

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

8 *In re:*)
9 Application for Mining Special Use) Cause Nos.: PL16-0097, PL16-
10 Permit and Forest Practices Permit by) 0098, PL22-0142
11 Concrete Nor'West/Miles Sand and)
12 Gravel,)
13 and) PERMIT HEARING 9-23-22 1:00 PM
14 Appeal of Mitigated Determination of)
15 Significance by Central Samish Valley)
16 Neighbors)

17 Transcription Date: May 11th, 2024

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

20 REEVES: Okay. Thank you. And I believe, at this point, uh, we're moving
21 onto Mr. Lynn's, uh, final rebuttal witness, is that correct?

22 LYNN: Yes. Thank you. Uh, Mr. Barton was previously sworn on the very
23 first day of Miles' testimony. Uh, so I just ask him to introduce himself
24 again and then remind [inaudible] uh, how he fits into the Miles' picture
25 here.

REEVES: Sure. And I'm getting quite a bit of feedback. Mr. Ehrlichman,
would you mind muting for the moment? Great. Thank you.

1 BARTON: Good afternoon. Happy Friday. My name is Brad Barton. I'm with
2 Miles Sand and Gravel Company. I'm a Vice President General Manager of the
3 aggregate operations for the entire company.

4 LYNN: Okay. And when you were here before, you testified orally about
5 a, a, uh, pol-, snow and ice inclement weather policy and you were asked, I
6 can't remember by whom, whether or not that was a written policy or just a
7 verbal one. And you, uh, went to check and then, uh, I wanted you to tell the
8 Hearing Examiner what you found?

9 BARTON: Yes. We, we have Mr. Reeves, we have a written policy that, that
10 follows our inclement weather planning procedures. Um, of course you know in
11 the Northwest it's not common practice. But, uh, uh, when the snow hits the
12 ground, we're very proactive, both just from a, probably an easy way to say
13 it would be an in-, industry as well as a written policy specific to our
14 company. And, again, I think I stated this before, as a part of that
15 procedure, we send supervisors or managers out, uh, um, prior to releasing
16 any trucks on the road, uh, from the pure safety standpoint. So, uh, good,
17 good practice to have, uh, in our business for sure.

18 LYNN: And so you found there was, in fact, a written policy that
19 reflected what your oral testimony was?

20 BARTON: Yes. We do have that.

21 LYNN: And, Mr. Examiner, I've circulated that, uh, I think on the 2nd of
22 September. I'd just like to offer it as a, as an Exhibit, I think on my list
23 it would, well, I, I guess it would, uh, be B99, since I think we took the
24 truck and pup diagrams and made them County Exhibits.

1 REEVES: So, the one identified in Jason D'Avignon's table as Miles'
2 Weather Policy, you're suggesting B99, is that right?

3 LYNN: Yes. That's my suggestion.

4 REEVES: Any objections from any of the other Attorneys to this being
5 included? Okay. Great. I submit it. Thank you. Okay.

6 LYNN: And then, uh, I wanted to ask you, Mr., uh, Barton, whether the
7 truck diagram that was introduced and discussed by Mr. Norris as the one he
8 used, uh, for the auto-turn analysis, that's Truck and Pup Diagram Number 2,
9 which was Exhibit C54, does that reflect the, uh, a truck that you would
10 expect to use at this mine, were it to be permitted?

11 BARTON: Uh, yes, it is.

12 LYNN: Okay. And, and are there other configurations that might have
13 more impacts or different impacts than the truck of those dimensions?

14 BARTON: We, we do have other configurations, um, but this is the one
15 configuration with the tongue lengths and the specific wheel base that, uh,
16 would, would have, if it's going to have an impact, uh, this one would have
17 the most and that's why we used it to understand, uh, the corners both at
18 Prairie Road and, and Grip Road.

19 LYNN: Okay. So, this is sort of the worst case of the expected trucks
20 from a tracking standpoint?

21 BARTON: Yes. Other ones have, uh, A-trains, B-trains, we've heard in
22 other testimony that some of them have trailer with turn dollies and they do
23 track differently, uh, than this would. And this, again, is the worst case
24 scenario.

1 LYNN: Okay. And then the only other topic I wanted to discuss with you
2 is that there was some testimony, um, expressing concern about the edge of
3 the buffer, uh, the wetland and, and, um, river buffer and how that might be,
4 uh, treated during your mine operations, how you mark the edge and, and what
5 potential there is for storm water to exit outside the, the boundary of the
6 mine and into the buffer. And I'd just like you to describe for the Hearing
7 Examiner the operational process that you would go through in working at the
8 edge of a buffer such as that?

9 BARTON: Okay. Yeah. I think the, from the drawing aspect, it's difficult
10 to, to, uh, with the cross-sections, they are exaggerated to orchestrate
11 operationally how, uh, uh, we deal with this. So, from an operation
12 standpoint, of course, we would, per the, per the setback, whether it's a
13 buffer or a property line, what have you, in relationship to the mining plan,
14 we would flag, uh, through survey, uh, that line. And one of the things that
15 was stated on the record, uh, earlier, uh, by others is that we would clear
16 the complete site. We do not do that. And in specific to approaching a
17 buffer, again, we would segmentally clear and, uh, then remembering that that
18 includes removal of topsoil, trees and so on, um, and we're also working in a
19 gravel pit, which by implementing sound best management practices, we're
20 working on the inside of the active mine towards the sensitive areas. After
21 the silt fences have been placed and probably the best way to explain it in
22 this particular situation, the active mine site is going to be on, in this
23 case, on the west side of that buffer line. And we would approach that,
24 again, carefully and with good planning. We do this on a regular basis. And
25 the, any storm waters, uh, that may be, uh, um, happen from, obviously from a

1 rain, rain storm and/or in conjunction with the clearing process would be
2 directed inside the mine. And in this case, the, the cross-section shows, uh,
3 uh, what we would call a false top. So we would be working on the mine side,
4 below that false top and then work towards the buffer line in a very, very
5 controlled manner. And, again, as I said earlier, we do this on a regular
6 basis with all of our mine sites.

7 LYNN: You said towards the buffer line, did you mean away from the
8 buffer line and toward the mine site?

9 BARTON: No. From, from, we would work from the mine site towards...

10 LYNN: Okay. I see.

11 BARTON: The buffer line in a controlled manner, thus keeping the water in
12 the active side of the site. And, and in this case, allowing it, uh, not to
13 go [inaudible] in part as the cross-section depicts. Towards the...

14 LYNN: Okay. So, so, basically, you're creating a low spot on the mine
15 side of the buffer line?

16 BARTON: Correct. Correct. And in this particular case, um, that, uh,
17 would be done in, in, in, uh, again, a phased manner and quite quickly, uh,
18 in those areas that are more sensitive than others, uh, based on the
19 topographical features, uh, again, controlling thus any, any potential storm
20 water and erosion.

21 LYNN: Okay. And is that part of the, the idea of sequentially clearing
22 and, um, mining the property, is that part of your, uh, reclamation permit
23 that the DNR has to approve, typically?

24 BARTON: Yes. It is part of it and it's part of good mining practices as
25 well.

1 LYNN: Okay. And then what happens with reclamation? At what point do
2 you rec-, reclaim, uh, slopes within the mine?

3 BARTON: Once, once, in that segment, of course, we've removed the minable
4 materials, um, and in this case, I think, I believe there's four of them, in
5 fact, there is four sections, uh, we would start in the first segment, and it
6 does a couple of things, uh, of course, we control our entry as we approach
7 any, any buffers, address the active site and then, in that particular
8 segment, uh, in, in, I guess in response to the slopes that are created,
9 they're, other than any safety berms, they're, they're sloped to grade and,
10 uh, the topsoil is placed and then, depending on, again, on the underlying
11 use, this would be forestry, the trees are, after any hydro-seeding, the
12 trees are placed, uh, per the DNR approved plan and thus the, the slopes are
13 stable, uh, moving forward, uh, again, working in, into each additional
14 segment.

15 LYNN: Good. So, I think, uh, you said, you kind of broke up a little
16 bit when you said the topsoil was, did you say replaced because do you move
17 that at the beginning and then store it for, uh, reclamation purposes?

18 BARTON: Yes. By, by DNR regulations, we have to maintain, uh, a topsoil
19 bank of soil, uh, and that's calculated as a part of our planning and we'll
20 submit it to the DNR, um, and that material that's stored, uh, in appropriate
21 areas, the, the, again, the topsoil was removed from the active mine site,
22 again, stored, and then it's replaced on, in this case, my description the,
23 the, the, the, the slope. Um, and, again, reseeded, replanted with timber
24 and, and then we move into the next section.

1 LYNN: Okay. So, how much of the mine site would actually be opened at
2 one time, just in rough terms, anyway?

3 BARTON: Uh, in this case, probably, depending on the nature of the
4 material within that segment, um, I would venture to say maybe ten acres. Um,
5 but, uh, remembering that that, uh, a portion of that may be cleared, uh, and
6 the perimeters, uh, where we have to store the topsoil would be included in
7 that calculation. And that, obviously, that footprint would grow. But at the
8 same time, as we move into the mine, at the same time, we're reclaiming as
9 well. Personally.

10 LYNN: Okay. So, it's, it's sort of ebb and flow. You clear, remove
11 topsoil, mine and then reclaim and then move onto another area that's, uh,
12 newly opened?

13 BARTON: Yes. Yes. And, and obviously by looking at the plan that's,
14 that's on record, you know, the, the, our approach in this is, is adjusting
15 and reclaiming, you know, in the mining process the slopes where you'll see
16 typically more activity in the floors, uh, um, but it's a progressive, um,
17 situation and, and this one, it's a gravel site, um, we move the material and
18 it's all contained within, uh, the excavation area when, when it comes to
19 erosion control, any storm water issues. And maintaining that footprint,
20 segmentally, in our approach helps us control that. And, again, it's part of
21 a best management practice. Both by mining and encouraged by DNR. As well as
22 our company.

23 LYNN: Brad, you...

24 BARTON: Sir.

1 LYNN: You stuck, you froze up there, you said it's the best management
2 practice both and then you froze, so...

3 BARTON: Oh, sorry. It's the best management practice by the DNR
4 Reclamation Standards, uh, it's good mining practices, uh, as well as, you
5 know, what our, our company, uh, desires to do, uh, being proactive in, in
6 that overall mining practice.

7 LYNN: And, uh, and I don't want to too deeply back into the DOE
8 regulation, but is the management of the storm water something that they
9 monitor and regulate as part of their permitting process?

10 BARTON: Yes. We're, we have an onsite, uh, plan that, that they can
11 review specific to that type of operation. And we, in this case, uh, would
12 be, there's no process waters associated so it would be storm water and, and
13 we're required to report, um, monthly and quarterly, uh, to the Department of
14 Ecology.

15 LYNN: Okay.

16 BARTON: Per the...

17 LYNN: That's all I have.

18 BARTON: Okay.

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

20 REEVES: Uh, excuse me. Thank you. Uh, Mr. D'Avignon, any questions for
21 this witness?

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

23 REEVES: Okay. Uh, Mr. Ehrlichman, any questions? I think there was a
24 question or two at the very beginning about a road, but...

25 ERHLICHMAN: Yes. Thank you. Um, afternoon, Mr. Barton.

1 BARTON: Good afternoon.

2 EHRLICHMAN: I'm going to just ask you a little bit about the, uh, truck
3 traffic that you mentioned. Um, this has been a long Hearing for everybody
4 and, um, as you know, our, our job has been to try to present some facts that
5 would suggest a need to condition the project to minimize the heavy truck
6 impacts. And I'm wanting to ask you, um, w-, in light of the fact that your,
7 your traffic engineer didn't study traffic impacts to the east of the mine on
8 Grip Road, um, does it makes sense or would the Applicant be willing to
9 clarify and, and agree on the record, voluntarily, uh, not to run gravel
10 trucks out to the east there?

11 BARTON: Well...

12 LYNN: I'm going to direct to the question in that it goes beyond the
13 scope of the examination.

14 REEVES: Okay. I concur if it's beyond the scope of the examination of
15 this witness. That said, Mr. Barton, if you feel like answering, go right
16 ahead.

17 BARTON: Well, I think, again, I don't want to get in the back and forth
18 that Mr. Norris went through. But I, I think it was studied, I think we're on
19 record saying the local deliveries and the primary focus of, uh, the gravel
20 deliveries are going west. And that's, that's shown in, in the traffic study.

21 EHRLICHMAN: So, it's your position that, uh, the, the traffic safety issues
22 were studied going to the east of the mine?

23 BARTON: I think what I, I said, Mr. Ehrlichman was per the traffic study,
24 per Mr. Norris's study, we did look at traffic flows overall, both west,
25 east, north, south, and we included in that study 5% going to the east. And

1 in the conversations with Mr. Norris, it was based on local deliveries. So, I
2 think that's enough said.

3 EHRLICHMAN: Okay. Um, yeah, because you heard him testify that it was, he
4 used, uh, the Applicant's information to use that 5% trip assignment,
5 correct?

6 BARTON: Which is common practice in any traffic study, yes.

7 EHRLICHMAN: Okay. So, is it reasonable for the Hearing Examiner, the public
8 to expect that gravel trucks will not be going to the east, um, Mr. Norris
9 talked about there being employee trucks and that sort of thing?

10 BARTON: He's the expert and I think you heard his testimony. I, as I
11 said, it's a, I'm repeating what he told you, uh, whether it's an employee
12 trip or a local market delivery. Again, the majority of the trips are going
13 to go west. And I think, as he said, and I would concur, it is up to Mr., uh,
14 Reeves, the Hearing Examiner to, to look at that and condition the site
15 associated with the science and the studies that we've brought forth.

16 EHRLICHMAN: Okay. And, uh, what, what, what is a market delivery? When you
17 say...

18 BARTON: Well, I think the best way to understand that would be if, if
19 somebody living east of the site called and said they want a load of gravel
20 and that particular truck, uh, was going from, in this case the, the Grip
21 Road site, to whatever area east of our entrance, uh, that would be a local
22 delivery. Uh, and I think it's safe to say in this particular situation, that
23 is a rural area, so, again, we're supported by our 5%, uh, estimate. Um, the
24 majority of the traffic, again, is going to go west, uh, towards the active,
25 uh, the, I guess the more rural or, excuse me, urban area feeding, feeding,

1 um, the construction activities again in, uh, the more urban areas of Skagit
2 County, back towards Burlington and Mount Vernon or, and/or one of our sites.

3 EHRLICHMAN: Okay. Thank you. Um, so, as the Hearing Examiner ta-, does that
4 evaluation that you just mentioned, um, in your mind, would it be reasonable
5 for the Examiner to, uh, impose a condition that says no more than the, uh,
6 than 5% of the gravel deliveries can go to the east?

7 BARTON: Well, that's, that's his choice and, uh, but I think we have many
8 decisions, uh, under our umbrella that speak, uh, in that arena to local
9 deliveries.

10 EHRLICHMAN: Can, can you, I'm not sure I understand that answer.

11 BARTON: Rather than based on 5%, based on a local, local delivery. From a
12 condition standpoint, but that's really up to him, not, I mean, I can make a
13 suggestion, but, but he's going to make the decision.

14 EHRLICHMAN: Uh-huh. Thank you.

15 BARTON: You bet.

16 EHRLICHMAN: Um, if, if there was a call for gravel in Sedro Woolley, would
17 the trucks, uh, be likely to make that local delivery going east or west?

18 BARTON: Depends on where the project is. Um, as well as we do this on a
19 regular basis and, and we know what sites, uh, and what routes are most
20 productive for us as well. Uh, and quite frankly as safe. So, that all goes
21 into the methodology when answering your question.

22 EHRLICHMAN: Just from a distance standpoint, would it be, I don't know the
23 roads and system like you do, would it be shorter to go west or east if you
24 were delivering to downtown Sedro Woolley?

1 BARTON: Well, the, by distance, if, if we had direct access, uh, to
2 answer your question, it would be shorter to go east, but from a practical
3 approach standpoint, that one, may not be the site we use, and two, we may,
4 because of, uh, our route, then choose to go to the west, uh, instead of
5 going east. Depending on the volume, the nature of the materials. So, um, I
6 think maybe another, I know I'm saying local deliveries, but that 5% as
7 stated in the, in the Hearing, or in Gary's study kind of speaks to our
8 expectation of what will go that way.

9 EHRLICHMAN: Understood. And, and I'm just trying to see, you know, obviously,
10 how much willingness there is on the Applicant's part to voluntarily, uh,
11 accept some proposed conditions that might address some of the concerns that
12 you've heard, you know, here today and, and in the other days of the Hearing.
13 So, let's move onto another...

14 BARTON: Okay.

15 EHRLICHMAN: Question. I appreciate your responses to that. Did you have
16 something to add, I'm sorry?

17 BARTON: No, no.

18 EHRLICHMAN: Okay.

19 BARTON: Thank you. Sorry.

20 EHRLICHMAN: Yeah. Thank you. Um, similarly, uh, or along a similar vein, um,
21 you talked about the, um, typical length of the trucks and that there are
22 truck rigs that are maybe less than the 74 feet, correct? Truck/pup trailer
23 combinations that are less than the 74 feet long?

24 BARTON: They may or may not be, but their axle configurations can be
25 subtly different.

1 EHRlichman: Okay. When it comes to the, what we've heard, or we heard you,
2 you offer to widen two curves on Grip Road, if you were able to obtain the
3 right-of-way, would that offer include, um, widening the road to the, the
4 County Road standard of 34 feet surface total?

5 BARTON: Well, I don't know if I can speak to that. I think what I can
6 speak to is we've offered to widen lanes, as Gary stated, to avoid any
7 encroachments off the pavement edge and/or center line.

8 EHRlichman: Uh-huh.

9 BARTON: Um, and we, I think I stated this earlier, but just to restate
10 it, we believe we can accomplish that, uh, based on the information that we
11 have in front of us. Uh, through the auto-turn analysis working in with that
12 right-of-way prism. Um, but I will say that, as you know, um, and most
13 everybody here knows, that, uh, this is a rural county and whether those,
14 those shoulders can be accomplished in that, I guess speaking from a County-
15 wide perspective, um, that's, that's a, a whole different topic in my mind.

16 EHRlichman: Right. I know.

17 BARTON: Yeah.

18 EHRlichman: I, I think we appreciate, my client appreciates that, you know,
19 you've got a lot more sites and a lot more rural roads you're dealing with,
20 um, than just this one.

21 BARTON: Well, you, as you know, he deals with the same problem as his
22 agricultural business.

23 EHRlichman: Yeah. Yeah. Anybody in business does, uh, in Skagit County. Um,
24 but I guess, you know, what I'm trying to understand or, or see how far your
25 offer goes is, um, you know, is it a, is it a minimum offer or is it more

1 than that? I mean, the minimum being what you, what you just said, which was
2 well, we'll widen it, you know, so that the trucks aren't crossing the center
3 line or going off the pavement. But as, as we've sort of gone back and forth
4 today, you know, the trucks have mirrors and they're wider in some tru-, you
5 know, there's variations and so forth in the way people drive. You know, so,
6 is there, is there some flexibility there in your, your offer to do more than
7 sort of the minimum to, to, on paper, you know, address that crossover and
8 edge of pavement issue?

9 BARTON: Well, I think, I think the, the right answer, in my mind, is, is,
10 uh, we're trying to be very proactive here and this is, again, as I said in
11 my original testimony, this is the first time that we've been able to talk
12 about Grip Road outside of the Prairie S-turns. And I think the, from an
13 engineering standpoint, and, again, not to get back into the weeds, but, but
14 we would propose the lane widening, working with the County, and their, their
15 Public Works Staff and Engineers to see how, how that would over, overall
16 look. And I, I don't, I'm not trying to sidestep your question. And once we
17 understand the safety component of that, and how that, in conjunction with
18 the auto-turn, would we look at areas beyond that, I guess that's, that's up
19 for discussion and in part, Mr. Reeves is going to play into some of that
20 decision making process as well, I would assume.

21 EHRLICHMAN: Fair enough. Thank you.

22 BARTON: Uh-huh.

23 EHRLICHMAN: Um, also related to this question of operating that type of truck
24 and rig on Grip Road safely, um, it's come up many times during this Hearing
25 that the traffic analysis, all along, appeared to be based on an annual, um,

1 truck trip count of, I think it was 11,7-, 750, is what Mr. Norris testified
2 to. And...

3 LYNN: I'm, I'm sorry, but I do have to note an objection. We're just,
4 we're just completely, I asked him one question...

5 REEVES: I know.

6 LYNN: About trucks, which is whether or not this the right truck. And
7 now we're back to annual averages and everything else.

8 EHRLICHMAN: I can put it in terms...

9 REEVES: I...

10 EHRLICHMAN: The different trucks, I mean...

11 REEVES: Well, you, I mean...

12 EHRLICHMAN: Rephrasing.

13 REEVES: Just by saying the word truck doesn't then give leeway to go well
14 beyond the scope of the one very simple question that this witness was asked.
15 So, I'm going to...

16 EHRLICHMAN: May I...

17 REEVES: Sustain the objection.

18 EHRLICHMAN: May I explain the, the relevancy to his original testimony here
19 just now, Mr. Examiner?

20 REEVES: Uh, no, you can include it in any final brief on, on why I made a
21 mistake. We'll move on.

22 EHRLICHMAN: But I, I can't get the answer from the witness through my brief.

23 REEVES: There is no answer because I sustained the objection. There is no
24 question that's being asked.

1 EHRlichman: Well, uh, since the traffic analysis was done based on the truck
2 shown in Exhibit, I guess it was 5-, uh, I'll get the numbers right here, if
3 someone knows, jump in, but...

4 REEVES: Well, I'm guessing you're just asking the same thing in a
5 different way.

6 EHRlichman: Well, Mr. Examiner, with all due respect, if I could, first, get
7 the question out before you limit it?

8 REEVES: Okay. Go ahead and, uh...

9 EHRlichman: Thank you.

10 REEVES: The respect is questionable.

11 EHRlichman: No, I, I, I'm sincere.

12 REEVES: I'm saying, ignoring, ignoring my rulings and then just doing
13 whatever you want to do does not display respect, but, but go ahead with your
14 question.

15 EHRlichman: Yeah. Thank you. Um, Mr. Barton, uh, Exhibit C53 is the new, uh,
16 truck, uh, depiction and you testified that that was the one that was used in
17 the auto-turn analysis, correct?

18 BARTON: I did. Yes.

19 EHRlichman: Okay. And that's approximately 74 feet in length, 74 feet, 11
20 inches, correct?

21 BARTON: Uh, in that, in that depiction, yes.

22 EHRlichman: Okay. If the Hearing Examiner, uh, was concerned and wanted to
23 condition the truck traffic from this project on Grip Road, would one way to
24 do that be to specify a shorter length of truck trailer that's in your
25 repertoire? Is there such a thing that's less than the 74 feet 11 inches?

1 BARTON: Well, if we're going to mitigate, uh, for any cross-overs, on
2 whether it's Prairie, which we've already agreed to do in this case
3 volunteering on Grip Road, as long as we're staying within the lane widths,
4 uh, as we're telling you we can, per the auto-turn, this is, this particular
5 truck, as I stated earlier, is, and as Bill shared, is the worst case
6 scenario. So, anything else that we would have would, would, would in some
7 cases probably not even require, uh, as wide as lane modification. Um, I
8 don't know if that answers your question or not. But, but...

9 EHRLICHMAN: Kind of. Uh, I, my question is, what other lengths, uh, within
10 your suite of trucks that you described..

11 BARTON: Oh, well, I think other lengths are going to be close to, uh,
12 overall bumper to tail in this 75 foot range. And in some cases, we have
13 trucks that exceed that length and are permitted to do so, but their, their
14 wheel-base configuration, their turn dollies allow them to navigate roads
15 differently. And that is, again, why we used this particular truck
16 configuration to make sure that, uh, those crossover [inaudible] um, were
17 dealt with.

18 EHRLICHMAN: Right. Uh, uh, thank you. But I'm, I'm wondering if you have, in
19 the, the suite of trucks that you mentioned, aren't, weren't you suggesting
20 that there are trucks that are shorter and therefore the auto-turn analysis
21 is conservative?

22 BARTON: I didn't say shorter. I said that, that navigate, uh, because of
23 their axle configurations...

24 EHRLICHMAN: Okay.
25

1 BARTON: Windy roads. And, and in our industry, this is, this is a
2 standard, very common truck configuration that, in this case, is a five, what
3 we call a five and a three, as noted on the drawing.

4 EHRLICHMAN: So, what we see is what we get here? I mean, what we see in that
5 Exhibit 53 is, is what you're proposing, uh, out there?

6 BARTON: Well, let me, if I may, I think what we're...

7 EHRLICHMAN: Yeah.

8 BARTON: Trying to do, Tom, is take a worst case scenario from a truck
9 configuration standpoint and use science and engineering to say this is what
10 will happen, per the auto-turn analysis, and we're going to address it,
11 knowing that it's, it's kind of like the station wagon and a pickup and a
12 Volkswagen. The Volkswagen versus a pickup is going to navigate something a
13 little bit differently, to your point. But, this is, this is what we use for
14 a transportation vehicle. And this particular, these type of units are in
15 greater number than, than the other type of units. So, again, I don't know if
16 I'm answering your question. But, but I would say, if you're asking me, do we
17 want to...

18 EHRLICHMAN: I think you've answered it.

19 BARTON: No, no, let me finish, please. Do we want to limit ourselves to a
20 different type of configuration, uh, because you want it shorter? Uh, no,
21 because we're showing you by science that we can make this work.

22 EHRLICHMAN: Yeah. I, I don't have a preference. I was just trying to find
23 out, clarify your, your statement. I thought you were indicating that there
24 was some shorter lengths that you use in your repertoire, you've answered
25 that, but there, there really aren't, correct?

1 BARTON: Correct.

2 EHRLICHMAN: Okay.

3 BARTON: In that configuration, yes.

4 EHRLICHMAN: Great. No, that's, that's all I wanted to...

5 BARTON: Okay.

6 EHRLICHMAN: Clarify. Thank you.

7 REEVES: Does that conclude, then?

8 EHRLICHMAN: I'm looking at my notes here. So, um, terms of reducing impacts,

9 which is what you've been talking about, mitigating the impacts of these 74

10 foot trucks, are there any other conditions that haven't been, uh, presented

11 by you, you or your company in this proceeding that you can think of that

12 you'd like to offer that would help, uh, on, on the safety issue we've, we've

13 been talking about?

14 BARTON: Well, I would say and that's a big question. I think we have

15 looked at this and studied this particular site for, I think, over six years

16 and tried, uh, to address, uh, questions along the way that have grown in

17 nature, um, that, some that were asked repetitively and so on. And I think

18 our science and our studies and working with the County Staff and we've made,

19 uh, a lot of, um, large steps here, to answer, I guess, your question. And

20 so, I'm satisfied with what the record is demonstrating that we can mitigate

21 any, any impacts through our studies and what's been proposed safely. Uh,

22 we're good operators and, again, I, I could go on and on. And we're proud of

23 that fact. And, uh, this, I think it gets back into what I stated earlier.

24 So, um, hopefully that answers, in part, your question.

25 REEVES: And...

1 EHRlichman: I, I take the answer is no, there are no other additional
2 conditions we haven't heard of that you wanted to offer, correct?
3 BARTON: Well, I think, yes, that, correct. I'll just leave it at that.
4 EHRlichman: Okay. Yeah. Thank you. I'm done. Thank you very much.
5 REEVES: Okay. Thank you. Uh, Mr. Loring?
6 LORING: Yes. Thank you, Mr. Examiner, I do have a few questions. Uh,
7 hello, Mr. Barton, good afternoon.
8 BARTON: Hi, Mr. Loring, thank you. And you.
9 LORING: Thank you. Uh, you mentioned earlier the policy for inclement
10 weather. And I'm looking at what has now been marked as B99, I'm, I'm
11 assuming you have that in front of you?
12 BARTON: I do.
13 LORING: That, I just want to ask you a question or two about it.
14 BARTON: Yeah.
15 LORING: That policy, or it's, it's an inclement weather planning
16 document, right, that's what it says across the top?
17 BARTON: Yes.
18 LORING: Okay. And it doesn't actually identify any criteria for figuring
19 out when or where trucks would be prevented from driving anywhere or
20 rerouted, right?
21 BARTON: Not specifically, no. It's just...
22 LORING: Uh...
23 BARTON: Talks in general, in general terms how we assess any of the
24 sites, yes.

1 LORING: Sure. It speaks more about, uh, not having maybe, uh, employees
2 come in if inclement, if weather is inclement, that sort of thing, right?
3 BARTON: It does. Yes.
4 LORING: Okay.
5 REEVES: And I know, I promise to read it closely. Just...
6 LORING: Don't worry, Mr. Examiner, I know we're all, we're all the end
7 here, I know. Racing to the barn. Uh, but I just wanted to put it out there
8 and make sure it was clear on what it actually says. I, Mr. Barton, you spoke
9 about that, uh, you called that truck diagram your worst case scenario, is
10 that your largest capacity vehicle that you were showing? Uh, that's Exhibit
11 C54.
12 BARTON: In capacity, yes. That, that truck is legal, uh, by, by wheel
13 base and axle configuration to 105.5 in that, in configuration to answer your
14 question, yes.
15 LORING: Uh, 105.5 meaning it can carry 105...
16 BARTON: Total 105,500 pounds in total, the net payload and you remember
17 this, sorry, Tom, remember this back...
18 LORING: Yes.
19 BARTON: And forth may vary depending on truck configuration, whether it's
20 34 or 33, 32 and so on.
21 LORING: Okay. Understood. Thank you. Uh, and you're not pro-, you're not
22 proposing to limit hauling just to this vehicle or any other vehicles, right?
23 BARTON: Uh, no, we are not.
24 LORING: Okay. You talked a little bit about how you would, uh, conduct
25 the mining and so I want to ask just a few questions about that. Um, first, I

1 want to ask, are you aware that based on the cross-section, the only one that
2 is in the record, uh, that the top, the high point would actually be cut into
3 and so it would lower the top of the hill adjacent to the Samish River
4 wetland?

5 BARTON: Yes. And I think I termed that, uh, Mr. Loring, a, a false top
6 based on defined brim of the hill, uh, by the experts.

7 LORING: Okay. But we don't have those experts saying that that cross-
8 section is incorrect, right?

9 BARTON: Uh, sorry, say that again?

10 LORING: No expert is saying that the cross-sections are incorrect, right?

11 BARTON: No.

12 LORING: That, okay. And it was just the one cross-section?

13 BARTON: Yes.

14 LORING: Okay. You also talked about a DNR Reclamation Permit. Do you have
15 that Permit at this point?

16 BARTON: Uh, no, we do not. The only thing we have is conceptual plans.
17 Uh, once we would, of course, as you know, we would, uh, get through the Land
18 Use Hearing and providing it's approved, then we would propose the final set,
19 uh, um, to the DNR and then wait for their acknowledgment that that's, meets
20 their requirements and they'd issue the mining permit. So it follows...

21 LORING: Okay.

22 BARTON: The SM6, uh, sign off from the County back to the DNR.

23 LORING: Understood.

24 BARTON: Uh-huh.

1 LORING: Uh, you talked about the reclamation occurring with four
2 segments, is that familiar, is that right?

3 BARTON: Yeah. And I think, uh, excuse me, but, but, yes, that, the plan
4 that we have, the draft plan that we have, uh, shows four different segments.
5 I don't have it right in front of me. But, but, but it's shown in one, two,
6 three, four and that was the draft proposed mining plan.

7 LORING: And those segments are roughly 25% of the site for each one?

8 BARTON: In this situation, yes.

9 LORING: Yeah.

10 BARTON: Yes.

11 LORING: And you would, you would finish one and then start on the next,
12 is that how it would work?

13 BARTON: Uh, in a, in a perfect world, yes. Sometimes it, we, and, and DNR
14 obviously inspects us annually and works with us and sees by aerial
15 photography exactly what we're doing. But, uh, in generally, that's our plan.
16 Sometimes we do based on market and deposits, it, it, it's sub, you know,
17 subtly can be, uh, uh, outside maybe one or two segments, uh, just, again, it
18 varies a bit.

19 LORING: Okay. So, it could be times when you're working on mostly one,
20 but also some of another segment?

21 BARTON: Uh-huh. Yes.

22 LORING: Okay. And as part of the, that reclamation process, how long does
23 it take for trees that are replanted to grow to maturity?

24 BARTON: That's a great question. So, in, in, in the reprod [sic] side of
25 things, uh, those, uh, typically you thin at 18 years on a fir tree and, uh,

1 selectively thin or harvest at 30 years, uh, cycle time for fir in this
2 plantation, uh, is roughly 45 years, uh, to, to maximize your overall
3 harvest and, and return on your timber.

4 LORING: Okay. So we're talking, uh, in the forestry setting roughly 45
5 years before the tree matures enough to be harvested again?

6 BARTON: Uh, in a, I'm sorry, and I'm not the forestry, but, yes, in a
7 perfect world to maximize your return, but, but what we call pre-merch, we,
8 we do do that, depending on what the market is doing. It can be as early as
9 30 years.

10 LORING: Okay.

11 BARTON: And I'm speaking specifically to fir.

12 LORING: Uh, okay. Douglas Fir in particular?

13 BARTON: Yes. Yes.

14 LORING: Okay. And, uh, Douglas Fir are the, are those the dominant trees
15 at the site?

16 BARTON: Uh, that, this plantation, to answer your question, across the
17 entire 720 plus acres is mixed, it's Doug Fir, Hardwoods, Maple, Alder and so
18 on.

19 LORING: Okay. Uh, okay. But either way, we're talking three decades
20 before a tree that is cut now is going to be roughly back to the shape that
21 it was in before it was cut, does that sound right?

22 BARTON: That, well, yeah. This particular plantation is here is about 20,
23 I believe 22 years, in the mining area.

24 LORING: Okay.

25 BARTON: Yeah.

1 LORING: Okay. Uh, let's see, you, you testified just a few moments ago, I
2 don't have much more, this is it. Uh, that, that, uh, Miles is trying to be
3 very proactive in this manner. And I believe you were talking about proposed
4 improvements at Grip Road and Prairie Road with some of the turns. Is that
5 what you were talking about there, about being proactive?

6 BARTON: Well, I think in general, yes. And which would include that,
7 those two locations, as well as others, uh...

8 LORING: Okay.

9 BARTON: Our entrance, the Grip Road, the intersection at Prairie and, and
10 Grip, uh, the S-turns, um, and even, you know, back to our entrance, some
11 additional paving that we, we spoke to earlier.

12 LORING: Okay.

13 BARTON: I think it's all inclusive.

14 LORING: Okay. And you've testified to some of that during this Hearing.
15 Uh, a lot of that is new, since this Hearing began, right? Hasn't been part
16 of the public record?

17 BARTON: I don't know if a lot of it's new, I think that when you say
18 public record, I, I believe the S-corners have been address on Prairie Road.
19 I think our entrance, uh, was improved, approved originally by the County
20 and, and, yes, some of that has been expanded on. I think the newest item
21 here is, is that, that, and, again, as I said earlier, this is our first time
22 we've had the ability to, to share it, has been the auto-turn analysis and
23 the Grip Road, uh, widening, per se, that we're saying we're willing to do.

1 LORING: Okay. Let me just follow up, then, have you, uh, strike that, did
2 Miles propose any work on Grip Road or the curves there prior to the County's
3 issuance of the Mitigation Determination of Non-Significance?

4 BARTON: Uh, I don't believe so, no.

5 LORING: Okay. And the work that you were just discussing at the
6 intersection of, uh, the private haul road and Grip Road that, the most
7 recent plans for that, were those in front of the County before it issues its
8 MDNS?

9 BARTON: Yes. I believe so, they were.

10 LORING: Okay. And are there plans for the Gr-, or the Prairie Road S-
11 curves, are there plans that were reviewed by the County prior to issuing the
12 MDNS?

13 BARTON: Not detailed engineered plans, uh, but the requirement, as I
14 understand it, through the auto-turn analysis, that it would be widened was
15 in, before the MDNS.

16 LORING: Okay. So, no plans those, that anybody could review specifically
17 to see what would happen there?

18 BARTON: Outside, well, engineered plans for construction purposes, which
19 the Public Works would have to ultimately approve, have not been submitted
20 yet.

21 LORING: Okay. And, and you referred to Public Works, is it your position
22 that only Public Works or the County should have the opportunity to review
23 materials about the different development that will occur prior to the County
24 issuing a Mitigated Determination of Non-Significance?

1 BARTON: Well, I think from a road construction, Mr. Loring, if I'm
2 understanding your question correctly, they are the officials that review
3 those construction plans, uh, to meet their particular, uh, requirements for
4 the road work.

5 LORING: And I understand that. I think maybe you didn't quite un-,
6 understand the question. It was whether you believe there they're the only
7 ones who should have access to that information and that members of the
8 public should not, do not need to have access to that information as part of
9 the SEPA review process?

10 BARTON: Well, I think that's, I think that's a better question for them.
11 If they, they being the governing authority, in my mind, approve that plan to
12 meet that criteria, yeah, how the public plays into that, I, I guess I don't,
13 I don't understand the process well enough, uh, uh, to answer that cor-, you
14 know, whether correctly or incorrectly.

15 LORING: Fair enough.

16 BARTON: Yeah.

17 LORING: I don't have any other questions. Thanks for your time.

18 BARTON: You bet. Thank you.

19 REEVES: Mr. Lynn, any follow-up?

20 LYNN: No. No.

21 REEVES: Okay. So, I believe that would then conclude the presentation of
22 witnesses. The, uh, Mr. Barton, thank you for your time.

23 BARTON: Thank you, Mr. Reeves.

24 REEVES: Okay. Uh, housekeeping, quickly. I'm looking at, I printed off
25 Mr., uh, D'Avignon's, uh, uh, helpful little spreadsheet. And it looks like

1 going down the list, he had suggested that Ordinance 20080014 be proposed as
2 C52. Uh, which I think makes sense. Especially given, no, wait, no, Mr.
3 D'Avignon?

4 D'AVIGNON: I, I think after today, we've, um, C52, I think is actually the,
5 an Excel Spreadsheet, um, that Mr. Lynn had presented. C53 would be the Auto-
6 turn Analysis and C54 would be the 2nd Truck and Pup or the 1st Truck and, I
7 forget how these went. I maybe don't have the greatest notes. But I think the
8 Ordinance would end up be C56.

9 REEVES: Okay. Sorry, what was the Excel Spreadsheet, Mr. Lynn?

10 LYNN: Uh, that was some crash data that was submitted, sorry, by Mr.,
11 uh, Norris during his original testimony. Again, I think it was sent on the
12 2nd...

13 REEVES: Okay.

14 LYNN: Of September. I can recirculate it. Um, it's a, it's an, it's an
15 Excel Spreadsheet.

16 REEVES: Oh, okay. Just want to make sure I want to get everything right.
17 So, we're saying C52 is Crash Data Excel Spreadsheet. C53 was Auto-turn
18 Analysis, recognizing that's two pages. Uh, C54 was, was identified as Truck
19 and Pup Diagram 2. C55 was Truck and Pup Diagram 1, but to not get confused,
20 it would be helpful to think of that as the earlier truck and pup diagram.
21 Uh, Miles' Weather Policy was B99. So, then, let's see, so, C55, then, would
22 be the Ordinance, is that what you suggested, Jason?

23 D'AVIGNON: Um, yeah, just whatever, I guess C56.

24 REEVES: Sorry. Oh, oh, man, now I'm, what was C55, what did I do wrong
25 just now?

1 D'AVIGNON: Truck and Pup, Truck and Pup..

2 REEVES: Okay.

3 D'AVIGNON: Pup 1.

4 REEVES: All right. I got it. Diagram 1, earlier truck and pup, C55. So,
5 we'll make the Ordinance C56. I mean, it's publicly available, but someone
6 pointed out sometimes those things are hard to find. So, I think it is
7 helpful. Okay. So, the only other one on here was that 61721 RE Critical
8 Areas, I wasn't sure what that specifically was referencing, maybe Mr. Lynn?

9 LYNN: Yes. Uh, that's a letter that the County issued requiring the
10 Critical Areas, uh, Assessment on the haul road and, and identifying critical
11 areas and I think that should be part of the record. It's, you can access it
12 on the County's website, but it's not a, it's not, it's not linked and it's
13 not Exhibit here, so I think it should be.

14 REEVES: Any objection to making that C57?

15 D'AVIGNON: No objection.

16 REEVES: Okay. And then in terms of the Appellant Exhibits, uh, A59-A62
17 tracks Mr. Loring as per Jason D'Avignon's chart here?

18 LORING: That looks right to me, yes, Mr. Examiner.

19 REEVES: Okay. And then, uh, let's see, Mr. Ehrlichman, you had, well,
20 there was some minor discrepancies, right, that you wanted to clarify in
21 terms of your Exhibit C49 S, maybe just walk me through what the, in your
22 mind correct number is? Is it, is anything changed since the email that you
23 sent to clarify Mr. D'Avignon?

24 EHRLICHMAN: No, I think Mr. D'Avignon and I are in agreement that our
25 Exhibits are C49 and then we have a subset or index of that, starting with

1 S1, which is the Neil Mcleod le-, letter. And it had three attachments, 1A,
2 1B, 1C, and then we went on in the numbering from there. And, uh, picked up
3 exhibits today. If you want me to go through those, I can.

4 REEVES: Uh, just rem-, I mean, you don't need to detail them, but I did
5 take notes, but where you end..

6 EHRLICHMAN: Yeah.

7 REEVES: I guess.

8 EHRLICHMAN: Sure. So we started today with S9, the Bus Schedule.

9 REEVES: Yep.

10 EHRLICHMAN: S10, uh, was the, uh, Citizen Letter pulled out of the earlier
11 giant packet of written submittals.

12 REEVES: Yep.

13 EHRLICHMAN: 11, uh, S11 is the, uh, Code, illustrative exhibit. S12 was the
14 Excerpt of Road Standards. S13 was our Markup of the Applicant's truck
15 graphic. Uh, which is that C55, I believe.

16 REEVES: Yep.

17 EHRLICHMAN: And then we had, um, S14 was Table B6, the Road Stan-, Dimensions
18 Standard. And, uh, I circulated an email this afternoon requesting entry of
19 Exhibit S15, which is the truck width with mirrors.

20 REEVES: And I'm guessing I got it, but anyone have an objection to that?
21 Good. Proposed S15 truck with mirrors. I'm not hearing any, I'll allow it.
22 Okay. Does that, then, do we have your exhibits right? I'm just trying to
23 make sure.

1 EHRlichman: We, we do. And I'd, I'd like to suggest that we might want to
2 carve out, um, S16 as the forthcoming, uh, Wallace Groda, uh, written
3 submittal. I don't know how you want to handle that.

4 REEVES: Actually, that's a great idea. Yeah. Why don't we say, we'll call
5 it the Declaration of Wallace Groda.

6 EHRlichman: And finally, thank you. Um, I would like to, uh, leave to submit
7 as S17, uh, the parcel information on that, uh, adjacent mine that I talked
8 about, the, uh, Prospect mine, also on Grip Road.

9 REEVES: I believe there was an objection to this, at one point, Mr. Lynn,
10 but any, your thoughts, Mr. Lynn?

11 LYNN: Uh, I guess I'd like to see it. Uh, Mr. Barton's already
12 testified about the Miles' plans for that facility and that there are limited
13 resources there, so I, I don't think it's relevant. I guess if, if we're, if
14 we had seen that ahead of time, I'd probably have a question or two from Mr.
15 Barton about it.

16 REEVES: All right.

17 EHRlichman: Well...

18 REEVES: I'll suggest, let me just say, let's allow, I'm going to allow
19 it. I'm not let's, I'll, I'll just allow it in and, uh, after, we'll work on
20 timing in a minute. But essentially, uh, Mr. Lynn, anyone else that may have,
21 you know, concerns can, can produce, uh, supplemental very short, you know,
22 what their concerns are. And that would be true for what has now been
23 identified as forthcoming 16 Declaration of Groda. And forthcoming as 17,
24 which is parcel data for adjacent parcel. And, again, once those, what I,
25

1 well, here, timing-wise, uh, Mr. Ehrlichman, let's start there, do you think
2 by next Friday, you can have Mr. Groda's declaration ready?

3 EHRLICHMAN: We can.

4 REEVES: Okay. So...

5 EHRLICHMAN: Yes, we can. Thank you.

6 REEVES: So, why don't we say September 30th. And I assume the parcel data
7 you can have immediately, but let's just do it altogether, so September...

8 EHRLICHMAN: Okay.

9 REEVES: 30th and then any, any party that wants to produce a response or
10 has any concerns can do so. I'll treat those as pleadings as o-, as opposed
11 to initial exhibits or else we're going to get real lost on exhibits. But,
12 uh, and so, let's see, if it's September 30th, any response or concerns,
13 again, which I would expect would be fairly limited, um, but why don't we
14 just say the 7th, which is a week later. And that's very limited to any, any
15 sort of objection or, or, you know, response to S16 or S17, which are now a
16 part of, uh, C49. Does that make sense to the Attorneys?

17 EHRLICHMAN: Yes. It does to us, thank you.

18 REEVES: Okay. And then, uh, we'll talk about briefing in a minute. But,
19 um, the briefing won't be, uh, exhibits. That, those will be pleadings. So,
20 we're good, then, on your exhibits, to be clear, just to, okay.

21 EHRLICHMAN: Yes, we are.

22 REEVES: And then, uh, as to the Applicant Exhibits, I know things got
23 moved somewhat. I think that we ended up with B99 as the last one, which was
24 the Miles' Weather Policy. And there's one question mark about a B96. Did we,
25 was that, do we have any, anyone have an idea and if not, I'm happy rather

1 than mess anything up, just say, you know, noting submitted or, or I don't
2 want to renumber anything.

3 D'AVIGNON: I think that's fine.

4 REEVES: Sorry?

5 D'AVIGNON: I think it would..

6 REEVES: Let's start with Jason. Jason D'Avignon, go ahead.

7 D'AVIGNON: That sounds good to me. I think it was just an exhibit where we
8 miscounted in the middle of a Hearing.

9 REEVES: Yeah. It happens. Uh, okay. And, uh, Mr. Lynn, that makes sense
10 to you? You're not worried that there's some magic exhibit that won your case
11 that is not...

12 LYNN: No.

13 REEVES: Now part of the record?

14 LYNN: I, I do not think my case raises and falls on the missing Exhibit
15 96, at least I hope not.

16 REEVES: Okay. Excellent. Um, so I think, then, all of the exhibits have
17 been finished up. And that is my understanding. And please weigh in
18 otherwise. But, okay. So, here's my thought. I, I know I'm sure there's a
19 hard and fast end of the day because Mr. Loring probably has important tennis
20 or athletic activities. I'm giving him a hard time. We appreciate the, the
21 public service of, of him, uh, working with students. But, uh...

22 LORING: I'll tell my team, I'll team it came straight from you, thanks.

23 REEVES: There you go. So, what was our end, is it 4:30? I'm not going,
24 I'm not trying to belabor anyone or keep anyone long. I was going to suggest
25 a quick break. Um, but I was going to throw out a question for those to think

1 about on the break that then I want to come back and talk about. But is there
2 anything, and I'll do a quick round robin, anything we need to address when
3 we come back from the break, before I ask, you know, sort of questions of the
4 Attorneys, other than obviously timing. Mr. Ehrlichman?

5 EHRLICHMAN: Nothing.

6 REEVES: Okay. Mr. D'Avignon?

7 D'AVIGNON: I have, uh, nothing special, Mr. Examiner.

8 REEVES: Okay. Mr. Lynn?

9 LYNN: Um, I, I do, um, want to submit conditions at some point. There's
10 a clarification of one condition that's in the Special Use Permit. I don't
11 know whether that's done as part of briefing, but I want to do it, uh, in
12 such a manner that people have an opportunity to respond to that. So, I'm
13 going to suggest that maybe we do that in the seam timeframe as Mr.
14 Ehrlichman's submittals by next Friday. There's just going to be a few of
15 them. But I think it would be best if everybody had them in writing before
16 they were, uh, asked to respond.

17 REEVES: Well, okay. Hold that though, Mr. Lynn. Because that is...

18 LYNN: Yeah.

19 REEVES: Something I want to talk about after the break. Um...

20 LYNN: Okay.

21 REEVES: In terms of conditions and I'll, I'll tip my hat. One of the
22 things I would suggest of the other parties, and obviously for Mr. Loring,
23 this is going to be a different question than say, for Mr. Ehrlichman,
24 because, one involves the MDNS and the other involves the SUP, um, but one
25 suggestion I was going to make would be, uh, that, you know, the other par-,

1 you know, those two in particular, uh, were I to do the thing you hope I
2 don't do, and, and either deny the SEPA Appeal, for Mr. Loring, uh, well, I
3 guess that, yeah, deny the SEPA Appeal, I guess, go there, uh, and, and
4 remand the SUP, are there conditions you all believe would be appropriate for
5 me to include as, sorry, I guess the way to think about it theoretically is,
6 in your minds, are there specific conditions you would like to see included
7 were I to, uh, a-, approve the SUP? Granting, I understand the position of
8 the parties. I'm just trying to, sometimes it can be helpful to have things
9 for me to consider in those circumstances. That and I don't need your answer
10 right now. I'm just saying, that was one thing I was going to suggest, Bill
11 Lynn has suggested, uh, there might be some alterations or clarification on,
12 uh, the conditions that have been recommended by County Staff that the
13 Applicant would like to make. But, so that was thing one. And, uh, Mr.
14 Loring, sorry, I didn't get to ask you about when we come back from the
15 break, but...

16 LORING: I don't, I don't have anything at the moment. Thank you.

17 REEVES: Okay. So, we'll, we'll, we'll get into that, um, and then the
18 other, the question I want to leave the parties with before we take a short
19 break is it has to do with, with remedy. And essentially, you know, we're,
20 here's the thought I want to talk about and get your guy's, uh, thoughts on,
21 you know, is what, what is the remedy? So, for Mr. Loring, if we start there,
22 when we get there when we get back, you know, if I do, uh, grant your Appeal,
23 uh, what does that ultimately potentially mean? Uh, if I deny potentially,
24 what does that mean? Uh, I think that will be the big one, in terms of SEPA.
25 Obviously, if I were to deny the SUP, it is what it is. Uh, but, but because

1 of the way this consolidated process works, that particular issue becomes a
2 challenging one as it were, in terms of if something happens with SEPA,
3 what's the impact on everything else? So, that was the question I'm hoping to
4 get some thoughts on, uh, to start when we get back. So, what I would suggest
5 is why don't we come back at 3:00? Um, you know, I'll, I'll sort of do a
6 round robin on, on, uh, questions for the Attorneys, uh, and, and we're, our
7 hard and fast is 4:30, is that right? Excellent.

8 LORING: Yes.

9 REEVES: Okay. So, we'll come, we'll come back at 3:00. I note that if,
10 uh, Mr. Ehrlichman or others has a Hawaiian shirt just sitting around they
11 were hoping to show, uh, the final 90 minutes would be the time, uh, to
12 display your best Hawaiian shirts. So, with that, we'll come back, uh, in ten
13 minutes. Oh, Brandon is upset because he didn't wear what he thought was his
14 best Hawaiian shirt. But it's beautifully muted. And with that, we'll be back
15 at 3 o'clock. Thanks, everybody.

16 [The tape ends.]

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

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

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

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

25 Janet Williamson

Janet Williamson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25