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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 9-2-22 11:30 AM
14 Appeal of Mitigated Determination of)
15 Significance by Central Samish Valley)
16 Neighbors

17 Transcription Date: April 23rd, 2024

18 Present: Andrew Reeves, Bill Lynn, Tom Ehrlichman, Neil Mcleod, Jason
19 D'Avignon, Kyle Loring, Kristen Wallace, Mona Kellogg, John Semrau

20 REEVES: Uh, so we were going to check real quick with Mr. Lynn to see if
21 he was able to sort anything out. I know it wasn't a long period of time, but
22 and muted still.

23 LYNN: Uh, it wasn't quite enough time so I think I'll have to report
24 back after noon.

25 REEVES: No problem at all. So, with that, um, well, first question is,
is, if need be, uh, is Mr. Norris around today? I have no intent of bringing
him back later, you know, but, is he around through the lunch break?

1 LYNN: Yeah. I, I didn't, I checked to find out exactly what his
2 schedule is, but, uh, I'll, I'll be in touch with him. And I'll as-, I'll
3 send him an email right now.

4 REEVES: Thank you. I guess if worse comes to worse, we can probably get
5 something in writing, if need be. But, with that, I think we can move to, uh,
6 Mr. Ehrlichman, who has a witness we're going to take out of order. Tom,
7 you're muted at the moment.

8 EHRLICHMAN: Thank you, Mr. Examiner, are we ready to proceed?

9 REEVES: I believe we are, so...

10 EHRLICHMAN: Great. Um, I'd like...

11 REEVES: Go ahead.

12 EHRLICHMAN: Thank you. On behalf of Cougar Peak, appreciate the opportunity
13 to present, uh, testimony from Neil Mcleod, he's not available next week.
14 And, uh, if we could swear him in, Mr. Examiner?

15 REEVES: Okay. Uh, Neil Mcleod, do you swear or affirm to tell the truth
16 in the testimony you give here today?

17 MCLEOD: Yes.

18 REEVES: And could you just state and spell your name for the audio
19 recording?

20 MCLEOD: My name is Neil Mcleod spelled N-e-i-l M-c-l-e-o-d.

21 REEVES: Thank you, go right ahead, Mr. Ehrlichman.

22 EHRLICHMAN: Um, Mr. Examiner, as a, uh, housekeeping matter, um, we would
23 like to submit into the record a letter from Mr. Mcleod that I sent in this
24 morning to everyone. And may I suggest that we include it as part of Exhibit

1 47, which is already our, uh, packet of Exhibits, uh, designated by the
2 Hearing Examiner's Office?

3 REEVES: No issue from me. Uh, if any of the Attorneys have an issue,
4 raise your hand. No hands raised. Go right ahead. It's included as S-,
5 wherever we're at in the numbering.

6 EHRLICHMAN: Thank you, Mr. Examiner. Um, let's, uh, quickly hit some of the
7 high points, um, and then the letter summarizes in, or, uh, states in more
8 detail, uh, Mr. Mcleod's testimony. Um, but Neil, would you tell us quickly a
9 little of your background, how long you've lived, uh, where, where your
10 residence is located, how long you've lived there and, um, a little bit about
11 your family and what you do there?

12 MCLEOD: I live at 21454 Grip Road. Um, I'm the caretaker for Cougar Peaks
13 LLC, which, um, pertains to keeping up the roads, uh, some forestry work,
14 keeping the view corridors opened and taking care of a, um, a cabin. Um, we
15 have, uh, trades people coming in, probably at least once a week someone will
16 be here to work on either the cabin or the caretaker's house. We have, uh,
17 friends of the owner come and stay at the cabin, uh, if, but it's
18 recreational mostly and forestry.

19 EHRLICHMAN: And how long have you lived there?

20 MCLEOD: I've lived there for approximately 11 years and I've worked at
21 the place probably for about 15 years.

22 EHRLICHMAN: And you and your family, uh, built your residence there?

23 MCLEOD: Uh, the owner built the residence that we live in, um, I'm just
24 the caretaker.

1 EHRlichman: Okay. And you live there with your wife and, uh, previously with
2 your, uh, you had two children, right?

3 MCLEOD: I did. Uh, we live here now, it's just my wife and I. My one
4 daughter lived with us up here for about a year before she, um, moved out.
5 Now, it's...

6 EHRlichman: And...

7 MCLEOD: Delight [phonetic] and I and two dogs.

8 EHRlichman: Thank you. And, uh, your, uh, children and grandchildren, I
9 understand, come and visit you regularly up there?

10 MCLEOD: Absolutely. We, um, watch our two grandchildren, three and five
11 years old, every Thursday.

12 EHRlichman: Great.

13 REEVES: And I'm going to suggest, it's lovely, but let's move to the more
14 specific, uh, portions of the testimony if we could, Mr. Ehrlichman.

15 EHRlichman: And, Mr., um, Mcleod, I, I had said in our, um, discussions here
16 in this proceeding 400 acres, but it's closer to 800 acres of ownership,
17 isn't it, for Cougar Peak?

18 MCLEOD: Yes. It, it's, uh, roughly 800 acres.

19 EHRlichman: And, um, tell us about the proximity of the driveway to the
20 proposed mine?

21 MCLEOD: Um, we're probably, uh, 500 feet, something like that, north of
22 the entrance to the mine.

23 EHRlichman: And describe what it...

24 MCLEOD: Right at the top of the S-curves.

25 EHRlichman: I'm sorry?

1 MCLEOD: Right at the top of the S-curves.

2 EHRLICHMAN: Your driveway is at the top of the S-curves?

3 MCLEOD: Yes.

4 EHRLICHMAN: Okay.

5 REEVES: My apologies, just so I don't get confused, when you say the
6 entrance to the mine, do you mean the access road lead ultimately to the mine
7 or are you actually 500 feet from...

8 MCLEOD: The access road, the access road to the mine and we're on the
9 other side of the road.

10 REEVES: Alright. Thank you. Go ahead.

11 EHRLICHMAN: And you, uh, prepared the map, uh, with, with my suggestions that
12 you attached to your letter, correct, that's Exhibit 47 S1A?

13 MCLEOD: Correct.

14 EHRLICHMAN: Okay. So, that map will, um, provide the context here. Now, when
15 you and your family or employees, um, travel on Grip Road, tell us what your
16 concerns are that got you involved here?

17 MCLEOD: Um, the safety of the, the safety of the road is the only thing
18 I'm interested in. I have no problem with the gravel mine, um, but I want to
19 see safe roads. Um, many times, you know, somebody will cross the line, it's
20 a narrow road, no shoulders. I think if you live on this road, you've had at
21 least one narrow, you know, where somebody is over the line and you have to
22 get out of the way. I've seen one car that has, uh, gone over the side of the
23 road. But there's been, over the years, there's numerous accidents, um, where
24 you see the debris left over, I guess you'd say.

1 EHRlichman: And does your map show the location of where that car went, uh,
2 off the road?

3 MCLEOD: Yes, it does.

4 EHRlichman: Have you personally experienced the problem with the crossovers
5 you just mentioned?

6 MCLEOD: Uh, yes, I have. Uh, people go too fast and so they're crossing
7 the line going down the hill, usually, and if you're coming up. So, I have
8 seen people come over the line and you have to hug the side of the road as
9 best you can.

10 EHRlichman: And if there was a truck eight and a half feet wide, uh, coming
11 at you as you're traveling on Grip Road, would you be concerned about that
12 crossover?

13 MCLEOD: Yes, I would.

14 EHRlichman: Tell us where, uh, if you can, using that map, your concern would
15 be the greatest?

16 MCLEOD: Um, well, on the S-curves, that would be, uh, on the two S-
17 curves, that would be my greatest concern. On a straightaway, um, the truck
18 can stay in his lane.

19 REEVES: Okay. Sorry, out of curiosity, Jason, are you able to maybe pull
20 that up? Do you have that available? Sorry, we're referencing a map multiple
21 times. Uh, you're muted, Mr. D'Avignon.

22 D'AVIGNON: Yes, I, I can do that, Your Honor.

23 REEVES: Thank you.

24 EHRlichman: Thank you, Mr. Examiner. I wish I had the sharp point acuity that
25 would assist here.

1 REEVES: No, you don't, you don't want that. You never want to be the
2 person that gets saddled with, uh, the, the task of acuity document, that's
3 the word I'm looking for.

4 D'AVIGNON: Thank you, Mr. Examiner.

5 EHRLICHMAN: So, um, Neil, um, on this map, you've also indicated where
6 there's some school bus stops, um, and you told me at one point, I believe,
7 that the school bus traffic was a major concerns of yours. Could you talk a
8 little bit about that?

9 MCLEOD: Yes. Okay. The, uh, bus stops twice going, uh, once going down
10 the hill, at the top of the S-curves and then it turns around at the bottom
11 of the hill, um, just past all the curves. Um, a heavy truck went down the
12 road, um, there's always a possibility of running into that bus, uh, when
13 you're going down the hill and it's turning around.

14 EHRLICHMAN: Thank you. And are those buses picking up children and then
15 heading towards Sedro Woolley, generally?

16 MCLEOD: Yes.

17 EHRLICHMAN: On Grip Road?

18 MCLEOD: Yes.

19 EHRLICHMAN: Okay. And as far as you know, are there designated bus stops or
20 do those change over time, depending on, uh, what types of families and
21 children are living on Grip Road?

22 MCLEOD: Um, the one, the turnaround is, uh, designated. I think it always
23 stays there on the, where they pick them up, up further on the hill. I would
24 imagine once those kids are out of school, they will no longer be stopping
25 there.

1 EHRlichman: Thank you. And are the buses appearing both morning and
2 afternoon?

3 MCLEOD: Yes.

4 EHRlichman: And w-, are they all ages of children that you know of?

5 MCLEOD: I suppose, you know, I don't really eyeball the kids, so, um, I'm
6 just guessing.

7 EHRlichman: Okay.

8 MCLEOD: I would imagine all ages.

9 EHRlichman: Okay. Um, and have you, uh, heard some of the testimony during
10 this proceeding from the Applicant and their traffic expert?

11 MCLEOD: Yes, I have.

12 EHRlichman: Is there anything that you are, uh, hearing that you're concerned
13 about or would like to have answered by any of them?

14 MCLEOD: Um, you know, I'd really like to see what h-, you know, what
15 they're going to do to fix the road. I'd like to see that. If they're going
16 to do a good job at it, I probably wouldn't even need to be here. But I also
17 would like, um, say five and a half days a week, uh, not seven days a week,
18 uh, of use. And I want it kept to a reasonable amount of trucks. When they
19 tell me there's 60 trucks an hour, I don't know how reasonable that is. Am I
20 going to be able to get out of my driveway with any real safety when you add
21 the rest of the traffic of Grip Road? That's, um, that's, I think that's
22 poorly planned.

23 EHRlichman: Thank you, Neil. And what would make your, the point on Grip Road
24 at your driveway safer with respect to those concerns.

1 MCLEOD: Oh, that's easy, if you widen the roads, uh, um, and put a
2 shoulder on it and you keep the amount of trucks that are, um, per hour at a
3 reasonable amount, I have no objections, then.

4 EHRLICHMAN: Do you think, uh, also a reduction in the speed limit at that
5 straightaway would be helpful?

6 MCLEOD: I think that they probably should, uh, people already go too
7 fast. You should try to keep the speed down. I think a lot of the neighbors,
8 one thing I've always heard is are they going to be using Jake Brakes going
9 down that hill? That, you know, that's going to be rather noisy for the
10 neighbors.

11 EHRLICHMAN: Uh-huh. Um, but there's a straightaway there of almost 500 feet
12 between the proposed mine entrance and your driveway?

13 MCLEOD: Yes.

14 EHRLICHMAN: Um, and I don't know what speed the trucks would get up to, at
15 that point of your driveway, but I guess my question was, do you think that
16 some type of speed limit, until they get through your driveway and the S-
17 curves would be appropriate?

18 MCLEOD: Possibly. I would think that by the time they're getting close to
19 my driveway, they're going to be slowing down to go down that hill. That's,
20 this is my, my concern is trucks going up the hill are going slower. Trucks
21 going down the hill with that heavy load will probably be slowing down at my
22 driveway, so if you have too many trucks, I'm going to, to get out of my
23 driveway, I'm going to have to take a chance and be quick, try and get...

24 EHRLICHMAN: Uh-huh.

25 MCLEOD: In front of it.

1 EHRlichman: Uh-huh.

2 MCLEOD: Whatever.

3 EHRlichman: And it, and when you say you, you mean also your, your wife...

4 MCLEOD: Everybody, everybody that either comes to visit or my wife, my

5 grand, my grand, um, you know, my daughter, whoever comes up, it will be...

6 EHRlichman: Okay.

7 MCLEOD: The same thing.

8 EHRlichman: Okay. Great. Um, unless you have something else to add, I think

9 that concludes, um, our testimony right now, Mr. Examiner.

10 REEVES: Great. Um, I think we can probably take the map off, unless

11 someone else needs it. But I, I figured I'd go to Mr. Loring next, to see if

12 he had questions of this witness?

13 LORING: Uh, I don't have any questions. Thank you, Mr. Examiner.

14 REEVES: Okay. Uh, Mr., uh, D'Avignon, any questions on behalf of the

15 County?

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

17 REEVES: Okay. Uh, cross-exam, uh, from Bill Lynn?

18 LYNN: None.

19 REEVES: Okay. Well, no redirect necessary. Uh, so, Mr. Mcleod, thank you

20 so much for being here today. I think we can release you to, uh, go back to

21 the job I'm jealous of. I, I want to be a caretaker on a property, uh...

22 MCLEOD: You should be. It's a great job. Okay. Thank you.

23 REEVES: Thank you.

24 EHRlichman: Thank you, Neil.

25

1 REEVES: Okay. And so, Mr. Ehrlichman, that takes care of the witness you
2 needed out of order, correct?
3 EHRLICHMAN: Thank you so much.
4 REEVES: Okay. Then, we'll go back to Mr. Lynn. Bill, you're muted again.
5 LYNN: One of these days, I'm going to get that right. Uh, I'd like..
6 REEVES: It's becoming shtick. I mean, it's the same joke every time, I
7 love it. But right ahead.
8 LYNN: Uh, and, i-, ironically, I'll be calling our noise expert,
9 Kristen Wallace.
10 REEVES: That was, that was low hanging fruit. All right.
11 LYNN: Sorry.
12 REEVES: No, that was great. I'll get her sworn in. Do you swear or affirm
13 to tell the truth in the testimony you give here today?
14 WALLACE: I do.
15 REEVES: And if you could state and spell your name for the record?
16 WALLACE: Kristen Wallace, uh, K-r-i-s-t-e-n, last name is W-a-l-l-a-c-e.
17 REEVES: Thank you so much. Go head.
18 LYNN: And could, uh, thank you. Kristen, could you tell us, briefly,
19 what your area of expertise is?
20 WALLACE: Yes. My specialty is Environmental Noise, which would be noise
21 from traffic, industry, et cetera.
22 LYNN: Okay. And how long have you been analyzing that?
23 WALLACE: Approximately 29 years.
24 LYNN: Okay. And have you, in that period of time, done other surface
25 mines?

1 WALLACE: I've done multiple surface mines.

2 LYNN: Okay.

3 WALLACE: Numerous.

4 LYNN: Uh, have you done, uh, very many surface mines in which all that
5 was proposed is excavation without, uh, other associated activities like
6 crushing and asphalt batching and those sorts of things?

7 WALLACE: Yes, I have.

8 LYNN: Okay. Is that a common occurrence?

9 WALLACE: Um, not as common as the full, the full processing, but it's, it
10 varies.

11 LYNN: Okay. And, uh, could you describe the work that you did, uh, on
12 the Grip Road mine?

13 WALLACE: Sure. So, to conduct a noise analysis, and we took the same steps
14 here, we, um, review the mine plan, we look at, uh, aerial maps to identify
15 nearby sensitive receivers, generally residences, uh, schools, if there's
16 nearby schools, that type of thing. Um, look at the mining plan, um, identify
17 the equipment that might be used for the mine and the, the, the direction of
18 the mine, the mine phasing. Um, and then we also characterize the background
19 sound levels in the surrounding communities or at the surrounding residences
20 with sound level measurements. Um, then, we will use a noise model called
21 Can-A [phonetic], in which we put in the topography, it's a 3-D map,
22 basically, that includes topography, includes the location and sound levels
23 of the noise sources. In this case, that would be dozer, a loader, an
24 excavator and trucks. Um, identifies the location of nearby, what we call
25 receptors, model receptors, which are often, uh, the nearest sensitive

1 receivers. Um, we, and then we use this model to estimate sound levels from,
2 from the mine at the nearest receivers, the, the model receptors. The next,
3 oh, go ahead.

4 LYNN: Uh, well, so, are you, in, in the course of doing this, are you
5 aiming at a particular standard or measure that is, uh, the subject of your
6 measurements?

7 WALLACE: We typically do two things, the first is to, uh, identify the
8 applicable noise limits. Uh, in Skagit County, that would be, uh, they would
9 apply the, the Washington State, what I refer to as the WAC noise limits. Um,
10 and then we, and that would be based on the characterization of the, the
11 lands surrounding the property, or the mine site. And we will also often, um,
12 look at, at, at sensitive receivers at residences, we will compare the mining
13 sound levels to the background sound levels that were measured.

14 LYNN: Okay. Um, and just so that we have this for the record, you, you
15 completed a report, uh, dated November 21st, 2018, characterized as an updated
16 noise and vibration study, is that, um, that your work?

17 WALLACE: Correct.

18 LYNN: Okay. That's...

19 WALLACE: It was done when I was with, uh, a different firm, but it was
20 work that I did.

21 LYNN: Okay. And you're currently with what firm?

22 WALLACE: Landau...

23 LYNN: Okay. And...

24 WALLACE: Associates.

25 LYNN: And, and at the time, you were with Ramboll and Associates?

1 WALLACE: Correct. Correct. Ramboll Consulting.

2 LYNN: Okay. Um, let me just get the, the Exhibit Number for the, uh,
3 that's Exhibit 24 on the Special Use Permit list of Exhibits. Um, so what
4 assumptions do you make about the operation? You mentioned several different
5 pieces of equipment, uh, I think a loader and excavator and trucks and maybe
6 even, uh, something else, uh...

7 WALLACE: A dozer, as well.

8 LYNN: Okay. So, uh, what assumptions do you make about them operating
9 at the same time?

10 WALLACE: We assume that they're operating, um, not at the exact same
11 location because they do tend to be spread during the mining activity, but in
12 a general same region of the mine, um, concurrently and constantly over at
13 least the course of an hour because the noise limits are based on an hour.

14 LYNN: Okay. Is that...

15 WALLACE: And...

16 LYNN: I'm sorry, is that intended to reflect likely conditions or
17 conservative conditions?

18 WALLACE: It's worst-case.

19 LYNN: Okay.

20 WALLACE: It is, it would be unusual for all of these, uh, all of the
21 equipment to operate consistently over, over that time period.

22 LYNN: Um, so over the course of the mine they'll be excavating, how
23 does that get taken into account in the noise modeling?

24 WALLACE: You would look at, um, the various, well, the, the equipment
25 would operate in different portions of the site. And so we would consider the

1 noise levels when they're operating in, in both the northern half, let's say,
2 and the southern half, also while you mine, you'll be mining, you know, phase
3 one first and then you'll create a little bit of a, a little bit of a, a
4 berm. It will be a depression and then you'll continue into the second phase
5 and then the third and the fourth.

6 LYNN: Okay. And, and so what assumptions does the noise, uh, do you, do
7 you consider it, uh, the noise as if it were all generated from the top of
8 the pile or does that change, uh, as you excavate into a depression?

9 WALLACE: In, in this case we looked at it, um, we chose a more
10 conservative assumption where we were assuming basically that the overburden
11 had been removed and so we're still near the top of the, the existing
12 elevation, not exactly at the top of the elevation, but near it. So, we
13 hadn't actually built into this particular model, um, that more realistic
14 scenario where most of the equipment would generally be operating at a lower
15 elevation.

16 LYNN: And, and what happens then when you operate at a lower level? How
17 does that effect noise?

18 WALLACE: You have more intervening terrain that would reduce levels at...

19 LYNN: Okay.

20 WALLACE: Distant locations.

21 LYNN: So, again, that assumption would be a conservative one, then, uh,
22 by measuring at the top of the pile, rather than the bottom of the
23 depression?

24 WALLACE: Correct.

1 LYNN: Okay. And what were your, uh, conclusions about the impacts here?
2 Where would we find those in your report?

3 WALLACE: The con-, uh, the conclusions were that the, the sound levels
4 during the mining, both, uh, we looked at a southern scenario and a, and a
5 northern scenario, so where we put the equipment. Um, at all of the nearby
6 residential receiving locations, the receptors, which are displayed in, let's
7 see, Figure 1 on Page 6. I'm reviewing, um, uh, a report of October 7th. So
8 I'm not sure that I'm re-, looking at the most current.

9 LYNN: Uh...

10 WALLACE: But it should still be Figure 1.

11 LYNN: Okay.

12 WALLACE: And it shows the, the model receptor locations. And at all of
13 these locations representing the nearest sensitive receivers. We find that
14 the, the noise limits, um, the modeled sound levels are all quite low.
15 They're all well below 50 decibels, which would be the noise limit applied to
16 a residential receiver from a mining operation like this, um, at night and,
17 and very much below the 60 decibels that would be applicable during daytime
18 hours. And daytime hours as defined as 7:00 a.m. to 10:00 p.m.

19 LYNN: In, in fact, your report actually says it would expect it to, it
20 would be expected to easily comply with the standards, is that the term you
21 used?

22 WALLACE: Correct.

23 LYNN: Okay.

24 REEVES: Sorry, break in one second just to make sure I understand. When
25 you talk about these receptor locations, at least my understanding of the

1 WAC, it's not the home itself, it's the, the outer limit of the property, is
2 that accurate?

3 WALLACE: That is accurate.

4 REEVES: Okay.

5 WALLACE: And, and Bill and I were, he asked me this question yesterday and
6 so I looked into it. The, the properties directly adjacent to the mine site,
7 um, to the west, north and east are, are either, um, rural resource with
8 mineral overlay or agricultural properties. And, and for those, one, there's
9 no sensitive receivers right on the boundary, and two, those types of, of
10 land uses, uh, forestry and agricultural are considered, uh, a different
11 class of, of property when you apply the WAC noise limits, they're actually
12 considered Class C EDNAs and the, the noise limit 24 hours per day, at those
13 properties is 70 decibels. And I did not...

14 REEVES: So, sorry...

15 WALLACE: I did, I did not consider those in the original analysis.

16 LYNN: But they're subject to a higher standard. And would the proposal
17 with your modeling, meet that higher, the, the higher noise level at the
18 property line?

19 WALLACE: Yeah. And after your, your questioning of, of that, I did review
20 the model and look at that particular scenario and those property boundaries
21 and they will, I, I would expect the mining to comply with the 70 decibel
22 limit at those particular locations.

23 LYNN: Okay. And then, it will comply with an even lower standard, a
24 less noise standard at the actual receivers?

1 WALLACE: At the actual receivers, yes. At the actual residences. I, I will
2 note that, uh, it might be more information that is needed, for parcels that
3 are agricultural or forestry or mineral overlay, that are considered Class C,
4 uh, ENDA receivers under WAC, even the residences on those, um, parcels would
5 be subject to a noise limit of 70 and not the stricter 60 during the day and
6 50 at night. But for those residential receivers, I applied the, the
7 stricter, um, Class A EDNA noise limits. That, at, at those particular
8 locations.

9 LYNN: And, and what did you find, uh, about whether they met that even
10 stricter, non-applicable standard?

11 WALLACE: Oh, as we, we just discussed, they easily met that stricter
12 standard.

13 LYNN: Okay. And then you also completed a vibration impact analysis, is
14 that something that you, uh, normally do in association with a mine?

15 WALLACE: It's, it's not typical, no.

16 LYNN: Okay. And do you know why it was done in this case or why you
17 were asked to do it here?

18 WALLACE: Because of, uh, there were comments on that, there was, uh, a
19 request to look at it.

20 LYNN: Okay. Um, and so, uh, what were your conclusions about vibration
21 impacts?

22 WALLACE: We've, um, the conclusions was that there were not be, expected
23 to be vibration impacts, even with, um, even if there were, uh, a large
24 number of, of pass bys, um, I think it was over 70, um, pass bys would, would
25 result, using the FTA tr-, uh, Traffic Impact, Vibration Impact, sorry,

1 Transit Vibration Impact Criteria, they look at vibration, um, impacts based
2 on the number of events that might occur during, uh, a day or an hour and,
3 and our review, uh, assumed that there would be very frequent events. And
4 even with very frequent events, which would be, uh, as the entire traffic
5 discussion was going earlier, there would be less than, um, very frequent
6 events. But it would even not identify as a, as it's going to impact as a
7 vibration impact.

8 LYNN: So, I'm sorry, you kind of broke up a little bit, so there would
9 not be significant impact, even with, uh, uh, a higher number of pass bys?

10 WALLACE: Correct.

11 LYNN: Okay. That's, that's all I have for the witness. Thank you.

12 REEVES: Okay. Um, I will go to, Mr., uh, D'Avignon next to see if he has
13 any questions. If I keep butchering your name, I apologize. I just can't seem
14 to get it right.

15 D'AVIGNON: I think you just got it right. But I do not have any questions
16 for Ms. Wallace.

17 REEVES: Then, I'll go to Mr. Loring next.

18 LORING: Thank you, Mr. Examiner. I've got a few questions for you, Ms.
19 Wallace. Uh, I, I just want to dive in, I want to briefly talk about what I
20 believe was not studied here and then I'll talk about your study, just a few
21 questions on that, too. So, uh, you didn't study the noise impact of the
22 truck and trailer hauling the gravel material from the site, did you?

23 WALLACE: Not off the site. I, I, I included it on the onsite, uh, roadway.

24 LORING: Okay. The private haul road, but not once you get to the public
25 road?

1 WALLACE: Correct.

2 LORING: Okay. That actually takes care of a few of these and your study
3 doesn't actually identify the impacts at the property lines themselves, does
4 it? I heard you talking a moment ago on your direct testimony about, um,
5 noise and vibration or noise, I believe, at property lines. But the study
6 doesn't actually evaluate that, does it?

7 WALLACE: Correct. We, we looked at that, I actually looked at that just
8 yesterday, um, in response to a request. Um, we typically focus on, like,
9 sensitive receivers and the surrounding, the property surrounding our, you
10 know, forestry with mineral overlay or agriculture. So we did not consider
11 those.

12 LORING: Okay.

13 WALLACE: In, in the original report.

14 LORING: Okay. And then the residential receptor, that's the houses, is
15 that what you're considering a residential receptor?

16 WALLACE: Correct.

17 LORING: Okay. Um, your report, just, uh, briefly, we're moving right
18 along, but your report did identify sound levels above 70 at a distance of
19 100 feet, right, for several of the different items that would operating
20 there? Or made that assumption? Here, I'll, I'll, rephrase that, uh, just to
21 make sure we're not confused.

22 WALLACE: Thank you.

23 LORING: You were talking about your repor-, your report a moment ago and
24 I think I'm also looking at that November 21st, updated version of it. Um, but
25 at page, I, I don't think they are dramatically different. At Page 8 here...

1 WALLACE: Okay.

2 LORING: It mentions that the loader, excavator and dozer were assumed to
3 have, uh, 75, 75 and 76 DBA noise levels at a distance of 100 feet. Does that
4 sound familiar, familiar?

5 WALLACE: It does. That's correct.

6 LORING: Okay. And so if those were operation 100 feet from a property
7 line, the assumption is that there would be, uh, noise levels of 75, 75 and
8 76 for those, those, that equipment?

9 WALLACE: If they were operating, um, yes, consistently, concurrently and
10 at a 100 feet, with no intervening terrain, um, you know...

11 LORING: Okay.

12 WALLACE: Yes. That would be correct.

13 LORING: And you said concurrently, but I read this as individual noise
14 levels coming from each of those pieces of equipment, is that right?

15 WALLACE: Individual, correct. That's correct.

16 LORING: Okay. Uh, just a second here, just checking, uh, those are, uh,
17 do I, let me, no, those are all my questions. Thank you very much.

18 WALLACE: Thank you.

19 REEVES: Okay. Um, this is not a traffic specific matter, but Mr.
20 Ehrlichman, just to be clear, am I correct in thinking [inaudible] is not
21 what this witness is testifying about.

22 EHRLICHMAN: Appreciate the curtesy, uh, uh, standing, uh, disclaimer not to
23 participate in other expert witnesses, unless they're traffic. Thank you.

1 REEVES: And I appreciate how straight forward that was. I know how
2 difficult it can be, we all want to hop in. Thank you. So, Mr. Lynn, do you
3 have any, uh, redirect?

4 LYNN: Uh, one, one question, um, Ms. Wallace, you, um, we, we talked
5 about the WACS, that's Chapter 173-60, correct?

6 WALLACE: Uh-huh. Correct.

7 LYNN: And, and Mr. Loring asked you about trucks, uh, on the public
8 roads, how does that, uh, regulatory scheme address trucks on public roads?

9 WALLACE: Uh, noise from trucks traveling on public roads or any traffic
10 traveling on public roads is exempt from these noise limits.

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

12 REEVES: Okay. I think we are done with, uh, Ms. Wallace, thank you so
13 much for being, uh, sorry, Mr. Loring did you have something? I'm trying to
14 be as...

15 LORING: Just one quick question on that, um, Ms. Wallace, you're not
16 testifying about whether noise impacts of, uh, tr-, these trucks traveling on
17 roads are except from SEPA are you? The State Environmental Policy Act?

18 WALLACE: No.

19 LORING: Okay. Thank you.

20 REEVES: And my question, to clarify that, you specifically meant those
21 standards that are in the WAC?

22 WALLACE: Correct.

23 REEVES: Thank you.

24 WALLACE: Exactly. Thank you.

1 REEVES: Okay. Um, all right. Looking here, I think that was Mr. Lynn's
2 fifth witness, if I numbered correctly. Uh, and who would you be calling
3 next?

4 LYNN: Well, the n-, the next one I was planning to call was, uh, Ms.
5 Potter at, uh, Porter at, at 1:00. But I can, our, my final witness is going
6 to be longer, that's John Semrau and so if we want to get started with him,
7 that's fine. Or if, of if we're going to take a break now, I know it's way
8 early, but, uh, it's up to you.

9 REEVES: Well, well, let me clarify, was it Monday I essentially said, I'd
10 be okay to go to 5:00. Did folks agree on that? If we're going to 5:00, I
11 don't think I think it would be quite early for our lunch break. But I also
12 want to verify that folks are able...

13 LORING: Uh, Mr. Examiner, uh, you mentioned going longer than 4 o'clock
14 and, and I can do that, but I've got a hard stop at 4:30 p.m.

15 REEVES: Okay. Can everyone go to 4:30? And let me ask Mona Kellogg first,
16 'cause, you know, if staff can't accommodate us, then it's a moot point.

17 KELLOGG: Yes. We can go as long as you like.

18 REEVES: Well, 4:30 was the hard stop, thank you, Mr. Loring. Friday
19 before a holiday, I don't want to go too long, but thank you, we appreciate
20 it. Okay.

21 [Inaudible section.]

22 REEVES: I think something is [inaudible].

23 LORING: Bill, I think that's you. Maybe not.

1 REEVES: Was it Bill? Okay. Is, is that the big, uh, reveal he's actually
2 been on Grip Road the entire hearing and he's, like [inaudible] no, I'm
3 kidding, but, uh, Mr. Lynn, 4:30 okay with you?
4 LYNN: Yes. I was trying to nod.
5 REEVES: There you go. Jason D'Avignon, is that okay?
6 D'AVIGNON: That will work for me.
7 REEVES: And Mr. Ehrlichman?
8 EHRLICHMAN: That's just fine, thank you.
9 REEVES: Okay. And we don't have to. I just, I wanted to put it on the
10 table, um, but, okay. So, the thought is you have two witnesses left, is that
11 right, Mr. Lynn?
12 LYNN: Yes.
13 REEVES: Okay. So you certainly had identified the potential for more.
14 LYNN: I can find more if..
15 REEVES: No, no. I'm not asking for more, but I, I suspect there might be
16 other Attorneys in the Zoom universe with us that, you know, were hoping to
17 hear potentially from some of the others. So, which is always sort of a
18 tricky thing, but..
19 LYNN: Yeah. I've, I've not heard that. Uh, the only thing I heard about
20 was traffic, which we've completed, so..
21 REEVES: Okay. Okay. So, you're..
22 LORING: I'll, I'll follow up in response and say that, uh, CSVN is not
23 anticipating needing to hear from other witnesses that were identified by Mr.
24 Lynn.

1 REEVES: Thank you. That is super helpful. Mr. D'Avignon, any thought
2 there?

3 D'AVIGNON: Uh, there's nobody that I would, I'm dying to hear from.

4 REEVES: And Mr. Ehrlichman?

5 EHRLICHMAN: Um, uh, I'd be in favor in bringing back the, uh, traffic
6 witnesses and, and, uh, the Applicant so I can ask them more questions. But I
7 don't think that's what you're asking me, so, no.

8 REEVES: No. That's not what I'm asking. Was, was there anyone identified
9 on the list...

10 EHRLICHMAN: No, I'm sorry, no.

11 REEVES: Okay. That was, thank you. Um, great. So, I think, then, I would
12 prefer to kind of put, put another hour in and, and then we'll take our lunch
13 break. And then hopefully that times out pretty well for your 1 o'clock
14 witness.

15 LYNN: Great.

16 REEVES: Excellent. Okay. So, your next witness is?

17 LYNN: John Semrau.

18 REEVES: Okay. And Mr. Semrau. Hi, I'll swear you in. Do you swear or
19 affirm to tell the truth in the testimony you give here today?

20 SEMRAU: I do.

21 REEVES: If you could state and spell your name for the audio recording?

22 SEMRAU: It's John, middle initial B. Semrau, J-o-h-n Semrau, and S-e-m-r-
23 a-u.

24 REEVES: Thank you. Go right ahead, Mr. Lynn.

1 LYNN: So, uh, Mr. Semrau, could you tell the Hearing Examiner how you,
2 uh, have been involved in this project and over what time period?

3 SEMRAU: Well, I began, I was contacted by then Concrete Nor'West, uh,
4 back in May of 2013, uh, to begin, uh, work on this project. I've worked on
5 several other mines for them.

6 LYNN: Okay.

7 SEMRAU: Uh...

8 LYNN: And Mr. Semrau, I kind of skipped over the, your professional
9 qualifications. Could you tell the Hearing Examiner what your profession is?

10 SEMRAU: I'm a Licensed Professional Civil Engineer and Licensed
11 Professional Land Surveyor. Um, I have my own firm, Semrau Engineering and
12 Surveying. I've been here for 36 years. Um, our firm was started in 1979.
13 I've worked on, uh, seven mining Special Use Permits in Skagit, Snohomish
14 County and 14 different mine and three landfills in Skagit, Snohomish and
15 Whatcom Counties.

16 LYNN: Uh, do you do work for, uh, public, uh, agencies as well?

17 SEMRAU: Yes, I do.

18 LYNN: Can you tell us briefly what that comprises?

19 SEMRAU: So, uh, a lot of my work is I'm District Engineer for Dike
20 District 12, uh, I also perform those duties for other dike and drain
21 districts. I've worked for most of the dike and drain districts in the
22 Skagit. Uh, I also have, since the start of my career, done a lot of peer
23 review. Um, I continue to do peer review, uh, for City of Anacortes and City
24 of Oak Harbor. I've been the City of Oak Harbor, uh, City Engineer, uh, three
25 different times in the last six years, um, as a consultant and I continue to

1 do most of the project plan review for them as well as surveying and other,
2 um, technical work for them.

3 LYNN: Okay.

4 SEMRAU: My firm has represented Mount Vernon and Burlington as City
5 Engineers, also.

6 LYNN: And, and could you tell the Hearing Examiner just broadly what
7 your role was in this project?

8 SEMRAU: So, my role has been preparing the mining Special Use Permit
9 Application, preparing the surveying work, um, the maps of the, uh, the map
10 exhibits for the Application. Um, and as well as helping with coordinating
11 the sub-consultants on the project.

12 LYNN: Okay. Um, just, uh, off, off the bat here, there was some, uh, I, I
13 think this may have clear from the Staff, uh, Report, but there was some
14 different numbers used for the size of the mining parcels, could you confirm
15 the clarification that the three parcels are 68 acres in size and the actual
16 cleared area is 51 acres in size? Is that accurate?

17 SEMRAU: That is accurate. Yes. The, the three parcels, uh, that encompass
18 the mine, uh, measure to the center line of the river from the 2011 aerial
19 survey or SID file that we get from the County. Uh, we measure that as 68
20 acres. And then the, the mine itself and the clearing area for the forest
21 practices, as well as the mine is 51 of those acres.

22 LYNN: Okay. Um, so, uh, I understand you've been to the site, could you
23 tell your, uh, the Examiner when you started visiting the site?

24 SEMRAU: When I first visited the site on May 15th, 2013, was the first day
25 that I visited the site.

1 LYNN: Okay. And did you have, uh, observations about the haul road at
2 the time?

3 SEMRAU: I did. Yeah. That was one of the first things that I pointed out.
4 I, I made that visit with Dan Cox with Miles Sand and Gravel, uh, and my
5 first observation was that the road was quite a bit larger than I
6 anticipated. Uh, it had about a 28 to 30 foot bed with ditches laid outside
7 of that. It was, um, and so I specifically requested of him, you know, what,
8 asked him why th-, it was a much larger roadway than just a forest road. And
9 he later produced, um, plans for me, development plans from the previous
10 owner, Trillium, for, for the property.

11 LYNN: And did you find that to be unusual, uh, for the forest practice
12 use? Different from what you had seen in your experience?

13 SEMRAU: Um, for forest practices, yes. But once I realized who had been
14 the former owner, no, it didn't surprise me at all.

15 LYNN: Okay. And, and what about that led you to that conclusion?

16 SEMRAU: Well, that, that company was well-known for doing, um, logging
17 and then developing properties into housing developments.

18 LYNN: Okay. Um, and are you familiar with the work that has been
19 discussed in this proceeding, uh, that Miles, uh, completed during its
20 ownership, the work on the haul roads?

21 SEMRAU: Could, could you...

22 LYNN: Are you familiar, are you familiar with the work that Miles has
23 done on the haul road since it acquired the property?

24 SEMRAU: Yes, I am.

25 LYNN: Okay. And how would you describe the work that was completed?

1 SEMRAU: Uh, they, they basically just resurfaced or removed the grass and
2 brush, um, they didn't, uh, clear any new areas. Uh, they just basically
3 cleaned up the road bed that was there. They didn't move any of the ditches.
4 The ditches remained where they had been originally established. Uh, they
5 removed a few trees from the north end. Uh, I wasn't aware between, I got
6 that from Brad's testimony. Um, I wasn't aware of that. I, I didn't realize
7 they had done any tree removal at all in the work that they did in, in
8 resurfacing the, um, the all-weather road surface there.

9 LYNN: Okay. And did you complete a, uh, an as-built of the road, uh, as
10 it presently stands?

11 SEMRAU: Yes. We did. And my surveyors performed that work. And...

12 LYNN: Uh, and...

13 SEMRAU: [Inaudible.]

14 LYNN: And do you know, uh, that's, there's an Exhibit 9 that says
15 private internal road as built. Is that, would that be descriptive of the
16 work you did?

17 SEMRAU: Yeah. In the County Exhibits, it's Exhibit Number 19.

18 LYNN: Okay. Uh, are you aware of any alteration of the drainage that
19 occurred as part of that work, uh, that Miles did?

20 SEMRAU: I wasn't aware that they had altered any drainage with that work.
21 Um, but I also wasn't aware of where they maybe changed culverts and things
22 because I hadn't studied the road until, we did the as-built, we really
23 didn't look in detail at that roadway. It was more than sufficient for what
24 was proposed for the mine.

1 LYNN: Okay. Were you involved in identifying the ordinary high water
2 mark, uh, that Mr. Graham testified about?

3 SEMRAU: Yes, I was. I was, I was present that day when he identified the
4 wetlands in that area.

5 LYNN: Okay. And did, was the, uh, ordinary high, or the, the toe of the
6 slope, uh, marked in any fashion during your site visit?

7 SEMRAU: We, I took some GPS measurements on it. We had previously
8 identified the tow of the slope with our LiDAR work. Um, he'd marked some
9 places there, the wetland edge, I took some GPS measurements on that, um, and
10 later compared that in the office. And then we, we plotted those lines at the
11 toe of the slope on the maps.

12 LYNN: So, uh, is it fair to say that the plotting that was done as part
13 of the record here was based on GPS and LiDAR information?

14 SEMRAU: That is correct.

15 LYNN: Okay. And is that noted on the drawings that you submitted to the
16 County?

17 SEMRAU: It is noted on the drawings.

18 LYNN: Okay. Uh, I'm going to turn to the drawings in a minute, but did
19 you do anything to, um, check the validity of the, uh, the LiDAR and GPS
20 coordinates so that you could, uh, uh, have, um, believe that you were
21 relying on solid information?

22 SEMRAU: Well, the, the GPS coordinates that we used, uh, further west on
23 the site, some of those were verified with field survey. So, with, um,
24 traverse data. But, uh, most of our work was based on GPS observations. Uh,

1 we did traverse two property corners and we do have a ground survey network,
2 as well as the entire haul road now, so...

3 LYNN: Okay. But, but the actual toe of slope is not surveyed, you've
4 just checked it with some, some points of actual survey?

5 SEMRAU: The, the survey work for the toe of the slope was based on the
6 GPS coordinates that I took, uh, my observation and then the LiDAR data.

7 LYNN: Okay. Can you identify, uh, in the record, where we would find a,
8 a good depiction of your, uh, identification of the, the or-, the toe of the
9 slope?

10 SEMRAU: Yes. So, that's County Exhibit Number 40 and that's found on Page
11 11. Is the, is the most current version of that map.

12 LYNN: Okay.

13 SEMRAU: And would you like me to share that or just...

14 LYNN: Uh, that would be nice if we could give Jason a rest here, so,
15 yeah.

16 SEMRAU: Yeah. Let me pull that up.

17 LYNN: Well, that way you could point to it as well, so...

18 SEMRAU: Okay. Let's see, oh. All right. Are you able to see that?

19 LYNN: Yes. It's a little small, um, so I don't know whether you can
20 enlarge that, uh, or direct us more specifically to...

21 SEMRAU: I'll, I'll make it a little bit larger here. Okay. So, can you
22 see my cursor and, uh, just above the bar scale on the map?

23 LYNN: Uh, I can, yes.

24 LORING: I can as well.

1 SEMRAU: So, right there it says wetland at tow of slope from LiDAR data
2 and field observation on 3/26/15.

3 LYNN: Okay.

4 SEMRAU: So, that, this line here is, uh, a depiction of the wetland or
5 mean high water mark and, and showing the 200 foot from that, uh, associated
6 wetland, this also being, um, a wetland edge, showing the 200 foot. There's
7 actually an upland island right here. Um, and...

8 LYNN: So, you're...

9 SEMRAU: An upland peninsula down here. But, uh...

10 LYNN: Okay. So, so, you're, you're, um, you're showing the, the
11 boundary of the wetlands and then you're showing islands or upland islands
12 waterward or towards the river from those two locations where, where the
13 wetland boundary is noted?

14 SEMRAU: Uh-huh. Yeah. It's not, it's not a continuous wetland edge there.

15 LYNN: Okay.

16 SEMRAU: We treat it...

17 LYNN: So, there...

18 SEMRAU: We treated it as it was, but, um, it's not, it's not 100% wetland
19 down there.

20 LYNN: Okay. So, it, from your observations, was the wetland either
21 marked by the edge of the toe of the slope or riverward of that point?

22 SEMRAU: All of the wetland was riverward of the toe of the slope.

23 LYNN: Okay.

1 SEMRAU: And we very specifically, on each one of these areas, went to the
2 toe of the slope and walked those toes of the slope to verify that that was
3 the case and, and we all, all three of us participated in that.

4 LYNN: Okay. Is the, uh, the top of the ridge, uh, marked either on this
5 drawing or another drawing?

6 SEMRAU: No, it's not marked on the top of the ridge. It was, uh,
7 identified, uh, by a Licensed Professional Geologist or a Licensed, uh,
8 Engineering Geologist. It was, the location was identified by GPS as well as
9 verified by survey. But it not showing on these, on this set of maps because
10 the, uh, it, in the final versions, it didn't play into the location of the
11 mine.

12 LYNN: Okay. So, uh, so why was the, the ridge top identified by an
13 Engineering Geologist?

14 SEMRAU: Because that's the proper way to do it, according to the WACK
15 RCWs, as well as the County Code. So, that is the person that is qualified to
16 do that. I'm not able to do that myself. Uh, I can survey that location and,
17 and map it and that's my role. So, it was something we had done early on, um,
18 and I had it written down on the day that we did it, uh...

19 LYNN: I'm not, I'm not sure the day he did it matters. I guess the, my
20 question is, uh, was the, was the top of the ridge identified and will the
21 mining occur, uh, on the non-river side of that ridgeline? That is within
22 the, within the ridge, if you will, or inside of that property?

23 SEMRAU: All of the, all of the mine area is landward of the top of the
24 slope. Um, if you look on this drawing, this is the top of the, the mine. The
25 top of the...

1 LYNN: Okay.

2 SEMRAU: Slope is out, is towards the river.

3 LYNN: Oh, okay. And so which drawing are you looking at? It's still

4 part of Exhibit 40, but are we on Page 12?

5 SEMRAU: We're on Page 12.

6 LYNN: Okay. And so, does that depict the, the ridgetop?

7 SEMRAU: It does not depict the ridgetop.

8 LYNN: Okay. But your testimony is that all of the mine activities are

9 landward of the ridgetop?

10 SEMRAU: Yes.

11 LYNN: Okay. Uh, there was some testimony, uh, earlier about the

12 issuance by the County of a forest practices conversion permit. Uh, was that

13 conversion permit, if you know, based on a 200 foot, uh, setback from the

14 wetlands and the river?

15 SEMRAU: It was on this same setback line that's showing on this map in

16 front of us here. The 200 foot setback from the associated wetlands.

17 LYNN: Okay. So, with that permit in hand, the Applicant could have

18 taken trees up to the 200 foot setback?

19 SEMRAU: The mining, the Forest Practices Conversion Permit was approved.

20 The Applicant went ahead and made that Application of the DNR, received the

21 permit, but then they chose not to remove the trees and the permit expired.

22 Uh, and they did receive their permit to do the work, they just chose to wait

23 until this process was complete.

24

25

1 LYNN: Okay. Um, have you seen, um, written comments or testimony about the
2 need to increase the buffer, uh, by 25 feet in certain locations based on
3 topography?

4 SEMRAU: Yes.

5 LYNN: And are you familiar with the provisions of the County Code that
6 address that subject?

7 SEMRAU: Yes.

8 LYNN: Okay. Could you tell us, generally, what the requirement is,
9 those, where we would have, uh, locations where, uh, the established buffer
10 would have to be enlarged, under that provision?

11 SEMRAU: Sure. Can I, can I show a different exhibit?

12 LYNN: Uh, why, why, why don't you tell us what it is and then we can
13 look at an exhibit and then we can discuss whether or not it's, uh, admitted.
14 But I'd like your words first to sort of..

15 SEMRAU: Sure.

16 LYNN: Describe the scenario.

17 SEMRAU: Oh, I, I, I, I, based on that, those comments, I looked at our
18 survey, um, and flagged location of the top of the bank and I looked at the
19 effect of that additional 25 feet and I did find where there was 1873 square
20 feet of the proposed mine area that is within that, within that buffer and
21 it's right by this, uh, B2, uh, oracle, this cul-de-sac here.

22 LYNN: So, let's, let's just stop there. So you're looking at Exhibit
23 40, Page 12 now?

24 SEMRAU: I'm looking at, yes, Exhibit 40, Page 12.

25 LYNN: Okay.

1 REEVES: I'm sorry, real quick. Sorry.

2 LYNN: Yeah.

3 REEVES: Just because it can get confusing with numbers, can you give me

4 the sheet number, instead of a page, because I don't see a page number on

5 here.

6 SEMRAU: Okay. So it's Sheet...

7 REEVES: B4 of 7.

8 SEMRAU: It's B4 of 7, but it's important that it's the May 2nd, 2019

9 version.

10 REEVES: Yeah.

11 SEMRAU: Every County Exhibit includes the old, original versions, not the

12 final vers-, the final versions are always at the end of the PDF. So, this is

13 the, this is the final version of this sheet.

14 REEVES: Thank you.

15 LYNN: And you've identified a location near Point B2, uh, I see kind of

16 going north and south there, uh, hard lines that present the topography, is

17 that accurate, or the, the finished topography? Proposed topography?

18 SEMRAU: This line right here?

19 LYNN: No, I was talking about the, the, the lines that are run parallel

20 to one another.

21 SEMRAU: These, these are the mi-, these are the reclamation contours

22 right here. So these, these are the areas where it's cut.

23 LYNN: Okay. And then underneath that, there's a dash line, I'm trying

24 to get clarification as to what you call the cul-de-sac. There's a dashed

25 line that runs up into the middle of that cut slope...

1 SEMRAU: Yeah.

2 LYNN: And I'm, that, that's my question, what is that?

3 SEMRAU: Well, this is, uh, a turnaround or a landing that they used when
4 they originally logged this property. It's also where we set up the bore rig
5 to drill the holes for the soil investigation.

6 LYNN: Okay. So, that's an existing road and an existing cul-de-sac and
7 it's in that location where you think there's this 1800 feet that would
8 require an expanded buffer?

9 SEMRAU: Yes.

10 LYNN: Okay. And have you prepared an Exhibit that depicts that 1800
11 square feet?

12 SEMRAU: I have.

13 LYNN: Okay. And could you put that up and I'm going to offer it as, uh,
14 an Exhibit, it's really, I guess, it's anticipate, it's a rebuttal, it's,
15 it's a rebuttal, uh, document and, uh, anticipating testimony that you
16 haven't, we're rebutting testimony you haven't heard yet, but...

17 REEVES: Uh, and let's just stop for one sec. If we can stop sharing so I
18 can see Attorneys.

19 LYNN: Okay.

20 REEVES: So, you're proposing this as what exhibit, at this point?

21 LYNN: Uh, our, our next number, I guess it would be C97, I've kind of
22 lost track, I think...

23 REEVES: Me, too.

1 LYNN: I'm not, it's not C, it would be B. Okay. Do I have any of the
2 other Attorneys that would like to make an objection to the allowing this
3 Exhibit into the record. If so, please raise your hand.

4 LORING: I don't have an objection to this.

5 REEVES: Oh, okay. I'm not seeing hands raised, so, I, I'll, I'll admit
6 it, uh, into the record. B97 we think. We'll sort out numbers later, but it's
7 admitted, you can continue to share.

8 SEMRAU: Okay.

9 LYNN: Okay. So, um, Mr. Semrau, could you just describe what the
10 characteristics are of this 1873 square feet that, that, um, are pertinent
11 here to this discussion?

12 SEMRAU: Uh, is it still shared?

13 LYNN: Yes.

14 SEMRAU: Oh, okay. I, I thought maybe it, the shared stopped. Okay. Um,
15 so, it's, it's outlined in green on the map here. Is that, is that area, this
16 shows the actual point data where we, the top was identified, uh, and this
17 line here identifies the additional 25 feet along here. So, and I did, I did
18 sign this version of the map.

19 LYNN: So, how did you differentiate this 1800 square feet from other
20 areas? Why, why did you determine that this was an area where an expanded
21 buffer would be required?

22 SEMRAU: Well, this would be an expanded buffer if we were expecting an
23 expanded buffer from the top of the bank. Uh, when we're working on mines, we
24 don't always hold to the top of the bank, we many times modify that bank. So,
25 uh, it's not uncommon for us to reduce the height of the bank. So, um, if, if

1 we went to this definition of the, of the boundary of the, of the mine, with
2 this additional 25 feet, this is all that's, that's affected by this
3 particular proposal. Um, but it's not uncommon for us to alter, uh,
4 geological hazard areas or slopes in mining.

5 LYNN: Okay. Um, did you prepare other documents, uh, relating to the
6 mine besides the, the, uh, reclamation plan and the perimeter surveying?
7 Yourself, your firm?

8 SEMRAU: Yes. Uh, well, we prepared the Vicinity Map Exhibit, which the,
9 uh, the most current version of that that the County made us revise is not
10 included in the, in the County's Exhibits. So, I will, I will mention that,
11 um, our exhibit, my, my exhibit, um, B83 includes only the final maps, uh, C0
12 through C6, um, but the, that Exhibit C0, which was the Vicinity Map Exhibit
13 was not included in the County's final exhibit. Our earlier version of the
14 map was included. There was one correction, which I don't recall what that
15 was, and then the additional of the haul road on that map exhibit.

16 LYNN: So, it's just your suggestion that if you want to make sure
17 you're looking at the most recent maps, you would look at those that are in
18 B83?

19 SEMRAU: Yeah. I, I, I assembled B83 of the original full-size, scans of
20 the full-size documents of the maps. And so it's a much higher resolution,
21 uh, you're not missing information that's on that map. And you can see line
22 work that you can't see, County scanned 11x17 versions of the maps and
23 they're not as clear as that Exhibit B83. But that is the, those are the
24 final versions of each map that we've submitted to the County. And each, each
25 map was modified just as the County had requested.

1 LYNN: Okay. Did you do any analysis of the storm drainage within the
2 mine site?

3 SEMRAU: I observed the storm drainage and, and there's very, very little
4 surface run off from this area. Almost, almost 100% of the runoff in this
5 area infiltrates today, uh, which is going to be the case, uh, once they
6 start mining, as well as in the future after reclamation.

7 REEVES: I'm sorry, real, real quick, Mr. Lynn, do we want to stop sharing
8 or share a different.

9 SEMRAU: Oh.

10 REEVES: I'm, I'm still seeing...

11 SEMRAU: Yeah.

12 REEVES: 1873 square feet.

13 LYNN: Yeah. I think we're done with that, I think, thank you.

14 SEMRAU: Okay. Unless you want an overall map of the...

15 LYNN: I, I think, actually, a, a different exhibit, part of Exhibit 40,
16 maybe that, uh, I think what I was calling Page 12, probably was, I think,
17 uh, four of nine or...

18 LORING: And...

19 REEVES: Mr. Loring, you had a thought?

20 LORING: Oh, sorry, I just wanted to ask for that exhibit, it hasn't
21 actually been circulated to the other parties, so, needless to say, we'd like
22 to see it before we have our cross-examination.

23 REEVES: Oh, you said, what just happened? The one we discussing?

24 LORING: The B97, I...

25 REEVES: Yeah.

1 LORING: What might be B97. Yeah. The one that was just taken down.

2 LYNN: Yeah. I'll try to get that circulated. So, yeah, so you're going

3 to share that exhibit, John?

4 SEMRAU: I can, I can email.

5 LYNN: I have it, so I can email it, uh, while you're putting up

6 another...

7 SEMRAU: I'll put up...

8 REEVES: I think there's two different things happening right now. So, I

9 think someone's sending around an exhibit and then, uh, Mr. Semrau was going

10 to put up a different map, perhaps, out of Exhibit 40, is that right?

11 SEMRAU: Right.

12 LYNN: Yep. I'm going to circulate the other Exhibit, uh, as best my

13 multitasking will allow.

14 SEMRAU: I, Mr. Reeves, I actually, uh, opened up Exhibit B83.

15 REEVES: I, Mr. Lynn, what would you like your witness to, to put...

16 LYNN: Uh, John, uh, whichever, whatever drawing, uh, would show the

17 perimeter or the parameters of the mine. It's going to look a lot like the

18 exhibit we had up, but it's the one that Mr. Semrau tells us is a little

19 better resolution so will be easier to follow.

20 SEMRAU: And, Mr. Examiner, would you like me to do just a reader's digest

21 explanation of what's on Sheet C4 and C5 of the, the maps so that you don't

22 miss some of the detail on here?

23 REEVES: Meaning like what are the topo lines, what are the roads, what

24 are the critical areas features, is that what you're suggesting?

25

1 SEMRAU: Uh, description of the buffers, the setbacks where the topsoil
2 stockpiled.
3 REEVES: Sure, let's, real quick.
4 SEMRAU: Okay. So DC4 is the reclamation sequence map and reclamation
5 sequence maps are in the order that it's reclaimed. So, um, sequence, this
6 is one, this is two, this is three and then the final, final would be the,
7 uh, section 4. You see here the 50 foot setback the County has, we also have
8 an additional 50 feet where we're allowed to store the, stockpile the, uh,
9 topsoil so that's shown on this sheet. This sheet also shows the 200-foot
10 buffer on the adjoining properties that they're, they're supposed to, uh,
11 they're regulated under the County Code for their actions. So, that's, um,
12 kind of what this sheet shows. Um, C5 is the actual final reclamation plan.
13 And so, the existing contours, um, do not show on the final reclamation plan,
14 um, you don't see the stockpile areas. Uh, the difference between this and
15 what the final product would be is they would put some topographic, um,
16 changes in the slope. It wouldn't be just a linear. But, this is, this is the
17 maximum steepness, um, of the reclamation that they can do. Um, this mine,
18 they're just mining to the reclamation contour, these being these cross
19 sections. Uh, when you, oh, so, when you...

20 LYNN: Could you, Gary, could you give us, uh, I'm sorry, John, could
21 you give us page numbers so that the record is showing what you're talking
22 about here?

23 SEMRAU: Uh, would, yes, I can do that. Should I go back a page?

24 LYNN: No, I think we're...
25

1 REEVES: Following with B83, Page C4 of 7, then C5 and then I think you
2 moved to this?

3 SEMRAU: We're on Sheet C6 of 7. So this is the permit boundary or the
4 property boundary, uh, the 50 feet and then this is the area where they don't
5 mine the materials here, they store their, their topsoil about here. But then
6 when they reclamate they're able to knock this corner off, uh, onto the
7 slope. They, they would do a, a vertical wall right here. Uh, some mines
8 would do vertical walls all the way down and that's not proposed here. So,
9 this shows where they're proposing to mine the ten feet above the water
10 table. Oh, my exhibit changed pages. So, is there any other questions
11 regarding...

12 LYNN: The, the Examiner may have some. I was just going to ask you about the,
13 what's going to happen to, uh, drainage as a result of the mine? Was there
14 any, was there any alteration of the drainage outside of the mine perimeter,
15 for starters?

16 SEMRAU: [Inaudible.]

17 LYNN: Okay. And, and, and what happens to this rainfall within in the
18 mine site?

19 SEMRAU: The rainfall into the mine site would continue to infiltrate.

20 LYNN: Okay. There was, um, some testimony about, uh, or in some of the
21 comments about an incised channel that's, uh, a geographic or a geologic
22 feature, I guess, or a topographic feature, uh, below the east/west portion
23 of the haul road. Are, are you familiar with that?

24 SEMRAU: Uh, from the testimony, yes. As, yes, I'm...

25 LYNN: Okay.

1 SEMRAU: I am aware of where it is.

2 LYNN: And are you aware of what the road, uh, topography is at that
3 point and what the drainage looks like?

4 SEMRAU: Yes.

5 LYNN: Okay. So, the, the condition that was described as an, uh, as an
6 existing condition, do you have any opinion was to whether or not that
7 condition would get worse as a result of the proposal?

8 SEMRAU: Well, it wouldn't change from the proposal because there isn't
9 any proposed revisions to the roadway there. But there's most likely the
10 ability to alter, um, the culverts that are there to direct some of that run
11 off away from there and improve the conditions.

12 LYNN: Okay. And is that something that could be done through the normal
13 maintenance process of the haul road?

14 SEMRAU: Well, normally, it would be done just through the forest
15 practices part of the process. But, um, it, you know, now that we're to the
16 point where we may have, um, the mining Special Use Permit, once there's a
17 mining Special use permit, it would be, um, you know, it, it would be under
18 the County review potentially, but, I mean...

19 LYNN: Okay.

20 SEMRAU: That all depends on how, how long it takes through this process.
21 But now that they're aware of the issue, they would normally go out there and
22 they would, they would improve the situation. Uh...

23 LYNN: And...

24 SEMRAU: Just under...

1 LYNN: Did you just, can you give some examples of how you could, uh,
2 address storm water in a way that, uh, addressed that existing problem?

3 SEMRAU: Well, storm water, under the Forest Practices, is more placing a
4 cul-, culvert at intervals along the roadway. And normally, you know, in this
5 case, if the culvert that's contributing to that is removed, then the water
6 would be forced to move down the hill to the east. And in this situation, we
7 could run that water to the east and bypass these steep slopes. So...

8 LYNN: Okay. So, uh, you familiar with the entrance to the mine site,
9 the existing entrance off of Grip, Grip Road?

10 SEMRAU: Yes, I am.

11 LYNN: Could you tell the Hearing Examiner what's proposed, uh, and/or
12 required by way of improvements at that location?

13 SEMRAU: So, we, we had a commercial access permit approved for that
14 entrance. And that has a paved apron. Now, since that time, we've, we've, uh,
15 Gary Norris, the Traffic Engineer designed a beacon system there and that is,
16 um, Exhibit, um, Exhibit 43, Exhibit 43, Page, Page 3.

17 LYNN: Uh, are you talking about the, the Applicant's Exhibit, so it
18 would be a B43?

19 SEMRAU: Uh, no, it's, that's the County, the, the Applicant's, County
20 Exhibit is 43, Applicant's Exhibit is B64.

21 LYNN: Okay.

22 SEMRAU: And I can share, I've got the County's Exhibit 43 on my screen I
23 can share. So, this is a picture of the, um, of the, the entrance from the
24 mine, the mine goes to the north here. Cougar Peak driveway is right here.

1 LYNN: You're pointing out, just a second, uh, just so the record is
2 clear, you're pointing to the left just as the road begins to curve to the,
3 uh, west?

4 SEMRAU: Uh-huh. About Station 15 plus 00...

5 LYNN: Okay.

6 SEMRAU: ...on the map is the, is about the location of the Cougar Peak
7 driveway. So, on this map, what it's showing are, are proposed beacon
8 improvements. Uh, so there's warning strips here, so actually, the asphalt,
9 the amount of asphalt that would be required for this apron is about three
10 times the length that the commercial access permit that's been approved for
11 this site would require. So, there would be sensors in the asphalt here, that
12 would detect any truck, uh, that's at the entrance here. And there's sensors
13 to the, both the east, or excuse me, the west, and the east, the match line
14 at 21 here. So, there's sensors for, to warn, there's a beacon on opposite,
15 on the south side of the road that warns the trucks when there's automobiles
16 or other vehicles coming. So, those are, there's a sensor here and there's a
17 sensor down here. So, when there's an automobile coming, either from the east
18 or the west, the truck driver's notified of that. There's also, when these
19 sensors here, that are activated by the truck, there's a flashing beacon,
20 both to the west and to the east, and those warn the traffic coming from the
21 east and the west that there's a truck at this entrance. So, there's, there's
22 war-, warnings for both the automobiles as well as the traffic.

23 LYNN: Okay. And why is there more pavement proposed at the entrance
24 than is currently required by the Commercial Access Permit?

1 SEMRAU: Uh, just to facilitate the, uh, the loops in the pavement, that's
2 the most reliable method for that in, in that type of situation.

3 LYNN: Okay. Was any analysis done of the ability of a truck to, to, um,
4 turn out of that driveway?

5 SEMRAU: There was. So, uh, there was an auto-turn that was prepared for
6 the, uh, Commercial Access Permit. And that was submitted to the County. Uh,
7 we have since sent this, there's also this hatched area here, noted by Number
8 6, that's some additional paving that's been recommended, uh, for that
9 entrance. The geometry here of this asphalt is the geometry of the Commercial
10 Access Permit. It's just the Commercial Access Permit only, only requires
11 paving back to about this site of Number 4, but in order to this, we'd be
12 paving all the way back. So, all of the Commercial Assess Permit area, it's a
13 combination of gravel and asphalt is all the County requires. In this
14 depiction, it would be all asphalt.

15 LYNN: Okay. And is that to facilitate, then, the turning movements in
16 and out of the driveway?

17 SEMRAU: Facilitate the turning movements, preventing, um, spill of gravel
18 from the gravel road onto the road surface, uh, many of the concerns that
19 people have raised would be addressed by this.

20 LYNN: Okay. Um, could you also describe for the Hearing Examiner the
21 proposed beacon, uh, installation at Grip and Prairie?

22 SEMRAU: I can. Go to Page 1 of this Exhibit...

23 LYNN: Again, would you remind us of the Exhibit, uh, that you're
24 looking at?

25 SEMRAU: I am using the County's Exhibit 43.

1 LYNN: Okay.

2 SEMRAU: So, we had a similar, we have a similar, um, beacon light
3 arrangement here. We've got three beacons, we have one beacon located to the
4 north of the Grip Road intersection to Prairie Road. And then we have beacons
5 both to the, to kind of the north or northeast and to the, um, the, the west.
6 Um, the, there's detection for the truck and it's not, it's located back
7 from, so if a single car comes up to this, or if a truck comes to this
8 intersection and stops, it's going to activate the, the beacons to the north
9 and the west. And they will be flashing to warn the traffic, um, is, it's
10 coming. If, uh, a single automobile comes to this intersection, it's not
11 likely to trip the, the magnetic field because they're not as long a vehicle,
12 um, larger vehicles would trip it or if there's multiple cars there. Um,
13 there's also detection here for, um, both to the north and the west that
14 would activate this beacon that's on the, uh, directly from the intersection
15 there. So, the, when a truck is there, they would be warned that a car is
16 coming from the north or the west.

17 LYNN: Okay.

18 REEVES: Bill, if you're getting ready to move off beacons, I would
19 suggest we're in a probably good point to take our lunch break and then come
20 back and we'll sort out where we go when we come back, but does that make
21 sense?

22 LYNN: Okay. Yes. It does to me.

23 REEVES: Were, were you done with beacons? I...

24 LYNN: Yeah. I, I, I'm beacons out.
25

1 REEVES: Excellent. Okay. So, uh, currently I have just after 12:20. Why
2 don't shoot to be back at, at 1 o'clock. Uh, and at that point, uh, we'll,
3 we'll check in with, uh, the parties and, uh, see where we go after that.

4 LYNN: Great. Thank you.

5 REEVES: All right. Thank you, everybody.

6 LORING: Thank you.

7 [The tape ends.]

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

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

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

15 Signed at Mount Vernon, Washington, this 23rd, April of 2024.

16 Janet Williamson

17 Janet Williamson