scale there, we certainly can measure whether
2 you have accurately portrayed the 8.5 feet truck width.

3 REEVES: I'm j-, Mr. Ehrlichman, you only have a question or two more. I...

4 EHRlichman: I'm answering...

5 REEVES: If this is how you want to spend your time, go ahead, but...

6 EHRlichman: Answering Mr. Norris' question, now, unfortunately.

7 REEVES: Well...

8 EHRlichman: Mr. Norris, Mr. Norris, would you be willing to submit, resubmit
9 that exhibits with the dimensions shown?

10 NORRIS: Yes, we can do that.

11 EHRlichman: Okay. Would you also admit that a gravel truck, uh, with its
12 mirrors is greater than the eight or eight and a half feet dimension width
13 that you used?

14 NORRIS: I, I haven't specifically measured it.

15 EHRlichman: Mr. Examiner, I'd like to offer an exhibit that I emailed around
16 and, uh, that is a depiction of a typical gravel truck, uh, actually, smaller
17 than this, with mirrors, where the dimension is 9.5 feet width. And would
18 that, uh, 9.5 foot width been, have been more appropriate to use in the auto-
19 turn analysis?

20 NORRIS: No. The, uh, wheel path is the critical factor in the auto-turn
21 analysis.

22 EHRlichman: So, a collision couldn't be caused when the mirrors extend over
23 the center line?

24 NORRIS: Of course.

1 EHRlichman: Okay. So, it would be appropriate, in terms of the auto-turn
2 analysis to use the larger dimension, wouldn't it?

3 NORRIS: We, we use the dimension of the truck, there's assumptions in
4 that for mirrors and all that stuff, so, uh...

5 EHRlichman: Okay. Well, it's not a conservative, uh, estimate of what is
6 going to happen in real life out there, is it?

7 NORRIS: Auto-turn is a very conservative estimate of truck paths.

8 EHRlichman: But not when you use the wrong dimension, is it?

9 REEVES: Okay. And we're moving forward. This is the conclusion of those
10 questions, Mr. Ehrlichman, uh...

11 EHRlichman: I'd like to ask one final follow-up question, if I may?

12 REEVES: Finale question.

13 EHRlichman: Mr. Norris, do you anticipate the need to perform traffic impact
14 analysis east of the mine entrance, beyond the trip distribution that you
15 did? Will be a condition of approval as well, based on your experience?

16 NORRIS: That's really the determination of the Hearing Examiner. In my
17 estimation, I don't believe that's necessary, no.

18 EHRlichman: Yeah. Very good. Thank you.

19 REEVES: Uh, Mr. Lynn, based on that?

20 LYNN: I, I think this has been cleared up, but just to be sure, um, so,
21 Mr. Norris, is it your testimony that although certain things aren't depicted
22 on the actual graphics, that they were taken into account in the auto-turn
23 analysis? And by that, I mean, things like the right-of-way width, the
24 pavement width and so forth, those are all part of the auto-turn analysis, is
25 that correct?

1 NORRIS: They are, actually are depicted on the drawing, they're not
2 labeled which was...

3 LYNN: Okay.

4 NORRIS: Mr. Ehrlichman's question. They're not labeled, but they are
5 depicted.

6 LYNN: Okay. And you indicated that there, uh, is a problem in scaling
7 drawings that have been reduced in size to become transferable through the,
8 the email process. Would the full-size drawings that would ultimately end up
9 being reviewed by County engineers, uh, be properly scaled?

10 NORRIS: Yes. They'd be original drawings, which would accurately present
11 the scale and the, uh, features of the plan.

12 LYNN: Um, uh, in est-, or, in answering questions about the area to the
13 east, sorry, some other noise here. Uh, in answering questions about the
14 traffic to the east, what assumptions did you make about that traffic, other
15 than that it's 5%? Is there any reason for a gravel truck to head east,
16 unless it's making a local delivery?

17 NORRIS: Not that I'm aware of. The whole emphasis of the, uh, mine
18 operation from the truck hauling perspective, that the trips were going to go
19 to the west.

20 LYNN: Okay. And I, I, I would normally hesitate to ask this, but I
21 think Mr. Ehrlichman raised the question about your, uh, loyalty, uh, to
22 Miles, uh, uh, interfering with your credibility. Would you jeopardize your
23 30-year career and all of your credentials and, and your reputation and your
24 engineer stamp, uh, at the behest of any client?

25 NORRIS: No, I would not.

1 LYNN: Okay. And Mr. Examiner, I know you sort of get frustrated by this
2 stuff, but I don't think Mr. Ehrlichman should be allowed to pollute the air
3 with those kinds of questions without us having an opportunity to restore Mr.
4 Norris' reputation.

5 REEVES: I understand and I apologize that I have done a miserable job of
6 controlling things.

7 LYNN: Uh, I, I didn't mean to suggest that. I'm just...

8 REEVES: That's my characterization, Mr. Lynn, not yours. But go ahead.
9 Are we done with this witness?

10 LYNN: Uh, those are, that was my very last question. Thank you. Okay.
11 Moving on.

12 EHRLICHMAN: If we could have, uh, Mr. Examiner.

13 REEVES: No, we're not going to do re-re-re-re-direct on this witness.
14 We're going to move on, thank you, Mr. Norris.

15 EHRLICHMAN: I'm not, I'm not asking...

16 LORING: Mr. Examiner, just, I'd, I'd just like to make an offer of proof
17 that I would have asked a couple of questions about the timeframe in which
18 these type of materials should be put in front of the public related to SEPA.
19 We didn't hear much about that on the questioning. Um, and I, I think we're
20 clear on which way the traffic is going. But there has actually been a lot of
21 obfuscation when the documents appeared very clear, initially. So, I, I will
22 leave it. I don't, we don't need...

23 REEVES: Okay.

24 LORING: To explore that, we can follow up in argument, but I, I would
25 have enjoyed...

1 REEVES: Noted.

2 LORING: The opportunity to ask those questions.

3 REEVES: Thank you. Noted offer of proof. And we're still moving on. So,
4 uh, with that, let's see, we have one additional witness from Mr. Lynn and
5 then, I think questions for the Hearing Examiner at the end is the plan,
6 correct, gentleman?

7 EHRLICMAN: Don't we also have Mr. Groda here now?

8 REEVES: Uh, well, we do.

9 EHRLICHMAN: Are we, uh, planning to, um, eat anything today?

10 REEVES: Well, yeah, but my point, my, I know we have Mr. Groda here now.
11 I have no problem with keeping with the original plan or, sorry, the, the fix
12 it plan which was just get a declaration from Mr. Groda. I think that could
13 certainly safe time. I think the plan would be let's do lunch, come back, do
14 the final witness of Mr. Lynn and then move on, move to my questions. But...

15 EHRLICHMAN: Mr. Examiner, I, I thought we banked a lot of good will and
16 credit by offering to cut one of our witnesses and put it in writing and here
17 we got, we got, uh, shortened on time on, uh, talking to Mr. Norris. But, no,
18 we can, we can submit that in writing, that, that's just fine.

19 REEVES: Okay. So, to be clear, the plan is let's take our lunch break
20 now. Uh, we'll come back at one, let's say 1:40, at the latest and, uh, then
21 we'll hear from, uh, the other, this final witness for Mr. Lynn and then, uh,
22 if there's time, uh, brief questions from me. I was hoping to ask questions
23 because I, my understanding of my role as the Hearing Examiner is it's
24 important that I understand what's happening in the parties' arguments. I
25 know there's sort of, you know, that gets thrown by the wayside sometimes.

1 But I do strongly believe it's important that, you know, I have a sense of
2 what's happening. So, let's come back at 1:40 and that will be the plan.

3 Thank you everybody.

4 LORING: Mr. Examiner, could I ask, I'm sorry to ask, I do have a
5 question, I'm not trying to delay things.

6 REEVES: [Inaudible.]

7 LORING: I know you want to move to eat, we're all cranky a bit. Um,
8 that's normally at 12:50 without lunch. Uh, just for this afternoon, I had
9 prepared a potential closing. I wasn't sure if we were doing the full SEPA
10 argument or not. Are you saying now that you want to ask questions, we'll
11 field those questions, you'll hear from the lawyers and then there will be a
12 written closing, uh, after the close of the Hearing itself. Is that the plan?

13 REEVES: Sorry, yeah. I, I thought I was hopefully clear days and days
14 ago. I am definitely going to want closing in terms of briefs, uh, written
15 briefs as opposed to, I think, by the late stage of it, we would all prefer
16 not to hear closing from all the Attorneys in, you know, oral fashion. Uh,
17 you know, so...

18 LORING: That's great.

19 REEVES: Certainly.

20 LORING: I think that answer, yeah, that answers my questions. I wasn't
21 clear if we were somehow trying to do a little bit each. So, thank you.

22 REEVES: Okay. So, uh, 1:45 at the latest, uh, we'll, we'll all be back
23 then. Thanks, everybody.

24 [The tape ends.]

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

1 I, Janet Williamson, declare under penalty of perjury, under the laws of the State of Washington
2 that the following statements are true and correct: I am over the age of eighteen (18) years and not a party
3 to this action. That on May 11th, 2024 I transcribed a Permit Hearing, conducted by Andrew Reeves, that
4 took place on 9/23/22 at 11:00 a.m., regarding the above-captioned matter.

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

7 Signed at Mount Vernon, Washington, this 11th, May of 2024.

8 Janet Williamson

9 Janet Williamson