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

17
18 Transcription Date: May 10th, 2024

19 Present: Andrew Reeves, Mona Kellogg, Kyle Loring, Jason D'Avignon, Tom
20 Ehrlichman, Bill Lynn, Jessica Hoyer, Jennifer Aven, Ross Tilghman

21 REEVES: Was that done, did I hear that...

22 KELLOGG: Yes.

23 REEVES: We're recording?

24 KELLOGG: Yes.

25 REEVES: Okay. Uh, yep. There it says we're going. Okay. Get my gavel out,
make it official. And, good morning. I'm going to call this session of the
Skagit County Hearing Examiner back to order. For the record, today is
Friday, September 23rd, 2022, at 9:00 a.m. We are on, I believe, Day 7 now of,
uh, this matter, which is involving a request by Miles Sand and Gravel for a
Special Use Permit. As well as an Appeal by the Central Samish Valley

1 Neighbors of the mitigated determination of non-significance that was issued
2 for this Proposal. And these are Application Numbers PL16-0097 and PL16-0098.
3 Uh, my name is Andrew Reeves. I'm the Hearing Examiner with Sound Law Center,
4 the County has selected to hold certain hearings like this one. And I will be
5 collecting evidence in the form of exhibits and testimony and ultimately
6 issuing a decision. Uh, again, we're on Day 7 so I think the parties are well
7 aware, hopefully, of, uh, what is happening at this point. And when we
8 concluded, when we concluded on Day 6, I believe we were, uh, the next step
9 was going to be to turn to Tom Ehrlichman, uh, who has, uh, who is an
10 attorney representing a group of adjacent property owners. And he had, uh, a
11 few witnesses he was going to, uh, bring to testify. But, before we do that,
12 why don't we do a quick round robin and check in with our Attorneys. I had
13 given them some homework, which I believe they accomplished. Uh, I,
14 ultimately opted, uh, not to further muddy the waters by sending additional
15 information myself. But, uh, why don't I start with Kyle Loring and see, uh,
16 if he feels like he had a handle on his Exhibits and also if he has anything
17 further he wanted to discuss before we get moving.

18 LORING: Thank you, Mr. Examiner. Uh, I do feel like I have a handle on
19 the Exhibits and, uh, my records were consistent with what I've seen from
20 others. So, thank you for that. Uh, when you mentioned homework, uh, I became
21 anxious a little bit. Uh, I don't think we saw an email with the questions, I
22 know you had talked last time about having some questions. Yeah. So, so, I
23 don't think we've discussed that, but I'm sure we'll touch on that later on
24 today.

1 REEVES: That, that was the homework I gave myself, that I ultimately
2 decided not to over-complicate things. I, I will have a few questions, but
3 having done some research and thought things through myself, I, I think I
4 was, I think I ultimately decided rather than send a list of questions or
5 cases, it would be better to just have a chat at the end with the Attorneys
6 and, and get their thoughts on a few things. So, uh, you guys I know were
7 busy enough as is. So, with that, I'll go next to Jason, uh, D'Avignon on
8 behalf of the County, uh, same, same set of questions there, Mr. D'Avignon.

9 D'AVIGNON: Um, I don't have really anything new. I think the only
10 outstanding as to the Exhibits, um, was Mr. Lynn had a few that I remember we
11 discussed. Uh, they, we saw pictures and they don't appear to have numbers.
12 Um, I guess, while I have a moment, my proposal would we just number them
13 starting at the end, going through, I think that would work.

14 REEVES: Sure. And, and I, you know, there's, uh, a, uh, sort of email
15 exchange between all the Attorneys and the Hearing Examiner's Office and I
16 believe you had produced a sort of table, uh, and, and I would be fine using
17 that table and just adding onto the numbers, um, if everyone is okay with
18 that, ultimately. Um, does that make sense to you, at least?

19 D'AVIGNON: Uh, that makes sense to me. My only note on the table that I made
20 is, um, Mr. Ehrlichman, he filed kind of a, his understanding today and mine
21 doesn't quite match up perfectly. So, I would, for that section, defer to his
22 filing.

23 REEVES: Okay. Great. And speaking of Mr. Ehrlichman, why don't we turn to
24 Attorney Tom Ehrlichman next?

1 EHRlichman: Thank you, Mr. Examiner. Uh, nothing new on our end. I guess, um,
2 we filed a corrected Exhibit List that I think does bring out list into
3 conformity with what Jason had. Our set of Exhibits, I believe are Exhibit
4 49, with sub exhibit numbers, thank you.

5 REEVES: Okay. Great. Thank you. And we'll come back to you in just a sec.
6 And, finally, uh, Bill Lynn on behalf of the Applicant?

7 LYNN: Uh, I don't have anything to add. I think we're, uh, in accord on
8 the Exhibits that were admitted so far. It's just a matter of re-, or of
9 numbering those that we have not yet assigned a number.

10 REEVES: Okay. Um, so I guess, sorry, and Mr. Ehrlichman, let me, let's
11 see, I have a couple, I'm sorry, I'm looking to see if I have a different
12 table than the one from Mr. D'Avignon. Did you send that separately, Mr.
13 Ehrlichman?

14 EHRlichman: Sorry. Uh, this morning I sent a corrected table, uh, that just
15 describes our Exhibits. And they do match up, I believe, with Mr.
16 D'Avignon's, but, uh, we can get into that more later. Um, it is our, our set
17 is Exhibit 49 and we'll add to that, um, during our presentation today.

18 REEVES: Okay.

19 D'AVIGNON: I would add the only difference is mine is missing, my table is
20 missing just S1, which is the Mcleod letter. That, at least that's what Mr.
21 Ehrlichman says. And then, his table also includes numbered versions of the
22 one he intends to introduce today.

23 REEVES: Got it. Okay. Um, I don't believe I've seen that yet, there's a,
24 oh, wait, now, it's in my email. I do have it, I haven't looked at it yet,
25 so, I will look at that during the break and, uh, we can circle back, at that

1 point, uh, and before we conclude, make sure we've got numbers for everything
2 would be my plan. And so, Mr. Lynn, did that, just wanted to make sure I
3 didn't interrupt you there, was that in accordance...

4 LYNN: No.

5 REEVES: And we're ready to go otherwise?

6 LYNN: Yes.

7 REEVES: Okay. Uh, with that, then, Mr. Ehrlichman, I believe the floor
8 will be yours. And do you have, can you just give us a quick sense of your,
9 your plan of attack for the day?

10 EHRLICHMAN: Certainly. Thank you, Mr. Examiner. Um, our client is Cougar Peak
11 LLC and the Mcleod family, the caretakers on that property. And, uh, today,
12 uh, we will be presenting our case through witnesses. We will have four
13 witnesses today. Um, we did have an early witness that you permitted, uh, due
14 to scheduling. Our first witness was Neil Mcleod, so he's already testified.
15 And our four witnesses today will be, uh, Jessica Hoyer, uh, a Grip Road
16 resident. And we also have, uh, Jennifer Avon, a Grip Road resident, uh, Ross
17 Tilghman, who will be an Expert witness of transportation planner and
18 finally, uh, Wallace Groda, who is also a, a Grip Road, uh, landowner.

19 REEVES: Okay. And who would you like to start with today?

20 EHRLICHMAN: Well, I'd like to start with, um, Jessica Hoyer. But I would
21 first like to introduce our, what we were proposing as Exhibit 49 S9, which
22 is an email from the Sedro Woolley School District containing the bus
23 schedule, um, that does encompass Grip Road. I'd like to introduce that
24 Exhibit, I, uh, provided to that the parties by email, uh, yesterday.

1 REEVES: Okay. Um, any objection, uh, to including this by other parties?
2 If so, hit the raise hand feature, I suppose. Okay. No objections it looks
3 like, so I'll go ahead and admit that.
4 EHRLICHMAN: Thank you. So, I'd like to call Jessica Hoyer, please.
5 REEVES: And hopefully there, Jessica Hoyer, are you there?
6 EHRLICHMAN: I see her present, but, uh, maybe the mute button needs to be
7 toggled there.
8 REEVES: Yeah. You might unmute yourself, Jessica Hoyer, on the [pause]
9 Jessica Hoyer, we're hoping to hear from you. You might need to hit the
10 unmute on the bottom, uh, bottom of the Teams App.
11 HOYER: Thank you.
12 EHRLICHMAN: Mr. Examiner, I just called Ms. Hoyer. She's, uh, a Special Ed
13 teacher at a public school. She's dealing with a couple of emergencies and
14 asked to testify in a few moments. So, if..
15 REEVES: Okay. Why don't we start with someone else, then, or..
16 EHRLICHMAN: Thank you. Yes, if we could call Jennifer Aven.
17 REEVES: Okay. And Jennifer Aven. There we are. And I'll swear you in. Do
18 you swear or affirm to tell the truth in the testimony you give here today?
19 AVEN: I do.
20 REEVES: And if you could state and spell your name for the record, the
21 audio?
22 AVEN: Jennifer Aven, J-e-n-n-i-f-e-r, Aven, A-v-e-n.
23 REEVES: Great. Thank you. Go ahead, um, Mr. Ehrlichman.
24 EHRLICHMAN: Good morning, Ms. Aven.
25 AVEN: Hello.

1 EHRlichman: Um, could you give us your address on Grip Road?

2 AVEN: Uh, I'm actually on 6478 Lillian Lane, it's kind of a private
3 road that's right off of Grip.

4 EHRlichman: Thank you. And, um, what is your profession?

5 AVEN: Uh, we have a family-owned construc- [inaudible] the office work,
6 the billing, the payroll and everything from our home office here on Lillian.

7 EHRlichman: Did, did you say that you have a family-owned construction
8 company and you do, um, bookkeeping and accounting for them?

9 AVEN: Yes.

10 EHRlichman: Okay. Thank you. And, um, do you have school-aged children?

11 AVEN: Sorry, see my cameras. I [inaudible] sorry, he just turned 14
12 last week, 14 year old son.

13 EHRlichman: Okay. You were breaking up a little bit there. Uh, so you have a
14 14 year old son that attends school?

15 AVEN: Yes, I do.

16 EHRlichman: Okay. And then, uh, you had also a daughter, I believe, that went
17 through the school system from that, uh, residence, is that correct?

18 AVEN: I did, yes. She is an adult now and serves in the Navy.

19 EHRlichman: Okay. Thank you. Um, tell us a little bit about your son's
20 transport to and from school in the mornings, in the afternoons, if you
21 would?

22 AVEN: Uh, yes, he takes the school bus in the mornings, uh, the bus
23 comes around 6:50 a.m. So, he stands right on that 90 degree corner on Grip
24 Road. And, um, most afternoons I end up picking him up because he does a lot
25 of after-school activities like cross-country and, and that sort of thing.

1 EHRlichman: Oh, okay. Thank you. And how long have you lived at this
2 residence?

3 AVEN: Uh, over 15 years now.

4 EHRlichman: Okay. Um, are you familiar with the transport of school-aged
5 school on Grip Road generally...

6 AVEN: Um...

7 EHRlichman: Involving other families?

8 AVEN: Yes. As a parent, we've been having kids on buses or driving them
9 back and forth since 2007.

10 EHRlichman: Okay. And so, uh, the typical hours for school buses are, uh, a
11 morning bus, correct, for the high school and middle school students?

12 AVEN: Uh, yes, there's the morning bus that comes by our corner at
13 6:50. And then about two hours later, there's an elementary school bus. And
14 then in the afternoon, there's also two buses for each, each group.

15 EHRlichman: Okay. Uh, do you happen to know what time the elementary school
16 bus comes by in the morning?

17 AVEN: In the morning, it's about two hours after, so probably about
18 8:00, 8:50.

19 EHRlichman: 8:50? Okay. Great.

20 AVEN: Yes.

21 EHRlichman: And then the afternoon buses, can you, uh, just gives us a rough
22 guestimate of the timeframes on those?

23 AVEN: Yeah. That is about 3:00 and my, my bus hasn't ridden the bus this year
24 for the afternoon, but usually around 3:00 and the elementary school gets out
25 at 3:30 so it probably hits here about 4:00 or 4:45.

1 EHRlichman: Okay. Great. Thank you for that. Um, as I understand it, the
2 school bus comes down from the direction of Sedro Woolley in the morning and
3 goes down Grip Road, past your, uh, stop, is that correct?

4 AVEN: Yes. It goes passed Lillian Lane, down that S-curve we've talking
5 about, turns around at the bottom of that S-curve and then comes back up the
6 hill, and that's where he, they pick up, like, my son and the other kids at
7 that stop, and then returns into town.

8 EHRlichman: So, let me make sure I understand it. So, the bus goes down the
9 hill on Grip Road, beyond your house, heading towards Prairie Road, correct?

10 AVEN: Correct.

11 EHRlichman: And it goes down through the S-curves?

12 AVEN: Yes.

13 EHRlichman: And those are located to the west of the proposed mine entrance,
14 is that correct?

15 AVEN: Yes.

16 EHRlichman: Okay. So the bus is going downhill, uh, through those S-curves to
17 a turnaround you said?

18 AVEN: Yes. They usually use one of the, the houses has kind of a bigger
19 driveway area and so it turns around in their driveway.

20 EHRlichman: Okay. Thank you. And, um, is the, uh, when the bus, well, let me
21 ask it this way, what, what is the, approximating, what is the highest number
22 of students on the bus that you've seen when it comes to your location,
23 either morning or afternoon? So, get a picture of the, sort of how populated
24 is the bus at its maximum?

1 AVEN: Um, by the time it's at our house, it's, it's probably mostly
2 full. I mean, there's, there's a kid in just about every window that I can
3 see, so, um, and once it hits our, our stop, it continues into town and gets
4 to the middle school within, like, 15 minutes. So, we're, we're towards the
5 end of the route.

6 EHRLICHMAN: So, is the, would you say the bus is a third full, a half full,
7 three-quarters full?

8 AVEN: Probably about three-quarters.

9 EHRLICHMAN: Okay. Thank you. So, you said that when you've observed that,
10 it's the bus coming from the west and the Prairie Road direction, on Grip
11 Road, to your stop, is that correct?

12 AVEN: Yes.

13 EHRLICHMAN: Okay. So, the, that means that the bus has picked up children to
14 the west of you, along, uh, Grip Road, also Prairie Road?

15 AVEN: Uh, my-, our bus doesn't go onto Prairie, ours turns around on
16 Grip.

17 EHRLICHMAN: Okay. So, that full, three-quarters full bus is, you've observed,
18 is, uh, children that are, um, traveling to school, to and from school on
19 Grip Road?

20 AVEN: Correct.

21 EHRLICHMAN: Okay. Thank you for that. Um, you had an incident, correct,
22 involving, uh, an encounter with a gravel truck on Grip Road?

23 AVEN: Yes, I did. Last September.

24 EHRLICHMAN: I'm going to ask you some questions about that. But, first, Mr.
25 Examiner, I want to, for the record, state that Ms. Aven, uh, testified

1 earlier in the public hearing portion of the Hearing, but the testimony
2 you're about to hear was not part of that testimony.

3 REEVES: And this is challenging to the effect that ultimately, if Ms.
4 Aven had testified earlier in the public hearing, it normally would not, we
5 would not hear again, uh, but I also don't want to spend an hour debating on
6 the scope of what you've been allowed to do through the course of the
7 Hearing. So if we can just move through and, uh, we can get objections from
8 other Attorneys as necessarily. Why don't we do that?

9 EHRLICHMAN: Thank you, Mr. Examiner. Ms. Aven, do you want to describe for us
10 the encounter you had with the gravel truck, uh, last September?

11 AVEN: Sure. So, I was coming home from Woolley in town, headed west, I
12 was getting my east and west mixed up, headed west on Grip, uh, with my son.
13 And we were at the, the 90 degree corner that turns into Lillian Lane. So,
14 it's a really hard corner to see around because of all of the brush and
15 everything that's on the inside of that corner, so you kind of have to pull,
16 like, halfway around and look and see. And a gravel truck was coming up the
17 hill and he crossed into my lane, which I sort of expected because they
18 always struggle with those corners. But he came very far into my lane. And I
19 had to kind of punch the gas and pull hard off to the right and go out into
20 the bushes behind the bank of mailboxes to get out of his way.

21 EHRLICHMAN: You said you were transporting your son home from school when
22 that happened?

23 AVEN: Yes. It was after cross-country practice.

24 EHRLICHMAN: Okay. And what was your reaction, what was your son's reaction
25 when you took that evasive maneuver?

1 AVEN: Well, obviously, we were shocked and scared and surprised and it
2 was, you know, we thought we were going to get smashed by a truck, so, yeah,
3 it was, it was pretty scary.

4 EHRLICHMAN: And, uh, did you file a police report at that time?

5 AVEN: I did not. Um, because there was no actual damage and we were
6 safe. I wasn't able to get a license plate number or anything like that. I
7 asked around on social media because I had seen the truck around a lot that
8 week, to see if anybody knew who the driver was. Um, but we couldn't get any
9 answers on, on it, so...

10 EHRLICHMAN: You say you saw the truck a lot that week, what, what do you mean
11 by that?

12 AVEN: Uh, it had been, because I, I, since it's a home office, I'm on
13 these roads probably four to six times a day, running kids and stuff back and
14 forth. And I had just crossed it many times on many of the corners, back and
15 forth, back and forth. It was hauling, the whole length put together, it was
16 hauling a bunch of gravel out of the Proctor Pit on Brookings Road. And, uh,
17 yeah, so, I just had been, it had been around a lot that week.

18 EHRLICHMAN: Okay. Um, that was in September and since September, uh, do you
19 know whether Miles Sand and Gravel has purchased the Proc-, Proctor Pit?

20 AVEN: Uh, that's my understanding, I don't, I haven't actually seen,
21 like, a written thing about it, but that's, that's what I hear.

22 EHRLICHMAN: And does the Proctor pit, uh, uh...

23 LYNN: Examiner, I'm going to object, this, she's already said she can't
24 identify the truck or the driver and now we're just getting into speculation
25 about whose truck it might have been. I think is...

1 REEVES: I...

2 LYNN: Well outside bounds...

3 REEVES: I'll sustain the objection to the extent that A) we heard from
4 this witness once already earlier in the Hearing and, B) my understanding was
5 we were going to focus specifically on Grip Road, so, let's, let's move
6 forward, thank you, uh, Mr. Ehrlichman.

7 EHRLICHMAN: Thank you, Mr. Examiner. That, that, actually, was the question I
8 was just asking was, um, does the Proctor pit access Grip Road, is that how
9 gravel goes in and out of the Proctor pit, to your knowledge?

10 AVEN: Yes, it is.

11 EHRLICHMAN: Okay. Um, now, you had an encounter with a gravel truck where it
12 crossed over the line and you had to take evasive action. H-, are you aware
13 of any other, uh, families on Grip Road that have, uh, had encounters of that
14 kind where they've had to maneuver in response to, uh, vehicle crossovers?

15 AVEN: Uh, yeah. I...

16 LYNN: I'm going to object again. This is really far afield. We're
17 asking about her experience with other neighbors. If the other neighbors want
18 to testify, they can. But I don't, I mean, this is, it's hearsay and it's
19 just not relevant.

20 REEVES: I'm going to sustain on both the hearsay grounds and the
21 relevancy grounds and further, there was an opportunity for testimony, uh, we
22 had two days of it at the outset of this Hearing. So, uh, I'll sustain that
23 objection. Go ahead and move on, Mr. Ehrlichman.

24 EHRLICHMAN: At this time, Mr. Examiner, I guess I'd like to introduce our
25 Exhibit 49 S10, copies been provided. Uh, it's a letter that is in the public

1 record submitted by, uh, folks on Grip Road. I think it's important to, uh,
2 pull that out of the mass Exhibit number, uh, because it's germane to, uh,
3 the subject matter of our presentation here.

4 REEVES: S-, sorry, you just are asking that the Exhibit already accepted
5 earlier with a different exhibit number be sort of taken out and given a
6 specific number right now?

7 EHRLICHMAN: Yes. We've, we've done that in other cases...

8 REEVES: Sure.

9 EHRLICHMAN: During this proceeding.

10 REEVES: S10, that's fine. But, to be clear, I, you know, I, I don't think
11 we need to spend time eliciting testimony about the experience of others. But
12 go ahead, Mr. Ehrlichman.

13 EHRLICHMAN: Yeah. One of the things, Mr. Examiner, we've been trying to do
14 here out of respect for the Applicant, uh, and the County is to present you a
15 picture here and we certainly could have lined up, you know, asked to have
16 ten different witnesses testifying to basically the same thing. We thought it
17 was efficient, but you've sustained the object-, objection, uh, based on
18 hearsay. So, we'll move forward. Suffice to say that the record is full of,
19 of comments from other residents on Grip Road.

20 REEVES: Okay.

21 EHRLICHMAN: Um, let me take a quick look at my notes here, see if there's any
22 other, uh, questions I had for Ms. Aven. So, Ms. Aven, uh, are you concerned
23 about the safety of school children generally on Grip Road traveling to and
24 from school?

1 AVEN: Yes. Very much. I mean, there's the buses, there's lots of
2 families, there's stops at the end of a lot of driveways that the kids stand
3 right on the edge. It's, it's really concerning.

4 EHRLICHMAN: And in addition to school buses, uh, children travel to and from
5 school, as you've testified, by private car as well?

6 AVEN: Yes. Many do.

7 EHRLICHMAN: And some of those children actually are driving themselves once
8 they become of age, whether a learner's permit or a driver's license,
9 correct?

10 AVEN: Yes.

11 EHRLICHMAN: And do you anticipate that your child will, at some point, be
12 driving himself on that road?

13 AVEN: Yeah. In about 18 months he'll have is learner's permit so we'll
14 be back and forth many times on this road.

15 EHRLICHMAN: Okay. Now, if you heard that there was only one, um, accident
16 reported per year on Grip Road for the past five years, would that surprise
17 you?

18 AVEN: It, it's surprising that that's all that's reported because
19 people have a lot of accidents out here, like my incident where it doesn't
20 get reported, if there's no actual injuries. It takes, the Sheriff told us it
21 takes about 45 minutes for them to get here, depending on where they are in
22 the County. So, a lot of times, if nobody gets hurt, we just don't call. A
23 teenager actually ran into a bunch of our mailboxes last year, but came,
24 knocked on our door, he and his dad apologized and fixed them and we went
25

1 about our way because it's just the country and that's what we do, so, I
2 mean, I know there's incidents that don't get reported.

3 EHRLICHMAN: And at the 90-degree turn that you've described, there are
4 actually two 90-degree turns in that portion of the Grip Road, uh, segment,
5 isn't that correct? It's, there's one at, um, Lillian Lane and then further
6 to the north and east?

7 AVEN: Yes.

8 EHRLICHMAN: And then as you travel further east on Grip Road, um, don't you
9 also encounter a, a sharp turn at the railroad tracks?

10 AVEN: Yes. It's kind of another S-curve around through it.

11 EHRLICHMAN: Do you have concerns about a 74-foot long, uh, truck and pup
12 trailer being able to make those turns without encroaching on the opposite
13 lane?

14 AVEN: Yes, I do. I drive through that, again, like, four to six times a
15 day. And if I'm following anything that's large, whether it's a trailer or a
16 truck or a farm equipment, they don't, they don't make the turn, they all go
17 over the line.

18 EHRLICHMAN: And you've listened to portions of this public hearing where you,
19 where the traffic expert for the Applicant, uh, has testified?

20 AVEN: Yes. I've listened to the whole thing.

21 EHRLICHMAN: Can you put this in real terms for the Hearing Examiner, uh,
22 there's the sort of technical traffic analysis that's been done, that is in
23 the traffic studies, but what does, what does this mean to you in, in real
24 terms as a family living on Grip Road with children?

1 AVEN: I don't understand how they can come to the conclusion that
2 they're saying. Um, all of my experiences, anything that's not just your
3 typical size car crosses the line on these 90-degree turns and over the
4 railroad tracks. I just, I, I can't gather how they can say that it doesn't.

5 EHRLICHMAN: Can, can you, uh, say that again, um, you, you've heard the
6 testimony and you, you're having trouble understanding what?

7 AVEN: How they can say that trucks that large are not going to come
8 into our lane or have room to, to not hit us, ultimately.

9 EHRLICHMAN: Uh-huh.

10 AVEN: Uh, I can only see us having to be evasive around the trucks.

11 EHRLICHMAN: Uh-huh. And is there room, uh, on Grip Road to, to do that, if
12 it's necessary to, to protect yourselves?

13 AVEN: Not everywhere. In some places, but not all of them.

14 EHRLICHMAN: Uh-huh. And are you concerned about your, let, let me back up,
15 again, w-, what does this mean to you as a mother and a parent?

16 REEVES: I, I feel like she's asked and answered that and, and I think I
17 understand that Ms. Aven has concerns. I think she's testified earlier. I
18 think that there's a certain level of, you know, it's clear, I think. I'm not
19 trying, you know, I've got to try to move us forward in an efficient manner
20 and we're hoping to finish today, Mr. Ehrlichman. Is, how many more questions
21 specific to this topic do you expect with this witness?

22 EHRLICHMAN: I'd like to, I'd like to see if you would allow the witness to
23 answer that question.

24 REEVES: Please answer the question, Ms. Aven.

1 AVEN: I am very, very concerned about having all of these trucks on the
2 road.
3 REEVES: Okay. Thank you.
4 EHRLICHMAN: I have nothing further. Thank you.
5 REEVES: Okay. Mr. Loring, any questions of this witness?
6 LORING: No, Mr. Examiner, I don't have any questions. Thank you.
7 REEVES: Okay. Mr. D'Avignon?
8 D'AVIGNON: Uh, no questions, Mr. Examiner.
9 REEVES: And Mr. Lynn?
10 LYNN: No questions.
11 REEVES: Great. Thank you, Ms. Aven.
12 AVEN: Thank you.
13 REEVES: Okay. Mr. Ehrlichman, your next witness?
14 EHRLICHMAN: I'd like to see if Jessica Hoyer might be on now and available to
15 testify.
16 REEVES: I saw her pop up a minute ago.
17 EHRLICHMAN: Okay. Jessica, if you're there, uh, can you unmute and let us
18 know that you're ready?
19 HOYER: I'm trying.
20 EHRLICHMAN: You, there you are.
21 HOYER: You hear me?
22 EHRLICHMAN: Yes.
23 HOYER: Okay.
24 REEVES: Hi, Ms. Hoyer, I'll swear you in. Do you swear or affirm to tell
25 the truth in the testimony you give here today?

1 HOYER: I do.

2 REEVES: And could you state and spell your name?

3 HOYER: Uh, my name is Jessica Hoyer. And did you say you want me to

4 spell it?

5 REEVES: Yes, please.

6 HOYER: Okay. Uh, it's J-e-s-s-i-c-a H-o-y-e-r.

7 REEVES: Great. Thank you. Go ahead.

8 EHRLICHMAN: Good morning. Thank you. Good morning, Jessica. You're at work,

9 aren't you?

10 HOYER: I am.

11 EHRLICHMAN: Okay. What do you do?

12 HOYER: Um, I am a behavior case manager for middle school students.

13 EHRLICHMAN: In the Sedro Woolley School District?

14 HOYER: Uh, in Mount Vernon school district.

15 EHRLICHMAN: Mount Vernon. Thank you. And, uh, you and your family reside on

16 Grip Road, is that correct?

17 HOYER: That is correct.

18 EHRLICHMAN: Okay. Um, you have had, uh, you've raised, uh, fi-, you are

19 raising five children, is that correct?

20 HOYER: That would be correct, yes.

21 EHRLICHMAN: And three of them still ride the school bus?

22 HOYER: Yes.

23 EHRLICHMAN: So, they're riding, uh, the school bus on Grip Road, both the

24 mornings and the afternoons?

25

1 HOYER: Yes, they, I've got three that ride the school bus two separate
2 times.

3 EHRLICHMAN: Okay. And, again, can you tell us roughly what, uh, what times of
4 day that is? You don't have to be specific, but just generally?

5 HOYER: Um, so the morning bus would be anywhere between 6:30 and, um,
6 9:40, depending on the school schedule.

7 EHRLICHMAN: Okay. And in the afternoon?

8 HOYER: And then the afternoon would be anywhere between 2:30 and 4:15,
9 again, depending on the school schedule.

10 EHRLICHMAN: Great. Thank you. Um, when, when your children are, um, dropped
11 off, coming from the direction of Sedro Woolley in the afternoon, do they
12 have to cross Grip Road to get home?

13 HOYER: They do.

14 EHRLICHMAN: And, uh, you've expressed a concern, uh, can you share that with
15 the Hearing Examiner about having large trucks, uh, traveling through that
16 portion of the road when your kids are getting off the bus and crossing?

17 HOYER: Yes. So, um, I have had to call the bus garage several times to
18 ask them to move the location of the stop, by, like, inches. So that the bus
19 can see the oncoming traffic. Because oncoming traffic for the buses comes
20 barreling up the hill and cannot see that transportation is letting off my
21 children, who then have to cross Grip Road. Um, and at times, it's been a
22 close call when my children are crossing the road.

23 EHRLICHMAN: Thank you. Um, and is the problem that there's not a clear line
24 of sight at these sharp turns on Grip Road?

1 HOYER: Um, the problem is that there's not a clear line of sight, um,
2 and the problem is just because of it's just very close to a 90-degree angle
3 that even driving it for the last 11 years, I'm not sure how there could be a
4 line of sight, even when the County does take care of the, uh, bushes and
5 stuff.

6 EHRLICHMAN: Uh-huh.

7 REEVES: And, I'm going to hop in one sec, Ms. Hoyer, were you able to
8 listen to Ms. Aven's testimony just now?

9 HOYER: Uh, off and on, but not a whole bunch because I've been...

10 REEVES: Just was seeing if you agreed with her testimony. But go ahead,
11 uh, Mr. Ehrlichman.

12 EHRLICHMAN: Thank you. Um, Ms. Hoyer, are you aware of any incidents, um,
13 involving, uh, trucks or cars coming in opposite directions through that
14 corner?

15 HOYER: Oh, yeah. I mean, not necessarily specifically with school buses,
16 but, yeah, we've, um, actually had several come slamming into the power pole
17 that is right there on that corner. I believe the County has had to replace
18 that power pole, I want to say, four or five times in the last ten years.

19 EHRLICHMAN: Uh-huh. Um, uh, and have you, um, heard that the Applicant is
20 going to put flashing lights down at the gravel mine entrance road?

21 HOYER: No, that's news to me.

22 EHRLICHMAN: Okay. If they did put flashing lights down at their entrance
23 road, would that solve the line of sight problem that you're describing up at
24 the bus stop?

1 HOYER: I'm not sure how flashing lights would correct the fact that that
2 road right there is 90 degrees and it, no, I'm not sure how it would correct
3 that situation.

4 EHRLICHMAN: Okay. And are there several driveways that join, uh, at that
5 corner where Grip Road and Lillian Lane come together?

6 HOYER: Yes. There are two driveways and Lillian Lane that kind of all
7 meet with Grip Road all at the same time.

8 EHRLICHMAN: Okay. And I, I believe you told me that you had stood there on,
9 on your drive and watched vehicles, uh, screeching to a halt, uh, trying not
10 to, to, uh, engage your kids at that bus stop, is that correct?

11 HOYER: That would be correct. I've seen, uh, vehicles of all shapes and
12 sizes, from motorcycles to large trucks, uh, screeching to a halt, um, to try
13 to avoid either hitting somebody or something, also to slow down because they
14 don't realize how sharp of a turn that is.

15 EHRLICHMAN: Uh-huh.

16 HOYER: Um, I also have had a double dump truck go through where it shook
17 my house because they were going so fast. Um, yeah.

18 EHRLICHMAN: And, um, sorry. Just one moment here. And when the school buses,
19 um, come in the morning to pick up your children, would you, would you say
20 that, uh, they, at times, are full, three-quarters full, half full? How many
21 kids do you see populating that bus?

22 HOYER: Um, from where me and my husband stand and look, it looks fairly
23 full and from reports of my, from my children, they say it's fairly full, the
24 criteria is two students per seat and sometimes they have to do three.

1 EHRlichman: Okay. And that, when you see that, they're, they're coming up
2 from Grip Road to the west, like the Prairie Road direction, correct?

3 HOYER: When they pick up in the morning? Yes.

4 EHRlichman: Okay. And as you testified there, there are multiple buses in the
5 morning, is that correct?

6 HOYER: Yes. There are two routes. Depending on which school.

7 EHRlichman: When the afternoon buses come, uh, to, to bring kids home, is
8 Grip Road busier than at other times of the day, generally?

9 HOYER: Uh, the, the last bus of the afternoon, it is definitely busier.
10 Um, it's about the same time that a lot of people are coming home from work
11 or whatever they're coming home for.

12 EHRlichman: Uh-huh.

13 HOYER: Uh, but we have noticed an increase.

14 EHRlichman: Okay. Is there, um, anything that you would like to say to the
15 Hearing Examiner about your, uh, concern about safety if the mining trucks
16 are permitted to travel Grip Road during school bus hours?

17 HOYER: My biggest concern is honestly that corner is absolutely
18 horrendous and I worry about the safety of my children. I worry about the
19 safety of other students that are on that bus. Um, you know, I work for a
20 school system and so one of our key things is keeping students safe and I
21 really believe in this case, that needs to be the issue that's at hand is how
22 do we keep those students on those school buses safe. So, I do worry about
23 the increase amount of traffic that would come through Grip Road.

24 EHRlichman: Well, thank you for your testimony today, I appreciate it.

25 HOYER: Yeah.

1 REEVES: Okay. Uh, Mr. Loring, any questions of this witness?

2 LORING: No, Mr. Examiner, I don't have any questions, thank you.

3 REEVES: Okay. Mr. D'Avignon?

4 D'AVIGNON: Uh, no questions, Mr. Examiner.

5 REEVES: And Mr. Lynn?

6 LYNN: No questions.

7 REEVES: Ms. Hoyer, thank you for taking the time. And, uh, we'll let you

8 get back to work on a Friday.

9 HOYER: Thank you.

10 REEVES: Okay. And you had one other witness, uh, before Mr. Tilghman, Mr.

11 Ehrlichman? Uh...

12 REEVES: No. Uh, I'd like to call Mr. Tilghman, if he's on the line there

13 and ready to go?

14 LYNN: Mr. Examiner, I, this is Bill Lynn...

15 REEVES: Yeah.

16 LYNN: I would like to note an objection. Uh, it was very clear, I wish

17 we had transcripts, from Mr. Ehrlichman, that he did, had no intention of

18 calling his own traffic witnesses. And for that reason, he was granted

19 considerable leeway in his questioning of the witnesses that he proposed to,

20 to be able both cross examine and treat as his own witnesses so he could go

21 beyond that. So, I just want to object to recalling this witness as when Mr.,

22 um, Ehrlichman committed not to do that as part of the rules of procedure for

23 this, uh, Hearing.

24 EHRLICHMAN: May I speak to that, Mr. Examiner?

25

1 REEVES: I'm going to no-, hold on, I'm going to note the objection. Uh,
2 you know, I'm, I'm going to, rather than have us spend an hour going back and
3 forth right now, I'm just going to allow it. Can you give me some sense of
4 the scope of what you intend on, uh, asking this witness about and, and the
5 timing, Mr. Ehrlichman?

6 EHRLICHMAN: Absolutely, Mr. Examiner. I had intended to start out the, uh,
7 questions with a brief preamble of doing just that, so thank you for that
8 opportunity. Uh, Ross Tilghman is being called in our case in chief as an
9 expert witness...

10 REEVES: There's no case in chief. I just need to make that clear. But go
11 ahead. I mean, your participation in this Hearing is essentially as if you
12 were any other member of the public. I recognize you do represent specific
13 members of the public. But, I, I don't want to belabor the point, but go
14 ahead, Mr. Ehrlichman.

15 EHRLICHMAN: Thank you, Mr. Examiner. I, I know we've had this conversation
16 several times and I have submitted in writing, uh, my position on that.

17 REEVES: Yeah.

18 EHRLICHMAN: Um, if I may continue.

19 REEVES: Go ahead. You can raise it in a different form later, if need be.

20 EHRLICHMAN: Thank you. Um, we are presenting our case through witnesses,
21 we're calling Mr. Tilghman as an expert witness. We're calling him as a
22 traffic planner. We'll talk about his credentials and qualifications for
23 that. We are not...

24 REEVES: We don't need, we've already heard that. We are not going into
25 his qualifications. But go ahead. I mean, they're already in the record, Mr.

1 Ehrlichman. Am, am I missing som-, is there a reason we need 20 minutes of
2 questions on who this witness is we already heard from for a day earlier in
3 the Hearing? Mr. Ehrlichman.

4 EHRLICHMAN: What, what is the question?

5 REEVES: Uh, I'm saying, is, is there some reason we need to hear again
6 who this witness is in terms of their qualifications and background? Mr.
7 Loring went into detail about this earlier in the Hearing. I, I, we're going
8 to not do that. But unless you have a reason you think we need to, you know,
9 reinvent the wheel in terms of re-, you know, more discussion on who this
10 person is. We, we know who this expert is.

11 EHRLICHMAN: Mr. Examiner, I'm happy to answer any question that you have in
12 this proceeding.

13 REEVES: Okay. Never mind.

14 EHRLICHMAN: But I...

15 REEVES: [Inaudible.]

16 EHRLICHMAN: I do want to note that as I'm speaking and I'm trying to lay the
17 foundation, you ask a question often that is exactly what I'm about to say.
18 And it just seems like this would go quicker if I was given a little leeway
19 and trust, if you will, that I'm going to explain why I think it's important
20 to talk about his credentials, briefly. Um, he...

21 REEVES: [Inaudible.]

22 EHRLICHMAN: Mr. Tilghman did appear in the SEPA Appeal case, um, for a
23 different party. We are not calling him here for the same purposes. We don't
24 have the same, uh, status, we don't have the same position in the case. Mr.
25 Tilghman's testimony is going to go directly to our position in the case with

1 respect of the Special Use Permit. His qualifications were questioned by Mr.
2 Lynn in a manner that I objected to, even though he wasn't my witness. And I
3 wanted to start out with a little bit about his credentials as a
4 transportation planner so we're clear about the very limited scope of the
5 testimony that we're going to elicit from this expert. Which is the question
6 of whether the transportation study, relied upon by the County here, contains
7 the elements of a safety analysis that is typically included in a
8 transportation study. He's not testifying as an engineer on geometrics, he's
9 not testifying as a crash expert, but we're going to go...

10 REEVES: [Inaudible.]

11 EHRLICHMAN: Into the question of what has he seen after reviewing all of the
12 reports and what is he not seeing. And then we're going to...

13 REEVES: [Inaudible.]

14 EHRLICHMAN: Talk about what a safety analysis is because, Mr. Examiner, your
15 inquiry and decision in this case for the Special Use permit is fundamentally
16 different than the decision you're making in the SEPA Appeal, as you know
17 better than anyone. It's...

18 REEVES: Well...

19 EHRLICHMAN: Based on, on the Special Use Permit criteria and policies the
20 County has adopted which require safety analysis.

21 REEVES: Okay. So, with that, I'm happy to, you know, I understand Mr.
22 Lynn's objection very well. Uh, I take judicial notice of knowing who Ross
23 Tilghman is, uh, in terms of we've already, I think we may have even got a CV
24 in the record, at this point. I don't think we need any questions about his
25 knowledge and scope. I think it's been fully covered. Uh, so we'll dive right

1 in on the actual questions. But, uh, Mr. Tilghman, I'll get you sworn in. Do
2 you swear or affirm to tell the truth in your second set of testimony in
3 these Hearings?

4 TILGHMAN: I do.

5 REEVES: Okay. And we know how to spell your name. And so, with that, Mr.
6 Ehrlichman, I think with no preamble, no outset, let's just dive right into
7 the questions.

8 EHRLICHMAN: That sounds good. And I just want to say, Mr. Examiner, that,
9 that the reason I think that preface was important is because we're going to
10 hear objections from Mr. Lynn on this very topic. So, thank you for
11 acknowledging that he's qualified as an expert here already. Um, Mr.

12 Tilghman, in the cases you've testified in front of Hearing Examiners, have
13 you ever been disqualified as an expert?

14 TILGHMAN: No, I have not.

15 EHRLICHMAN: Roughly, just a rough number, how many cases have you appeared in
16 before Hearing Examiners?

17 TILGHMAN: Um, I think we're at four to five dozen.

18 EHRLICHMAN: Okay. And are you, in your line of work, do you typically review
19 traffic studies, uh, to determine what their contents have and don't have in
20 terms of safety analysis?

21 TILGHMAN: Um, I frequently review traffic studies and I note, uh, the
22 extent of which they have addressed or not addressed, um, safety matters.

23 EHRLICHMAN: And are you familiar with the, um, standard in the, uh, the Road
24 Standards, the question that's asked there, as to, uh, traffic safety? You
25

1 had those Road Standards in front of you and, and can you refer to the
2 preamble sentence in Section 4.09?

3 TILGHMAN: Of the, uh, Skagit County Road Standards? Yes. The, um, the first
4 paragraph reads, uh, for Type 2 Traffic Impact Analyses, intersections and
5 roadway segments within the influenced area shall be evaluated to determine
6 if the probability of accidents will increase with the addition of project
7 traffic.

8 EHRLICHMAN: And have you participated with a team of, uh, traffic experts in
9 the analysis of, uh, other, uh, traffic studies, uh, to make exactly that
10 kind of determination?

11 TILGHMAN: Well, I, I note whether, um, accident history is addressed at
12 all. Um, sur-, I'm often surprised how often it has been omitted and to make
13 that point. And I'll also often find that, um, the extent to which accident
14 history is reported, the reporting was limited only to crashes at
15 intersection. Um, not on roadway segments and particularly in rural areas,
16 um, areas where intersections are, um, further apart than in standard urban
17 conditions on a block by block basis. Um, what happens, um, on the roadway
18 segment can be as important as what happens at intersections. I dealt with a
19 case in Jefferson County just a year ago where, in fact, in a rural area with
20 narrow roads, where the majority of crashes occurred between intersections,
21 unrelated to intersections. So...

22 EHRLICHMAN: Uh-huh.

23 TILGHMAN: Yes.

24 EHRLICHMAN: We'll get into, and we'll get into that in a, a moment, thank you
25 for that. Mr. Examiner, at this time, I'd like to introduce our, uh, Exhibits

1 S11, 49 S11 and 49 S12, uh, S11 is the excerpts of the Skagit County Code,
2 um, portions of it that have those Special Use Permit criteria I referred to.
3 S12 is the excerpt of the Road Standards that, uh, Mr. Tilghman just read.

4 REEVES: Yeah. These are publicly available, so I assume no objection from
5 the other parties?

6 EHRLICHMAN: Very good. Thank you. Um, Mr. Tilghman, um, in our, uh, case
7 here, uh, have you reviewed all of the traffic studies, uh, which are here,
8 uh, presented as Exhibits 12-18?

9 TILGHMAN: Um, yes, I have.

10 EHRLICHMAN: Okay. And have you listened to, uh, the testimony of Gary Norris
11 in this proceeding?

12 TILGHMAN: Yes, I did hear the, um, audio, uh, recording of his testimony.

13 EHRLICHMAN: Okay. And have you heard the testimony of Forrest Jones, the
14 County's, uh, primary road, uh, engineer on this?

15 TILGHMAN: I listened to that audio recording as well.

16 EHRLICHMAN: Okay. Let me ask you, in any of those reports, um, beyond, other
17 than the discussion on Level of Service, other than the discussion on road
18 capacity, and other than the discussion on sight distance, do those studies
19 contain any kind of safety analysis that would relate to, uh, school bus
20 traffic on Grip Road?

21 TILGHMAN: There's none related to school bus traffic.

22 EHRLICHMAN: So, you didn't see any discussion or analysis concerning the
23 school buses' use of Grip Road?

24 TILGHMAN: None.
25

1 EHRlichman: Okay. Even if a Level 2 Analysis was not strictly required under
2 the Road Standards, is it your opinion that a safety analysis discussing
3 potential conflicts with school buses is required otherwise by the County
4 Code or Policy?

5 TILGHMAN: Well, um, the location of schools should have been identified,
6 um, and that would naturally imply that, um, there must be school buses
7 serving those schools. Um, and I believe, it's, it's within the Road
8 Standards, um, that a traffic, um, analysis should identify the location of
9 major public facilities, including schools.

10 EHRlichman: Okay. So, let me unpack the question, I realize it was a, a
11 compound question, I'm sorry for that. Let me back up. The County, um, didn't
12 require a Level 2 Traffic Impact Analysis, did they?

13 TILGHMAN: They did not.

14 EHRlichman: Okay. And the Applicant submitted in Exhibit 18, a more detailed
15 traffic analysis, its last submittal in Exhibit 18, a more detailed traffic
16 analysis that includes some, included some discussion of Grip Road, correct?

17 TILGHMAN: Yes, it identified certain characteristics of Grip Road.

18 EHRlichman: Okay. And in the analysis in Exhibit 18, did the Applicant's
19 traffic engineer provide, um, an identification of the potential conflicts,
20 uh, between the, the new heavy trucks and the different types of vehicles
21 using Grip Road?

22 TILGHMAN: No, it did not.

23 EHRlichman: And why is it important in your professional opinion, to do that
24 kind of analysis in this situation?

1 TILGHMAN: Well, not all vehicles have the same operating characteristics or
2 travel behavior. Um, large heavily loaded trucks such as these gravel trucks,
3 the dump truck with a pup trailer, um, for one, they're about three times
4 longer than an average passenger vehicle, um, they're immensely heavier, uh,
5 fully loaded up to, uh, the State's legal limit of 105,000 pounds versus the,
6 uh, maybe 4,000 or 5,000 pounds of a passenger vehicle. Um, they accelerate
7 more slowly, they stop more slowly than a passenger vehicle. Um, they behave
8 altogether differently. They can't negotiate corners as tightly as, um,
9 passenger or even light-duty, uh, vehicles. So they're fundamentally
10 different. So understanding the mix of traffic, um, factors into the accuracy
11 of capacity calculations, as well as to safety considerations.

12 EHRLICHMAN: Well, when you work on traffic studies with a traffic team, a
13 team of traffic professionals, um, are you at times, uh, asked to identify
14 those kinds of potential conflicts when you're, uh, with the project, the
15 addition of the proposed project?

16 TILGHMAN: Um, sure. If you're, um, if you have, um, a study area that has a
17 lot of topography, that is, uh, the roads have steep grades and, um, you have
18 information that there are or will be a higher proportion of heavy vehicles,
19 you've got to take that into account, um, to see if the road is adequate to
20 that volume and mix of traffic. So, yes.

21 EHRLICHMAN: So, when you work on, uh, traffic studies and you're asked to
22 identify potential conflicts between, uh, existing traffic and the traffic
23 when you add the project, those are the kinds of elements that you look for,
24 you mentioned, um, the topography, steep grades, the proportion of heavy
25

1 vehicles, those are the kinds of things that you identify or look for, uh, in
2 trying to identify potential conflicts?

3 TILGHMAN: Yes. Absolutely. And especially if they're going to have to be
4 pulling out of, um, driveways, um, they take more time, traffic behaves
5 differently, you've got to factor that in.

6 EHRLICHMAN: Okay. And had you worked on that type of traffic analysis, um,
7 more than, uh, more than ten times?

8 TILGHMAN: Well, that would be a feature of virtually all analyses. They may
9 or may not include large proportions of heavy vehicles. But, um, many of the
10 traffic counts that are commissioned, that I commission, um, would then have
11 vehicle classifications as part of that data that is reported so you know the
12 proportion of trucks. Um, I was, uh, working for a Seattle Parks, um, on a
13 project this past year and used classification data to understand, um,
14 traffic performance and safety considerations where pedestrians would have to
15 cross the street to the new park. Um, it was an area that was, um, provided
16 truck access to, uh, warehouse, um, loading yards. So, it was obvious trucks
17 were a factor, that was, um, a key element in, in the analysis of, uh, how to
18 treat the street.

19 EHRLICHMAN: So, in this case, if you had been asked to, um, identify
20 potential conflicts as part of a safety analysis on Grip Road, would you have
21 tried to identify places where pedestrians have to cross the street?

22 TILGHMAN: Uh, yes. One wants to know where are there pedestrian facilities.
23 Um, if not, are there pedestrians walking along the street? Um, what, what
24 fea-, what characteristics, um, did they exhibit? And, yes, are there places
25

1 where they are known to cross the road and does that raise questions of
2 whether it's an adequate and safe place to do that.

3 EHRLICHMAN: And, for example, children getting off school buses?

4 TILGHMAN: Yes. That is a, um, a very good instance of, um, understanding
5 pedestrian needs.

6 EHRLICHMAN: So, you testified that none of the studies and none of the
7 testimony by Mr. Norris or Mr. Jones, uh, mentioned school buses. Did they
8 mention, uh, school bus stops?

9 TILGHMAN: There's no mention of school buses, school bus routes, school bus
10 stops, number of buses, there's simply no mention of school buses on Grip
11 Road.

12 EHRLICHMAN: And when they did their traffic count analysis in 2020, attached
13 to Exhibit 18, what time of year, uh, did they, were those counts taken in?
14 Was it during the school year?

15 TILGHMAN: Well, some of the counts were from August, um, would have been
16 just prior to the school year.

17 EHRLICHMAN: But it wouldn't, that isn't a time when you expect to see the
18 full, uh, the full school bus traffic that is, that we've heard about this
19 morning, is it?

20 TILGHMAN: Uh, no, it is not.

21 EHRLICHMAN: Okay. So, let's go back to where we started here. Um, don't the
22 Comprehensive Plan Policies and the Standards for Mining Special Use Permits
23 require the Applicant to demonstrate, uh, protection of public safety?
24
25

1 LYNN: I, I would just want to note that we're getting more and more
2 into leading questions and I think the wi-, the Attorneys can ask questions
3 that they know are framed properly.

4 REEVES: It really wasn't an objection, I think it was just noting
5 something. I, I don't disagree, but go ahead, Mr. Ehrlichman. And further, I
6 think the Attorneys can make the legal arguments in closing briefs about
7 what's required by what. But I certainly understand this is a, a, an expert
8 witness. But go ahead, Mr. Ehrlichman with your question.

9 EHRLICHMAN: Mr. Tilghman, you're familiar with the County's adopted policies
10 and code requiring the Applicant to demonstrate protection of public safety,
11 are you not?

12 TILGHMAN: Yes, I am.

13 EHRLICHMAN: Okay. And whether or not a Level 2 Traffic Analysis was required,
14 wouldn't you expect to see analysis of traffic impacts that includes not only
15 identification of potential conflicts, but also analysis of how those
16 conflicts might increase with the project?

17 TILGHMAN: Um, yes. The first thing is, it's, it's hard to evaluate, um, an
18 issue if the issue hasn't been identified. So, one, it has to be identified.
19 And then it can be analyzed and evaluated. And, yes, there are County
20 policies that talk about insuring safety, um, of, uh, truck traffic and, um,
21 evaluating potential effects of truck traffic.

22 EHRLICHMAN: Is there anything in the Road Standards that says if you have
23 fewer than 50 peak hour trips, you don't have to, uh, do a safety analysis?

24 TILGHMAN: Um, yeah, it doesn't read that way. There's no prohibition on
25 doing the safety analysis at any level.

1 EHRlichman: So, in order to meet, uh, the mining standards, is it your
2 professional opinion that a safety analysis was required in this case, even
3 though no Level 2 Analysis was strictly required?

4 TILGHMAN: Well, according to the Comprehensive Plan Policy, um, to ensure
5 safety, some analysis would have been necessary to determine whether safety
6 is, in fact, being ensured.

7 EHRlichman: Was it enough that the Applicant's traffic engineer identified
8 the crash history for the past five years on Grip Road?

9 TILGHMAN: That is but a first step and, again, as, as he noted, and as his
10 report says and as I noted earlier, the crash history, um, pertained only to
11 reported crashes at intersections. Um, it did not include any experience on
12 any other segment of the road. And there was no subsequent evaluation of any
13 other aspect of safety based on roadway width, lack of shoulders, vehicle
14 mix, school buses, any other aspect of traffic operations.

15 EHRlichman: But in other cases, I mean, just sort of generally, when a
16 traffic study finds a low crash history, um, oftentimes they don't include a,
17 a detailed conflicts analysis, correct?

18 TILGHMAN: That is frequently the case, yes.

19 EHRlichman: So, in this case, where we had a low crash history, uh, why would
20 we have needed, uh, a, a conflicts analysis, a saf-, a safety analysis?

21 TILGHMAN: Well, it's important to understand that the crash history is a
22 historical record, it is not a predictive record. And in this particular
23 instance, when the mix of vehicles is going to change so dramatically because
24 of the introduction of these heavy, uh, gravel hauling trucks, um, the crash
25 history, which would appear not to include, um, many, if any, uh, gravel

1 trucks, would not be an useful predictor of future, um, crash potential. So,
2 it's this context, at I testified previously, the context of adding so many
3 long, heavily laden vehicles, and even unladen these vehicle vastly larger
4 and heavier than other, um, cars and light trucks on the road. It's that
5 context of introducing dramatically different vehicle type on a winding,
6 narrow substandard road, that raises the question of what will future crash
7 potential be? And past crash history we, um, is not an adequate indicator of
8 future experience in this situation.

9 EHRLICHMAN: So, if I understand your testimony, in this case, the, the
10 Applicant's engineer found adequate, um, capacity, in terms of the level of
11 service, found a low crash history over a five-year period, but you are
12 saying to meet the safety standard, you have to look further than that?

13 TILGHMAN: Um, yes. Um, particularly in the context of substandard roads,
14 roads where there are sight distance problems, roads where long vehicles
15 cannot stay within their lanes without encroaching on the opposing lane or
16 tracking off of the paved area. Um, but, yeah, that's sufficient grounds to
17 do additional analysis of safety concerns.

18 EHRLICHMAN: Uh-huh. And what about the presence of, um, school buses with 20
19 to 30 kids? Is that a factor that also, uh, is grounds to go further?

20 TILGHMAN: The fact that the school buses stop on Grip Road, make multiple
21 stops and in fact turn around and then travel the other way, making
22 additional stops, yes, in my opinion, that is ample ground for evaluating,
23 um, the potential conflict between the heavily laden gravel trucks and
24 school buses with ch-, loaded with kids.

1 EHRlichman: Let me check my notes for a moment, if I may pause for a moment.

2 Have you seen the Applicant's, um, recent submittal which is a depiction of

3 the truck/trailer combination? I'm going to refer you to, uh, the marked up

4 Exhibit that I sent you, which, Mr. Examiner, we'd like to introduce as

5 Exhibit 49 S13. It is the same exact Exhibit provided to us by Mr. Lynn, uh,

6 yesterday and I have added notes about the, uh, lengths that are missing from

7 that, uh, you do the math and come up with a, a truck length and a trailer

8 length. I'd like to introduce that at this time.

9 REEVES: Okay. And I have no objection. I certainly will not rely on your

10 math, I'll check the math myself, but any, any objection from others?

11 LYNN: No.

12 REEVES: Okay. Uh, S13 is admitted.

13 EHRlichman: Uh, so, Mr. Tilghman, if you can take a look at that Exhibit,

14 when you talk about the length of the truck/trailer combinations that's being

15 proposed here as being, being one of those elements that's grounds for

16 additional safety study, uh, what is the length of the, the total

17 truck/trailer combination? Is it 74, close to 75 feet long?

18 TILGHMAN: Yes, it's one inch shy of 75 feet at 74 feet, 11 inches, end to

19 end.

20 EHRlichman: Okay. And looking at my notation and others will check the math,

21 uh, what would the length of just the truck itself be?

22 TILGHMAN: Well, just, um...

23 EHRlichman: You see the note below the truck?

24 TILGHMAN: Yeah. Um, yeah. Um, at the moment, I'm not seeing the overall

25 dimension of just the truck, but that is, um...

1 EHRlichman: I wonder if it didn't show up in my, uh...

2 TILGHMAN: Yeah. I, I mean, I...

3 EHRlichman: Exhibit. So, let's, let's, uh...

4 TILGHMAN: Feet and inches here, um, it is...

5 EHRlichman: That's all right.

6 TILGHMAN: Well, over 20, well over 20 feet, uh, just the bed, the dump bed
7 alone is 18.5 feet. Um, and then there's the, um, basically the length of the
8 cab in front of that. Um, that dimension is not separately shown in this
9 Exhibit.

10 EHRlichman: That's okay. I, apparently, my Exhibit that I transmitted did not
11 have my notations on it. And I'll...

12 TILGHMAN: Sir, I see on a second page, um, the cab is, is noted separately
13 at 122.5 inches, uh, then there's a little gap to the bed and then the bed is
14 18.5 feet, so it's, um, it's roughly, um, twenty-, 28 to 29 feet long.

15 EHRlichman: Okay. Very good. And do you happen to recall, um, Mr. Norris'
16 testimony of the, uh, dimensions of the truck that he used for his auto-turn
17 analysis? I've got that if you don't recall.

18 TILGHMAN: I don't remember the specific, uh, dimension, no.

19 EHRlichman: Let's, uh, see if I can pull that up here. I believe he testified
20 that the width of the truck was eight and a half feet. Um, Mr. Examiner, I'd
21 like to introduce our, uh, Exhibit, sorry, wheels are falling off here
22 momentarily. Well, strike that. I'll come back to that. Let's talk for a
23 moment about the, um, the roadway on Grip Road. Uh, are you familiar with the
24 table, B6, that is, uh, attached to Exhibit 18? We've offered it here as
25 Exhibit 49 S14.

1 TILGHMAN: Um..

2 EHRLICHMAN: Is the, the, uh, rural major and minor collector roadway cross-
3 section, uh, from the Rural Area Roadway Design Standards. It's Figure B6.

4 TILGHMAN: Okay. Unfortunately, I don't have that one right in front of me.

5 EHRLICHMAN: Okay.

6 TILGHMAN: Um, but if you give me a moment, I may be able to get to it.

7 EHRLICHMAN: No, that's all right. Let's, let's move on. We want to keep, keep
8 going here. So, I don't want to stall on that, we can come back to that in
9 another, uh, portion here. Let's, uh, let's try to wrap this up with a
10 summary here of, of what I've heard you say. Um, you have experience working
11 on traffic impact analysis, you, uh, have been asked in different, uh,
12 projects to, uh, help with the safety analysis. You know how to identify
13 potential conflicts, what elements to look for, correct?

14 TILGHMAN: Yes, that's true.

15 EHRLICHMAN: Okay. And in this case, even if a Level 2 Analysis wasn't
16 required, do you find the, uh, safety analysis method that's described in
17 that section 4.09, uh, to be similar to what you have described as your
18 method?

19 TILGHMAN: Well, yeah. Looking at identifying conflict points.

20 EHRLICHMAN: Okay.

21 TILGHMAN: As a key, um, key matter. Um, and, um, yes. Uh, conflict points,
22 frequently, frequency of conflicts, excuse me and severity of conflicts. Um,
23 and considering the, uh, both the volume and the, uh, mix of vehicles present
24 is, um, very, um, I think adequate way to, uh, to begin that analysis, yes.

1 EHRlichman: Okay. And just taking the case of the school buses alone, um,
2 your, you have, in your testimony, identified the conflict points, correct?
3 The places where the buses stop and turn around?

4 TILGHMAN: Well, those are key conflict points, uh, relative to the school
5 buses, yes.

6 EHRlichman: And then also just travel on the road around the sharp turns,
7 correct?

8 TILGHMAN: Yes.

9 EHRlichman: So, you've identified the conflict points and now in your
10 testimony you have said that you've reviewed all of the traffic studies, so
11 you understand the frequency and severity of conflicts based on expected
12 traffic volumes, correct?

13 TILGHMAN: Well, not based on the, um, the traffic study because there
14 wasn't any information about school buses in the traffic studies so we
15 couldn't evaluate that, um, frequency of...

16 EHRlichman: Well, but the, that's...

17 TILGHMAN: On the truck volumes, but you have to make your own, draw your
18 own conclusions because they weren't available from the, uh, Traffic
19 Analysis.

20 EHRlichman: Right. I understand. And my point was that you've looked at the
21 traffic volumes that they're projecting based on those, their studies,
22 correct?

23 TILGHMAN: Yes.

24 EHRlichman: So, I'm walking through this formula that they have, it says a
25 conflict analysis should determine the number of conflict points, we just

1 covered that, the frequency of conflicts and severity of conflicts based on
2 expected traffic volumes. Well, you seen the bus schedule, correct?

3 TILGHMAN: Yes.

4 EHRLICHMAN: Is the potential for frequent conflicts there?

5 TILGHMAN: Um, yes. And, and the additional knowledge that, um, we got, you
6 know, four, four different bus routes each day that currently use Grip Road.

7 EHRLICHMAN: Uh-huh.

8 TILGHMAN: Important extra bit of information that we've heard from your
9 earlier witnesses was, was at least two of those buses turn around and come
10 back, travel the length of Grip Road again. So it's as if there were two
11 extra routes. Um, so there's plenty of opportunity for, um, buses and gravel
12 trucks to encounter one another on Grip Road, both in the morning...

13 EHRLICHMAN: Uh-huh.

14 TILGHMAN: And the afternoon.

15 EHRLICHMAN: Okay. And would you consider that if a conflict occurred between
16 a gravel truck trailer and a school bus, due to a crossover, failed brakes,
17 some other driver error, would you consider that conflict to be a severe,
18 highly severe conflict, moderate or low in severity?

19 TILGHMAN: Well, if a 105,000 pound, uh, truck, um, were to collide in some
20 fashion with the school bus, yes, I would think the, uh, the severity of the
21 degree of collision would be quite severe and the risk of injury, uh, quite
22 high to passengers in the bus.

23 EHRLICHMAN: And is the severity of that potential conflict higher when the
24 bus is loaded with school children as opposed to three or four school
25 children?

1 TILGHMAN: Well, um, the severity in terms of the number of people who could
2 potentially be injured, yes, that would go up as there are more passengers in
3 the bus. The severity of the individual injuries may not be different, but
4 you've to more people who could be injured.

5 EHRLICHMAN: And that's a factor in, in determining severity?

6 TILGHMAN: Yes.

7 EHRLICHMAN: You heard the testimony this morning about, uh, the school buses
8 having, being three-quarters full in the morning?

9 TILGHMAN: I heard that.

10 EHRLICHMAN: Okay. So, again, would you consider the potential, if, if a
11 conflict occurred with a school bus and a gravel truck from this project,
12 would you consider the potential severity high, medium or low?

13 TILGHMAN: Well, I would say high.

14 EHRLICHMAN: Okay. And have you reviewed the expected traffic volumes from
15 this project?

16 TILGHMAN: Yes.

17 EHRLICHMAN: Okay. And do those traffic volumes include up to 30 truck trailer
18 combinations per hour? That would be 15 loaded, 15 unloaded?

19 TILGHMAN: Uh, they do.

20 EHRLICHMAN: Okay. And have you, uh, reviewed the mix of traffic that will be
21 on Grip Road when those gravel trucks are operating based on the testimony
22 you've heard in this case?

23 TILGHMAN: Well, the testimony indicates that the mix of traffic includes
24 school buses, as well as, um, other users on Grip Road. So, to that extent,
25 yes.

1 EHRlichman: And did you hear the testimony that said in addition to school
2 buses, there are school children traveling by private car frequently on Grip
3 Road?

4 TILGHMAN: Yes, I heard that, too.

5 EHRlichman: Okay. So, we've just gone through the sentence in 4.09 that says
6 Conflict Analysis should determine the number of conflict points, frequency
7 of conflicts and severity of conflicts based on expected traffic volumes and
8 mix of traffic. Now, your point earlier to me was that, well, there wasn't
9 anything in the traffic reports that did that, is that correct?

10 TILGHMAN: That's correct. Yes.

11 EHRlichman: And so, it's hard to evaluate, uh, whether the Applicant has met
12 their burden of, of showing, protecting public safety, uh, without that type
13 of analysis in print?

14 LYNN: Uh, I'm going to object.

15 EHRlichman: Let me rephrase it.

16 REEVES: Bill, Bill Lynn, you're muted. Mr. Ehrlichman is going to
17 withdraw and rephrase the question.

18 EHRlichman: So, um, your point was that, uh, it isn't, there isn't that type
19 of analysis in the traffic studies Exhibits 12 through 18, correct?

20 TILGHMAN: That's right.

21 EHRlichman: Okay. Finally, in that paragraph it says similar to the manner in
22 which accidents are grouped by type of collision, traffic conflicts are
23 arranged by type of maneuver. So, if there had been a traffic analysis or you
24 were performing one, um, uh, a conflict analysis, excuse me, um, what would
25

1 that add to the equations to look at arranging the traffic conflicts by type
2 of maneuver?

3 TILGHMAN: Well, conflict points arise at intersections, whether it's a
4 driveway or a regular, uh, two public streets meeting one another. Um, where
5 each different traffic movement straight through, turns, left turns, right
6 turns, um, you identify how many potential points of interference or
7 collision there could be, um, and then particularly in the case, say of
8 school buses, where they have to stop in the road and that is, um, a frequent
9 and regular occurrence, those are additional conflict points. And then in
10 this case, where, where the bus turns around, it, it slows, it turns into a
11 driveway then re-enters the road heading in the other direction. That's
12 another set of conflict points with, um, traffic on the road. Um, so, yes,
13 it's the, it's the vehicle maneuvers that often determine, um, what type of
14 conflict points there are and where they're located.

15 EHRLICHMAN: Very good. And the whole point of that, doing that type of
16 analysis, which does, well, let me ask you this, so in that last sentence we
17 just read and you commented on just now, the, the conflicts analysis should
18 include a discussion specific to the school bus man-, type of maneuver, is
19 that correct?

20 TILGHMAN: Yes. That's why the school buses are an issue in the first place.
21 They have to stop in the road, um, multiple times. And then in this case, it
22 actually turns off the road and then back on in the other direction. Yes.

23 EHRLICHMAN: Okay. And so we have no discussion of that in the traffic
24 studies, correct?

25 TILGHMAN: That's correct.

1 EHRlichman: We have traffic counts that were performed in August, uh, not
2 during the main school year, bus traffic period, correct?

3 TILGHMAN: Correct. I clarify, some intersection counts were done in
4 December, but other roadway counts were done in August and, yeah, would have
5 missed the school year and school bus traffic.

6 EHRlichman: Okay. And then as we'll continue down here in this example as a
7 type of safety study described in 4.09, it says a field study should be
8 completed and the revo-, results evaluated to identify the types of
9 conflicts, roadway intersection, characteristics that contribute to the
10 conflicts and what alternative treatments should be considered to correct the
11 problem. I'm going to assume, but I'll ask the question, if the, the studies
12 and the testimony, uh, didn't include the conflicts analysis, they certainly
13 didn't include a discussion of what alternative treatments should be
14 considered to correct identified problems, correct?

15 TILGHMAN: That's right. As I said earlier, um, it's hard to evaluate and
16 resolve a problem that hasn't been identified in the first place.

17 EHRlichman: That makes perfect sense. I think the Examiner coined a term
18 common sense, common senseality [sic] or something like that, the other day.
19 Um, and you've identified, uh, the types of problems that may arise from
20 this, uh, proposal in our discussion this morning, haven't you?

21 TILGHMAN: Yes, I believe so.

22 EHRlichman: Okay. You're not trying to perform an, an alternatives analysis
23 or, or describe the mitigation, uh, here as a, as a traffic expert, are you?

1 TILGHMAN: Um, no, I'm not. I'm here, I'm simply identifying what I believe
2 there are, um, problems that have been, um, unidentified so far and
3 unaddressed.

4 EHRLICHMAN: Okay. We have the testimony of Forrest Jones, who is a traffic
5 engineer, uh, did you listen to his testimony where he agreed that the
6 problem of conflicts with school buses would be eliminated if the trucks were
7 not, uh, allowed to operate during the times the school buses were on the
8 road?

9 TILGHMAN: Yes, I heard that.

10 EHRLICHMAN: Do you agree with him?

11 TILGHMAN: Well, yes. By definition, if the trucks aren't there, there's no
12 conflict between gravel trucks and school buses.

13 EHRLICHMAN: Do you recall in the early traffic memoranda submitted by the
14 Applicant that they actually proposed operations that would not put trucks on
15 the road during those school bus hours?

16 TILGHMAN: Uh, yes, I do.

17 EHRLICHMAN: Didn't they propose operating only between 9:00 a.m. and 3:00
18 p.m.?

19 TILGHMAN: Yes, that's right.

20 EHRLICHMAN: So, the Applicant actually proposed, uh, without even doing,
21 presenting a conflicts analysis, they actually proposed something, whether it
22 was unwitting or, or not, that Forrest Jones testified would eliminate the
23 conflict you've identified today, is that correct?

24 TILGHMAN: Um, yes, that's the, uh, the logic of that, right.
25

1 EHRlichman: Uh-huh. Is there anything further that you would like to add in
2 your testimony today that I have not covered?

3 TILGHMAN: Um, well, I would note in terms of, um, we've talked a lot about
4 the school buses, um, in particularly Grip Road west of the mine site, but we
5 heard earlier testimony on, I heard your earlier witnesses who live, um, who
6 talked about the school bus stops near the 90 degree curves to the east of
7 the mine site. Um, and the sight distance, um, is one of their concerns. It's
8 too limited for oncoming traffic to see kids crossing the street after
9 getting off the bus. Um, that, um, is an issue that I recall, the traffic
10 study did not discuss conditions east of Grip Road, not its, not its
11 alignment, not the sight distance issues, not the use of traffic, not the
12 railroad crossing, just no discussion about that. Um...

13 EHRlichman: When you say east of Grip Road, you mean east of the mine
14 entrance?

15 TILGHMAN: East on Grip Road, east of the mine entrance, yes.

16 EHRlichman: Okay. Thank you. Sorry to interrupt, go ahead.

17 TILGHMAN: And I would note that, uh, one of the peer reviews, I believe by
18 HDR, um, noted that, um, there was similar sight distance deficiencies on
19 that section of Grip Road as there were on the mine entrance and at the
20 Grip/Prairie intersection. And that those, um, deficiencies on east side,
21 east end of Grip Road, should be mitigated as well. Um, but I've not seen any
22 follow up to, uh, to that recommendation. And since that, that's a, a general
23 safety concern for all traffic, but, um, from what we've heard, it's, uh,
24 it's a specific concern, uh, for the operation of school buses.

1 EHRlichman: Was there any explanation in any of the traffic memoranda, in
2 Exhibits 12 through 18, as to why they didn't analyze sight distance problems
3 identified by HDR east of the mine entrance?

4 TILGHMAN: Um, no explanation that I saw.

5 EHRlichman: But didn't the trip distribution shown in Exhibit 18, assign at
6 least some of the truck trips to go east of the mine entrance on Grip Road?

7 TILGHMAN: Uh, yes. I believe it, uh, assigned 5% of trips, uh, to and from
8 the east on Grip Road.

9 EHRlichman: So, from that we can conclude that the Applicant knew that some
10 of the gravel trucks would travel in that direction?

11 TILGHMAN: Uh, yes, it's part of their proposal, evidently.

12 EHRlichman: Do you know whether any of their, um, well, let me rephrase that.
13 Do you happen to recall in Gary Norris' testimony on September 2nd, that he
14 said that the segment of Grip Road, segments of Grip Road to the east were
15 not part of the site area that was the subject of their traffic analysis?

16 TILGHMAN: Um, I don't know that I recall that specifically. Um, like I
17 said, they didn't do any analysis in that area, whether it was, for whatever
18 reason, I'm unclear about the reason.

19 EHRlichman: Um, okay. Isn't this question we've been discussing this morning,
20 one of the most important reasons to do a traffic study?

21 TILGHMAN: Um, well, absolutely. And I think the, um, I think the
22 introductory line of the, um, uh, the road standards, the government studies
23 is all about safety, um, yes, ultimately, it's the sufficiency of
24 infrastructure from a capacity point, but, yes, the primary concern is and
25 has to be safety.

1 EHRlichman: Isn't it enough to do the trip capacity analysis, um, to
2 determine safety?

3 TILGHMAN: Um, I...

4 EHRlichman: Let me repara-, let me strike that and rephrase that question.

5 REEVES: Didn't we have a half hour of testimony on him thinking it wasn't
6 enough. I, I'm just wondering where we're going here.

7 EHRlichman: Oh, did you catch that? I, I probably don't even...

8 REEVES: Well, I've been listening.

9 EHRlichman: This whole time, Mr. Ehrlichman. I, I, this is the second time
10 I've listened closely to Mr. Tilghman. So...

11 EHRlichman: Yeah. I hope that's helpful.

12 REEVES: Well, go ahead with the, uh, question, a specific question.

13 EHRlichman: We, we've heard the, um, traffic engineer for the Applicant
14 testify that the trip capacity analysis is a safety analysis and therefore he
15 conducted a safety analysis on Grip Road, do you agree or disagree with that
16 statement?

17 TILGHMAN: Um, I generally disagree. It is true to the extent that, um,
18 capacity is, or use of capacity is perhaps one factor, um, in the safety
19 analysis. Um, but that alone is, um, not a full comprehensive safety
20 analysis.

21 EHRlichman: All right. And, and you also know that they did look at some
22 sight distance safety issues, correct?

23 TILGHMAN: That's right.

24 EHRlichman: But is it your testimony that they missed the other elements of a
25 safety analysis? Isn't that the gist of it?

1 TILGHMAN: Yes.

2 EHRLICHMAN: And, again, I want to close by asking the question, isn't the
3 safety of the school children on Grip Road, shouldn't that be foremost in the
4 decision-maker's mind when applying the County's Policies and Standards for a
5 Mining Special Use Permit?

6 TILGHMAN: Um, well, yes. Safety is paramount. Again, the, um, the first
7 purpose listed for the, uh, purpose of the TIA is to determine safety impacts
8 a particular development will have. Um, so, yeah, safety is paramount.

9 EHRLICHMAN: And if, even if the, uh, trip count isn't high, the severity of
10 the conflicts could still be considered high?

11 TILGHMAN: Yes. Yes. The potential for injuries should there be any kind of
12 collision between a loaded gravel truck and a school bus, or other vehicle,
13 um, is very high.

14 EHRLICHMAN: So, the significance of the possible, uh, impact is high in your
15 opinion?

16 TILGHMAN: Yes. One wants to do a proper analysis of it, but, um, again,
17 that difference between heavily loaded, long, large vehicles and vehicles
18 loaded with children and, um, other vehicles, um, raises grave concerns.

19 EHRLICHMAN: Let me ask you a hypothetical, if the Hearing Examiner were to
20 approve this project as currently conditioned, and Miles Sand and Gravel were
21 to open up another gravel mine within, within a couple of miles here that
22 also utilized Grip Road, would there be a different type of safety analysis
23 for this proposal or would you expect there would be, um, something else than
24 what you've seen?

1 TILGHMAN: Um, well, given that we haven't seen a safety analysis, I would
2 love to see a proper safety analysis, uh, whether it's one, two or more, uh,
3 mining operations. There simply needs to be a safety analysis.

4 EHRLICHMAN: Okay. Um, I asked the wrong question, sorry. Let's assume they
5 did a safety analysis or the Hearing Examiner finds that the analysis they
6 did is adequate to meet the safety test for this project. That's the
7 hypothetical. If the second mine began operating using Grip Road, would the
8 impacts, the accumulative impacts of both projects be different than the
9 impacts of this project alone?

10 REEVES: And...

11 EHRLICHMAN: It's a hypothetical.

12 LYNN: I'm just going to object. There's already been evidence that
13 that's not the case. It's completely hypothetical and therefore not probative
14 of anything.

15 REEVES: I'll sustain the objection. Let's move on, Mr. Ehrlichman, you
16 have other questions?

17 EHRLICHMAN: Mr. Examiner, I'm going to, uh, ask you to reserve, um, a slide
18 in the, uh, presentation of Exhibits here for me to present you with the
19 parcel ownership that I was not able to, uh, pull together in time for this
20 morning. I can get it to you by this afternoon, that shows that Miles owns,
21 uh, a gravel mine that is serviced by Grip Road, within a couple of miles of
22 this mine. I want that evidence in the record. My question to this witness is
23 the obvious, which is...

24 REEVES: Right.

1 EHRlichman: Wouldn't the traffic analysis, looking at two mines here, uh,
2 result in a, in a more, uh, uh, a higher severity of, of safety concern than
3 just looking at this one proposal standing alone. That's my question...

4 REEVES: Sure.

5 EHRlichman: To this witness.

6 REEVES: And I, and I understand the objection. I sustained it. We're
7 going to move forward. If you get that evidence, we can move on. I do stress
8 I'm not a complete idiot. I, I understand that if you have more things
9 there's greater impacts. So, I, I, you know, let's, let's move forward with
10 specifics rather than hypotheticals.

11 EHRlichman: Okay. Um, Mr. Tilghman, are you aware that Miles owns the gravel
12 mine, uh, off of Grip Road in addition to this one?

13 TILGHMAN: Um, so I have heard.

14 EHRlichman: Okay. Uh, would a safety analysis for this mine, uh, reasonably
15 include a cumulative impacts analysis?

16 TILGHMAN: Um, if there's a, um, known proposal, um, for, um, any other
17 operation, um, accu-, a cumulative analysis should take into account all
18 known and expected, um, additions to traffic. Um, and one would then have to
19 understand the vehicle mix, the conditions impose and that should be, um,
20 considered in, uh, the safety analysis.

21 EHRlichman: Mr. Examiner, this is not, uh, now a hypothetical question. Uh,
22 this is a fact that Miles owns the second gravel mine and has the mineral
23 resource overlay and in this preceding has argued they have a right to, uh,
24 operate a mine any time there's a mineral resource overlay...

25 REEVES: [Inaudible.]

1 EHRlichman: Uh, with a, let me, let me finish, please, with a, with a type of
2 traffic analysis we've seen in this case. My argument to you in, uh, briefing
3 would be obviously, uh, that with that evidence, um, there, there is a need
4 to remand this back for additional study that includes an a cumulative
5 impacts analysis. Thank you. I have nothing further for Mr. Tilghman.

6 REEVES: Okay. Uh, it's almost 10:45. I'd suggest a short restroom break.
7 And then we'll come back and do cross-examination and I'll start with Mr.
8 Loring, if he has questions and then, uh, Mr. D'Avignon and Mr. Lynn. So,
9 we'll come back, why don't we say shortly after 10:50, just to, you know,
10 10:53, give us ten minutes for the restroom. We'll be back shortly. Thank
11 you, everybody.

12 EHRlichman: Thank you.

13 LORING: Thank you.

14 EHRlichman: Thank you, Mr. Tilghman.

15 [The tape ends.]

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

17 I, Janet Williamson, declare under penalty of perjury, under the laws of the State of Washington
18 that the following statements are true and correct: I am over the age of eighteen (18) years and not a party
19 to this action. That on May 10th, 2024, I transcribed a Permit Hearing, conducted by Andrew Reeves, that
20 took place on 9/23/22 at 9:00 a.m., regarding the above-captioned matter.

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

23 Signed at Mount Vernon, Washington, this 10th, May of 2024.

24 Janet Williamson

25 Janet Williamson