

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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In The Matter of the Appeal Of: )  
 )  
 THE BALLARD COALITION )  
 )  
 Of the adequacy of the Final ) Hearing Examiner  
 Environmental Impact Statement, ) File X-17-004  
 Prepared by the Seattle )  
 Department of Transportation )  
 for the Burke Gilman Trail )  
 Missing Link Project )

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VERBATIM TRANSCRIPTION OF AUDIO RECORDING OF  
PROCEEDINGS

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VOLUME II  
(Pages 255 through 637)

NOVEMBER 28, 2017

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Heard before Ryan Vancil, Deputy Hearing Examiner for  
the City of Seattle, 700 Fifth Avenue, Suite 4000,  
Seattle, WA 98104

Page 256

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Page 258

1 CHRONOLOGICAL INDEX  
2 --oOo--  
3 NOVEMBER 28, 2017  
4 Witnesses for the Coalition:  
5 CLAUDIA HIRSCHEY (Resumed)  
6 Direct by Mr. Schneider (Resumed) 260  
7 Cross by Mr. Kisielius 268  
8 Cross by Mr. Cohen 304  
9 Examination by the Hearing Examiner 306  
10 Redirect Examination by Mr. Schneider 313  
11 SCOTT ANDERSON  
12 Direct by Ms. Granatt 319  
13 Cross by Mr. Kisielius 356  
14 Examination by the Hearing Examiner 360  
15 TIM OLSTAD  
16 Direct by Mr. Brower 362  
17 Cross by Mr. Kisielius 392  
18 Cross by Mr. Cohen 399  
19 Redirect by Mr. Brower 405  
20  
21 MICHAEL WALKER  
22 Direct by Mr. Brower 409  
23  
24 SCOTT KUZNICKI  
25 Direct by Mr. Brower 431  
Cross by Mr. Kisielius 529  
Cross by Mr. Cohen 572  
Examination by the Hearing Examiner 585  
Redirect by Mr. Brower 597  
SPENCER COHEN  
Direct by Mr. Brower 601  
Adjourned 636

Page 257

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21  
22  
23  
24  
25

Page 259

1 EXHIBIT INDEX  
2 --oOo--  
3  
4 COALITION'S ID ADMITTED  
5 A-2 and A-3 317  
6 A-4 326 336  
7 A-5 342  
8 A-6 476 476  
9 A-7 494 504  
10 A-8 494 504  
11 A-9 504  
12 A-10 525  
13 A-12 and A-13 612 618  
14 A-14 621 622  
15  
16  
17 RESPONDENT'S ID ADMITTED  
18 R-1 291 317  
19 R-2 291 317  
20 R-3 291 317  
21  
22 --oOo--  
23  
24  
25 (\* Denotes phonetic spelling)

Page 260

1 NOVEMBER 28, 2017  
 2 MORNING SESSION  
 3 --oOo--  
 4 THE HEARING EXAMINER: Okay. So we're  
 5 back on the record, and it is Appellant's witness,  
 6 Ms. Hirschey.  
 7 Ms. Hirschey, you're still under oath.  
 8 CLAUDIA HIRSCHHEY (Resumed),  
 9 a witness, having been previously sworn,  
 10 was examined and testified as follows:  
 11 DIRECT EXAMINATION (Resumed)  
 12 BY MR. SCHNEIDER:  
 13 Q So, Ms. Hirschey, good morning.  
 14 A. Good morning.  
 15 Q. I want to just finish going through the  
 16 attachments to your report, which I think is Exhibit  
 17 A-4.  
 18 THE HEARING EXAMINER: A-3.  
 19 MR. SCHNEIDER: A-3. So --  
 20 THE HEARING EXAMINER: I'm sorry. Can  
 21 you remind me your number? Because I need to find  
 22 it again in my notebook. Mine flipped shut while we  
 23 were -- oh, A-311.16. Thank you.  
 24 MR. SCHNEIDER: Yes.  
 25 THE HEARING EXAMINER: Okay.

Page 261

1 BY MR. SCHNEIDER:  
 2 Q. And let me just ask a general question  
 3 for the additional exhibits in here that we haven't  
 4 talked about yet. And by that I mean the exhibits,  
 5 the various reports and studies that are all  
 6 included within Attachment 1 to your report.  
 7 Are those all the exhibits that you  
 8 relied upon and referred to in the report itself?  
 9 A. Yes. They are.  
 10 Q. Okay. Then I'd like to turn to the  
 11 attachments at the end. There's the first  
 12 attachment is the conflict diagrams we've already  
 13 talked about. The second attachment is the truck  
 14 blind spot that we've talked about. The next  
 15 attachment, which is Attachment Number 4 is what you  
 16 call the "Chicagoland Analysis." And we've already  
 17 heard Mr. Bishop talk about that.  
 18 But why did you include that in your  
 19 report?  
 20 A. I included that as a comparison basically  
 21 of the methodology I came up with to evaluate  
 22 conflicts comparing alternatives in Chicagoland.  
 23 Fundamentally, they're both about drive -- the  
 24 number of driveways. The Chicagoland is about a  
 25 driveway density per mile and, therefore, the level

Page 262

1 of conflict in applying their own scoring or  
 2 criteria point system to be able to draw  
 3 distinctions between alternatives. I evaluated  
 4 number of driveways and conflict points and  
 5 presented that raw data in Table 1. But  
 6 fundamentally, they're the -- based on the same  
 7 principal.  
 8 Q. And is your -- the outcome of your  
 9 methodology consistent with the outcome of the  
 10 Chicagoland methodology as Mr. Bishop presented it?  
 11 A. I would say yes.  
 12 Q. Have you calculated the comparative  
 13 length of the different alternatives, the preferred  
 14 alternative Shilshole North and so forth?  
 15 A. Yes. I have, because in FEIS one of the  
 16 criteria and the methodology was to evaluate  
 17 directness of route, but I didn't find a definition  
 18 to that via directness based on distance or bicycle  
 19 travel time. So using the alternatives and Google  
 20 Earth, which can be quite accurate nowadays, I  
 21 measured the distance of each alternative. The  
 22 preferred alternative is 1.41 miles. Shilshole  
 23 South is 1.35 miles. Shilshole North is 1.45 miles.  
 24 Ballard Avenue is 1.65 miles. And the Leary Way  
 25 alternative is 1.52 miles. So the Leary Way --

Page 263

1 Ballard's the longest. The Leary Way alternative is  
 2 581 feet longer than the preferred alternative.  
 3 There's nothing in the FEIS to say if that's so much  
 4 longer. It's -- doesn't meet a directness of route  
 5 criteria or not. I think it's not really all that  
 6 significant.  
 7 Q. Now, Ms. Hirschey, were you present along  
 8 Shilshole Avenue when SDOT did a demonstration of  
 9 truck movements?  
 10 A. Yes. That occurred -- SDOT did a  
 11 demonstration of truck-turning movements I think at  
 12 an early date in November, and it was open for  
 13 everyone to observe. The -- at the Salmon Base  
 14 Center, they laid out with florescent orange -- with  
 15 ropes and cones where the trail would be positioned  
 16 relative to the street and what the truck -- what  
 17 our analysis -- that type of analysis of the swept  
 18 path is in cones. And when --  
 19 Q. And if I can --  
 20 A. Yeah.  
 21 Q. -- we have up on the screen Figure 4-1A  
 22 from Vic Bishop's AutoTURNS.  
 23 Does this illustrate the area where this  
 24 happened?  
 25 A. I believe so if that's the -- if one of

Page 264

1 those driveways is the Salmon Base Center.  
 2 MR. BROWER: That's called Stimson  
 3 Marina.  
 4 THE WITNESS: Okay. Yes.  
 5 BY MR. SCHNEIDER:  
 6 Q. Okay. So where were you observing the  
 7 truck movements from?  
 8 A. Either side of the -- both sides of the  
 9 driveway plus on the opposite side of the street.  
 10 Q. Okay. And can you describe for us what  
 11 you witnessed -- what happened?  
 12 A. When the truck made a typical right-turn  
 13 entering movement, so the truck was facing eastbound  
 14 towards the east end of the trail and was making a  
 15 right turn into the driveway at the Salmon Base  
 16 Center, it typically went beyond the swept path that  
 17 was coned off there.  
 18 Q. And what size truck was being used?  
 19 A. Well, that was a WB-67. It had a 53-foot  
 20 container, I recall. And what I attribute that to  
 21 is, you know, our -- nowadays we -- everything  
 22 digitized, our CAD work is very accurate in terms of  
 23 where the line's placed. And when you lay over the  
 24 truck turning template, it's very accurate. A truck  
 25 that's operating out in real life will have some

Page 265

1 variability in where they position themselves in the  
 2 lane. It won't be as exact. And so, you know, you  
 3 end up a few feet off from what the swept path.  
 4 Q. Okay. And so, exactly what did this  
 5 truck do that was inconsistent with the cones that  
 6 had been placed?  
 7 A. It went -- in a right turn it went  
 8 further to the right than our turning template would  
 9 have described.  
 10 Q. Okay. And what does that mean in terms  
 11 of the driveway location and the trail?  
 12 A. It means we should add a factor of safety  
 13 in that buffer zone. That's how I would interpret  
 14 it when we're designing the trail.  
 15 Q. Okay. So you described a -- an eastbound  
 16 right turn.  
 17 A. Yes.  
 18 Q. Were there other turning movements this  
 19 truck did?  
 20 A. So when the truck was taking a right turn  
 21 out to continue -- same thing to continue eastbound  
 22 and attempted to make the turn and stay in the lane,  
 23 it positioned itself to the furthest left side of  
 24 the driveway in order to make a right and go right  
 25 into the lane without -- if it was on the right side

Page 266

1 of the driveway it would have had to cross the  
 2 center line to complete the turn. And at one point,  
 3 when it was positioned -- so the truck did this  
 4 numerous times. And at one point when it was on the  
 5 left-most side of the driveway, a vehicle facing  
 6 westbound was attempting a left turn entering and  
 7 became confused because the lane -- the side of the  
 8 driveway that vehicle would have wanted to enter in  
 9 was on the right side, but the truck was faced --  
 10 well, let me back up.  
 11 The truck was on the left side facing  
 12 outbound. Therefore, the car trying to turn in  
 13 would -- if it continued its turning movement would  
 14 have been facing a truck. And so, it was confused.  
 15 But there's a lot of people out there with  
 16 florescent vests and someone went and helped the  
 17 vehicle enter the driveway for the vehicle on  
 18 driving on the wrong side of the road essentially so  
 19 it could bypass the truck. And then, the truck  
 20 completed its maneuver. So it was actually  
 21 demonstrating what will likely occur at times once  
 22 this is all complete as well.  
 23 Q. So have you actually designed a bicycle  
 24 trail of the sort we're discussing in this case?  
 25 A. I don't do what's called -- what we call

Page 267

1 final design. All my work is focused in -- nearly  
 2 all my work. I did one project through final design  
 3 -- is focused on the predesign phase and the  
 4 environmental review where we're constantly  
 5 evaluating transportation alternatives, what are  
 6 their impacts, going back and doing more design work  
 7 to try and minimize the impacts or improve upon the  
 8 design. The true trail design, create final design,  
 9 and contract documents occurs after the  
 10 environmental review phase.  
 11 Q. And so, the kind of analysis you've done  
 12 on behalf of the Ballard Coalition in this case, is  
 13 that the kind of analysis that you would typically  
 14 do in all of the SEPA/NEPA projects you've been  
 15 involved in?  
 16 A. Yes. In fact, when projects get -- when  
 17 they get larger and complex, the whole alternatives  
 18 analysis becomes quite complex, which is kind of  
 19 what we're talking about here today. Very -- a  
 20 relatively complex project. And so, yes, we go  
 21 through this type of work that includes design along  
 22 with alternatives development.  
 23 Q. And based on your experience in doing  
 24 SEPA/NEPA was the evaluation of alternatives  
 25 including the no action alternative adequate in this

Page 268

1 case?  
 2 A. I -- it wasn't in my mind because it  
 3 doesn't provide adequate information for decision  
 4 makers.  
 5 MR. SCHNEIDER: Thank you. That's  
 6 all.  
 7 THE HEARING EXAMINER: All right.  
 8 Cross?  
 9 CROSS-EXAMINATION  
 10 BY MR. KISIELIUS:  
 11 Q Good morning, Ms. Hirschey. My name's  
 12 Tadas Kisielius.  
 13 A. Good morning.  
 14 Q. I'll be having a couple questions on  
 15 behalf of the City Department of Transportation.  
 16 I'd like to start with your memo that you talked  
 17 about at length yesterday.  
 18 I think you testified that the -- some of  
 19 the conclusions in the final EIS did not appear to  
 20 be supported by safety analysis. I want to explore  
 21 that a little bit with you. You talked about doing  
 22 research to develop your methodology.  
 23 Were you able to find a comprehensive  
 24 methodology that could be used for a safety analysis  
 25 in your research?

Page 269

1 A. Specifically for these types -- for  
 2 bicycle facilities?  
 3 Q. Yes.  
 4 A. No. I wasn't able to find that. In many  
 5 of my projects, as I just mentioned, that are larger  
 6 complex projects, we don't have a research or a  
 7 definitive "cookbook" if you will or textbook that  
 8 says this is how you do the analysis of  
 9 alternatives. We have to look to the local  
 10 conditions, what was questioned during scoping, what  
 11 information do decision makers need, and we develop  
 12 the methodology. In fact, we'll often write  
 13 methodology reports before we launch into the  
 14 analysis.  
 15 Q. Yeah. And I'm going to interrupt you  
 16 there, because I understand needing to take into  
 17 consideration local circumstances, but I'm asking  
 18 did you find sort of a set methodology that you  
 19 could apply to local circumstances?  
 20 A. I did in that many of the guidelines  
 21 relied upon, for bicycle design, had guidelines for  
 22 implementing bicycle paths and two-way bicycle  
 23 paths. And all those consistently recommended  
 24 choosing alignments with -- that minimized conflict.  
 25 Q. Do you recall us talking about your

Page 270

1 earlier draft memo that was prepared before this one  
 2 that we talked about?  
 3 A. Hopefully, accurately enough since we  
 4 talked.  
 5 Q. And did you recall stating that you could  
 6 not find a comprehensive methodology that could be  
 7 used for a safety analysis of bicycle and pedestrian  
 8 facility alternatives?  
 9 A. Yes.  
 10 Q. And I heard you say something now that  
 11 you did find a methodology? So which --  
 12 A. I found --  
 13 Q. -- was it? Did you find one or not?  
 14 A. I found guidance on implementing two-way  
 15 cycle tracks that focused on conflict, so I used  
 16 that as my guidance to develop the methodology that  
 17 I did.  
 18 Q. I understand that.  
 19 A. Yeah.  
 20 Q. Why did you eliminate the acknowledgement  
 21 from your memo in the final draft?  
 22 A. Which acknowledgement?  
 23 Q. That you couldn't find a methodology. I  
 24 mean, isn't that relevant? You're critiquing the  
 25 City Department of Transportation for failing to

Page 271

1 complete an analysis, and isn't it relevant that  
 2 you, yourself, could not find a standard methodology  
 3 to complete the analysis you say is missing?  
 4 A. Ultimately, I developed a methodology, so  
 5 I felt comfortable with that.  
 6 Q. But it's not relevant to your critique of  
 7 the City that you couldn't find one?  
 8 A. No. No, not at all. No, it's not  
 9 relevant. It's verifying the fact that we need to  
 10 prepare a methodology for complex transportation  
 11 projects --  
 12 Q. Okay.  
 13 A. -- as we go into them.  
 14 Q. I want to ask you about some of those  
 15 steps, but first, I want to start with the level of  
 16 design and the standard level to which projects are  
 17 designed. I think you testified about a 30-percent  
 18 level of design that you've -- you're familiar with.  
 19 Does that phrase "30-percent design" mean  
 20 the same thing in all projects to you?  
 21 A. It means close to the same thing, but it  
 22 is an industry-generated terminology. We all have  
 23 our -- we have a fairly consistent interpretation of  
 24 that for transportation projects.  
 25 Q. And you gave a couple examples that you

Page 272	Page 274
<p>1 relied -- that you refer to. I think one was the</p> <p>2 Sammamish Project, and another one dealt with an</p> <p>3 overpass, Summer Sound Transit. Are any of those</p> <p>4 FTA projects Federal Transit Administration projects</p> <p>5 or Federal Highway Administration projects?</p> <p>6 A. They were Sound Transit with where we</p> <p>7 went through the NEPA/SEPA process because they had</p> <p>8 FTA money. Well, the expectations they could have</p> <p>9 FTA money, so they chose to go through those</p> <p>10 processes as well as the interchange was on the</p> <p>11 interstate facility, so we had to.</p> <p>12 Q. And are you aware of whether those</p> <p>13 funding structures dictate the timing and sequence</p> <p>14 of design and when those need to be finished?</p> <p>15 A. Whether -- could you state that again,</p> <p>16 please?</p> <p>17 Q. FTA projects, for example, are you aware</p> <p>18 of whether that funding structure dictates the</p> <p>19 timing by which design needs to be completed and the</p> <p>20 steps that need to be taken?</p> <p>21 A. I'm -- I know what I've done on each</p> <p>22 project with federal money. I'm not someone that</p> <p>23 has the intimate knowledge of all the regulations.</p> <p>24 Q. Okay. You were using the term</p> <p>25 "NEPA/SEPA," and I think Mr. Schneider was asking</p>	<p>1 The Columbia River Crossing where I prepared the</p> <p>2 freight element was an EIS. Sound Transit's Linwood</p> <p>3 Link was an EIS.</p> <p>4 Q. Okay. So three EIS's. Is that what I</p> <p>5 heard? The question was how many were EA's, but I</p> <p>6 heard you specify which ones were EIS's.</p> <p>7 A. Yes.</p> <p>8 Q. So is it safe to say the others were not?</p> <p>9 A. Correct.</p> <p>10 Q. Okay.</p> <p>11 A. There would have been others, many</p> <p>12 others, where I had a smallish role, and I have it</p> <p>13 listed here.</p> <p>14 Q. Okay. So in your testimony yesterday, I</p> <p>15 recall that you identified a few key items that you</p> <p>16 thought were representative of a 30-percent design.</p> <p>17 You recall that testimony? Okay. I want you to</p> <p>18 refer to page 5 of your memo, which again, I'm going</p> <p>19 to have to -- I know the Petitioner's Exhibit</p> <p>20 A-311.16, I'm not remembering, but official exhibit</p> <p>21 number?</p> <p>22 THE HEARING EXAMINER: A-3.</p> <p>23 MR. KISIELIUS: A-3.</p> <p>24 THE HEARING EXAMINER: That's it.</p> <p>25 MR. KISIELIUS: Thank you.</p>
Page 273	Page 275
<p>1 you about NEPA/SEPA documentation. I'd like to ask</p> <p>2 you, on those examples how many of them were EAs</p> <p>3 under NEPA? You used the word "EA" when you were</p> <p>4 describing them.</p> <p>5 A. TotalMIC HOV direct access was an EA and</p> <p>6 Sammamish Park &amp; Ride was an EA.</p> <p>7 Q. Okay. Any others?</p> <p>8 A. I'd have to look at my list.</p> <p>9 Q. Can you do that?</p> <p>10 A. Do you want me to describe each of the</p> <p>11 types of --</p> <p>12 Q. No. I just want you to tell me which --</p> <p>13 A. -- documents?</p> <p>14 Q. -- ones were an EA.</p> <p>15 A. That was an addendum.</p> <p>16 Q. An addendum was one of them?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. But I believe doing EIS.</p> <p>20 Q. But it wasn't the creation of a new one</p> <p>21 -- of a new EIS?</p> <p>22 A. Re-eval. Yeah. I have five improvements</p> <p>23 at Mellon Street. I believe that would have been an</p> <p>24 EIS where I had a role on the truck element. I</p> <p>25 don't remember in Tukwila Station the specifics.</p>	<p>1 BY MR. KISIELIUS:</p> <p>2 Q. Page 5 of your memo. And I'd like you to</p> <p>3 refer to the second paragraph under the heading</p> <p>4 number 3 where you talk about 30-percent design.</p> <p>5 And in this paragraph, I see you write about</p> <p>6 something that you didn't specifically identify</p> <p>7 yesterday as part of the 30-percent design</p> <p>8 instruction. You talk about truck tracking which</p> <p>9 provides information on "Where the truck must</p> <p>10 position in a driveway to complete a turn, whether</p> <p>11 the truck can turn into the travel lane, or whether</p> <p>12 the truck needs to travel in the opposing lane to</p> <p>13 complete a turn, and to the extent to which trucks</p> <p>14 will encroach on the multi-use path while completing</p> <p>15 a turn." I just want to be clear, because you</p> <p>16 didn't mention this yesterday. Is that part of what</p> <p>17 you think is standard in a 30-percent design?</p> <p>18 A. Yes.</p> <p>19 Q. And presumably, you're talking about the</p> <p>20 AutoTURN analysis --</p> <p>21 A. Yes.</p> <p>22 Q. -- that we talked about at length</p> <p>23 yesterday?</p> <p>24 A. In particular, when you're working on a</p> <p>25 transportation project where there are truck</p>

Page 276

1 volumes, obviously on a truck-designated street we  
 2 would run turning templates.  
 3 Q. As part of the 30-percent design?  
 4 A. Yes.  
 5 Q. Okay. And was that included in your --  
 6 scratch that. Let's switch to your chart, which is  
 7 just two pages later. I'm going to ask you a couple  
 8 detailed questions about that. And perhaps to  
 9 understand some of your testimony, I'm also going to  
 10 refer to the conflict points that you have later in  
 11 your attachment. I think you had said there are  
 12 eight conflict points for a contraflow path, and I  
 13 just want to be clear. And perhaps I'll direct you  
 14 to a specific page here. I'm looking at page 211 of  
 15 your exhibit.  
 16 So you show two lines for vehicle travel  
 17 passing though the trail that's offset from the  
 18 street. Is that right?  
 19 A. Yes.  
 20 Q. And then I see there's the eight starts.  
 21 And does that represent one pedestrian and one  
 22 bicycle in each direction, so four for each  
 23 direction?  
 24 A. Yes. Crossing the driveway with an  
 25 inbound movement and an outbound movement.

Page 277

1 Q. So you consider it a different conflict  
 2 point for bicycles, pedestrians going in opposite  
 3 directions?  
 4 A. Yes.  
 5 Q. And then, by --  
 6 A. Yes.  
 7 Q. Just want to make sure. Have you ever  
 8 seen the information presented this specific way?  
 9 A. Yes. There's a lot of sample diagrams  
 10 out there on the Web and --  
 11 Q. They testified that it was on the  
 12 preceding page where you drew that information from.  
 13 Is that correct?  
 14 A. Well, I looked at various, many, many  
 15 different conflict diagrams and developed this one  
 16 for a two-way trail at a driveway. And actually,  
 17 Transpo reviewed this diagram as  
 18 well -- their traffic engineers.  
 19 Q. Okay. Did they review it and comment on  
 20 it, or did they just prepare the graphic for you?  
 21 A. They prepared the graphic and they did a,  
 22 what we call, quality control check --  
 23 Q. Okay.  
 24 A. -- of my analysis at the conflict points  
 25 and confirmed them.

Page 278

1 Q. So I'm sorry. Just to clarify, you said  
 2 you used various sources. Is it -- does the diagram  
 3 on the preceding page support what you've then  
 4 presented in your --  
 5 A. Sure. Yes.  
 6 Q. Okay. Now let's turn back to your chart  
 7 with that in mind. I think you may have clarified  
 8 this later in your testimony, but I just want to be  
 9 sure. There's that row on your chart, and here, I'm  
 10 speaking about the section -- excuse me -- the row  
 11 that's titled "Driveways with Contraflow Movement"  
 12 on the first page of the chart. Do you see that  
 13 row?  
 14 A. Yes.  
 15 Q. Okay. And you went through that and said  
 16 for the preferred alternative there are 39  
 17 driveways. And then Mr. Schneider asked if you  
 18 could multiply that by four and came up with that  
 19 number. And then you compared it to the No Build  
 20 alternative and said "zero." So just to be clear,  
 21 are you suggesting that there are no conflict points  
 22 under existing conditions right now?  
 23 A. No. There's no contraflow movement.  
 24 Q. Okay. So then, if we compare to the row  
 25 that follows, is that a more -- is that comparison

Page 279

1 that I'm trying to make here between the number of  
 2 conflict points that exist based on driveways and  
 3 the number of conflict points that are in the No  
 4 Build alternative?  
 5 A. These are -- yes. In as much as these  
 6 are the number of driveways.  
 7 Q. Okay. So let me ask you, can you arrive  
 8 -- explain how you arrived at the number of  
 9 driveways for each of the No Builds? And I want to  
 10 ask you to focus on your round-trip analysis that  
 11 you were talking about the other day. So when  
 12 you're looking at that column that says "preferred  
 13 and Shilshole South alignment" and you have 81  
 14 driveways, what went into that?  
 15 A. Those -- that's the driveway inventory on  
 16 both sides of the street, because under No Build  
 17 bicycles are on both  
 18 sides --  
 19 Q. So you counted --  
 20 A. -- using both sides of the street.  
 21 Q. Sorry to interrupt you.  
 22 A. Yes.  
 23 Q. That -- when you say "both sides of the  
 24 street" here, you're talking about both sides of the  
 25 street along the preferred alternative?

Page 280	Page 282
<p>1 A. Yes.</p> <p>2 Q. So is it -- is that the case for the</p> <p>3 remaining No Build alternatives? You just combined</p> <p>4 the driveways on both sides of the street for each</p> <p>5 of the No Build alternatives?</p> <p>6 A. Yes. Because under No Build, they don't</p> <p>7 have a facility, so they're at the edge of travel</p> <p>8 lane bicycling on both sides of the street.</p> <p>9 Q. I appreciate that clarification. It just</p> <p>10 -- I wanted to see where those came from.</p> <p>11 A. Yeah.</p> <p>12 Q. Thank you. I noticed in your chart that</p> <p>13 there are several rows where you have no values</p> <p>14 entered for the No Build alternatives. Is that</p> <p>15 because -- and here, I'm looking at, for example,</p> <p>16 arterial travel lane widths, small tie use two-way</p> <p>17 travel width, so when we're talking about the lane</p> <p>18 widths at the bottom of the first page and any of</p> <p>19 the rows on the second page.</p> <p>20 A. That's because I had -- did not do an</p> <p>21 inventory of the existing lane widths.</p> <p>22 Q. Okay.</p> <p>23 A. That's --</p> <p>24 Q. Or the other rows that are identified</p> <p>25 there? If there's -- if it's a blank cell, that</p>	<p>1 Shilshole alternative?</p> <p>2 A. Yes. Shilshole South we had to rely on</p> <p>3 the level of design that was done for the DEIS. So,</p> <p>4 because the design was advanced once the preferred</p> <p>5 alternative was selected.</p> <p>6 Q. Okay.</p> <p>7 A. Does that make sense?</p> <p>8 Q. It does. So I'm going to ask you the</p> <p>9 same question, though, about the remaining three</p> <p>10 alternatives, because my understanding was that this</p> <p>11 level of analysis was not completed for those</p> <p>12 remaining alternatives. So how did you come up with</p> <p>13 the entry for those cells in your table?</p> <p>14 A. Well, because there's few industrial</p> <p>15 driveways, we would have done analysis on few</p> <p>16 driveways and whether or not the trucks are able to</p> <p>17 make the turn within the lane. Even if they</p> <p>18 couldn't, it would only be at three driveways. So</p> <p>19 it just gives some relative level of way of thinking</p> <p>20 about it.</p> <p>21 Q. So those represent that issue based on</p> <p>22 your inventory of the driveways?</p> <p>23 A. Yes.</p> <p>24 Q. But you didn't do any independent</p> <p>25 analysis like what we saw --</p>
Page 281	Page 283
<p>1 means you didn't --</p> <p>2 A. I didn't do that level of analysis or</p> <p>3 inventory.</p> <p>4 Q. Okay. Let's focus on the row that's</p> <p>5 titled "Truck Tracking at Driveways." That's on</p> <p>6 page 2. Now here -- well, first let me ask, is the</p> <p>7 information that's entered in the column under</p> <p>8 preferred alternative based on the analysis that we</p> <p>9 talked -- that Mr. Bishop --</p> <p>10 A. Yes.</p> <p>11 Q. -- talked about at length yesterday?</p> <p>12 A. But it's specifically in this case</p> <p>13 whether or not trucks can turn -- make the turn</p> <p>14 within the lane or not. So it's summarizing that.</p> <p>15 It's recognizing that, yes, trucks may make a turn</p> <p>16 and go outside the lane, but if you were, to say,</p> <p>17 you know there's a slight -- there's some level of</p> <p>18 increased risk when trucks are making movements</p> <p>19 outside their lane. Not that it's bad or it doesn't</p> <p>20 occur on a day-to-day basis in dense, urban areas,</p> <p>21 but it's just a relative measure of those two</p> <p>22 conditions.</p> <p>23 Q. I understand. And then under Alternative</p> <p>24 1, how did you arrive at those numbers? Because --</p> <p>25 and here, I assume we're talking about the south</p>	<p>1 A. No.</p> <p>2 Q. -- yesterday? Okay.</p> <p>3 A. It provides a framework, you know, even</p> <p>4 if a truck couldn't make a turn, there's three</p> <p>5 driveways. Or maybe they could and then it's better</p> <p>6 than that.</p> <p>7 Q. And then, in terms of the types of</p> <p>8 vehicles used, I understand that some of these cells</p> <p>9 for the other alternatives were based on your field</p> <p>10 observations. Are the vehicles shown in the</p> <p>11 preferred alternative consistent with what was</p> <p>12 depicted yesterday?</p> <p>13 A. Yes.</p> <p>14 Q. Did you rely on Mr. Bishop's work --</p> <p>15 A. Yes.</p> <p>16 Q. -- on that? Okay. In general, is it</p> <p>17 fair to say -- I heard you use the word "inventory"</p> <p>18 a second ago. Is that a fair characterization of</p> <p>19 this? I mean, I heard Mr. Schneider call it a</p> <p>20 quantitative assessment. But when you were</p> <p>21 quantifying things, is this an inventory of what you</p> <p>22 saw?</p> <p>23 A. Well, the inventory relates to what's out</p> <p>24 there for existing condition. So it's an inventory</p> <p>25 of the driveways. Later on, the quantification, the</p>



Page 284

1 numerical analysis, right -- the methodologies to  
 2 compare potential safety factors, the numerical  
 3 analysis is about how many driveways have contraflow  
 4 movement. How many driveways are industrial? How  
 5 many driveways are commercial?  
 6 Q. And I understand that. I guess that's --  
 7 MR. SCHNEIDER: Mr. Kisielius has  
 8 repeatedly interrupted the witness before she  
 9 finished. I would ask that she be allowed to  
 10 complete her sentence before another comment or  
 11 question is asked.  
 12 MR. KISIELIUS: Mr. Schneider?  
 13 THE HEARING EXAMINER: Sustained. And  
 14 I think you've caught yourself on that a couple  
 15 times.  
 16 So just slow it down a little.  
 17 THE WITNESS: So I think the question  
 18 is what's the difference between the inventory and  
 19 the analysis. The inventory is what the existing  
 20 condition is. So it's the number of driveways --  
 21 BY MR. KISIELIUS:  
 22 Q. And --  
 23 A. -- and the type of driveway, how it's,  
 24 you know, the characterization of each driveway.  
 25 Q. I understand that. I'm trying to

Page 285

1 understand how -- what's the difference between  
 2 counting the existing conditions and counting under  
 3 changed conditions. Because what I understood you  
 4 did was to take the alternatives and to count how  
 5 many have contraflow movements and -- based on the  
 6 number of driveways. Is that accurate?  
 7 A. Yes.  
 8 Q. Okay. And that's not an inventory in  
 9 your mind?  
 10 A. No. That's -- that reaches into analysis  
 11 --  
 12 Q. Because you're --  
 13 A. -- to compare alternatives.  
 14 Q. Because you're considering future  
 15 conditions?  
 16 A. I'm considering that alternative, yes.  
 17 Q. Okay. Well, I guess, are you familiar  
 18 with quantitative risk assessments?  
 19 A. I'm sure there's a lot of quantitative  
 20 risk assessment out there. I'd -- you'd have to be  
 21 specific about whose or what or --  
 22 Q. For assessing risk of collision, for  
 23 assessing risk of accident? Are you familiar with  
 24 those types of analyses?  
 25 A. I'm familiar. Like I say, in many of

Page 286

1 these projects, we're developing the methodology.  
 2 If you're referring to another research document, I  
 3 need you to cite that so I can follow it.  
 4 Q. I'm just trying to get -- sorry. I'm not  
 5 trying to interrupt. I just hear pauses and I --  
 6 A. I know. I'm doing that because I'm  
 7 thinking.  
 8 Q. No. I'm just trying to understand,  
 9 again, the difference between an inventory and  
 10 analysis. I'm trying to understand the distinction  
 11 you're trying to make between counting under build  
 12 conditions and analyzing them.  
 13 A. Counting under build conditions. I'm  
 14 putting -- I'm quantifying as best I can these  
 15 different safety factors.  
 16 Q. That's fair. And we can leave that  
 17 there. And it's your assessment that the EIS did  
 18 not do the same. Is that correct?  
 19 A. Correct.  
 20 Q. Okay. Let's turn to -- I'd like to ask  
 21 you a couple questions about your testimony related  
 22 to driveway delay. And your memo says, "The EIS  
 23 does not disclose the impacts to businesses during  
 24 peak periods of business activity." Do you remember  
 25 your testimony on that?

Page 287

1 A. Yes.  
 2 Q. Okay.  
 3 A. Actually, I didn't testify on it because  
 4 you didn't allow me to. I only testified on how  
 5 delay is calculated.  
 6 Q. And I believe that's what the question  
 7 asked is --  
 8 A. Yeah.  
 9 Q. -- "does not disclose the delay" is what  
 10 we're talking about.  
 11 A. Okay.  
 12 Q. I'm asking about the same testimony you  
 13 gave yesterday about delay.  
 14 A. About delay.  
 15 Q. What was removed or what was not allowed  
 16 to be pursued was economic impact. Okay? So with  
 17 delay and that focus on delay, I'd ask you to look  
 18 at the Technical Discipline Report or Transportation  
 19 Discipline Report that's in Appendix to the EIS and  
 20 it's in one of the notebooks next to you with the  
 21 appendices. That one. Could you please turn to  
 22 page 3-2 of the Transportation Discipline Report?  
 23 MR. KISIELIUS: And I guess,  
 24 Mr. Examiner, I'm -- we were intending to enter the  
 25 EIS and the Appendices when we present our

Page 288

1 witnesses. I can certainly go do that with my  
 2 witness now, but if you're comfortable doing with --  
 3 as the other witnesses have done, referring to it?  
 4 THE HEARING EXAMINER: I'm not. We  
 5 probably should have entered this as an exhibit  
 6 earlier on.  
 7 BY MR. KISIELIUS:  
 8 Q. Ms. Hirsche, --  
 9 THE HEARING EXAMINER: Nobody has. So  
 10 I -- I'd rather -- if we don't -- since you're  
 11 raised it, if we don't -- don't mind doing that now.  
 12 BY MR. KISIELIUS:  
 13 Q. -- did you review the Transportation  
 14 Discipline Report that's in that Appendix?  
 15 A. Yes.  
 16 Q. And did you review the Technical  
 17 Appendices?  
 18 A. Yes. Well, the Discipline Report is a  
 19 Technical Appendices --  
 20 Q. Yes.  
 21 A. Appendix -- I reviewed that.  
 22 MR. KISIELIUS: So I'm not certain  
 23 that she can testify to --  
 24 THE WITNESS: Are you --  
 25 MR. KISIELIUS: -- all of them.

Page 289

1 THE WITNESS: All of them, I read  
 2 quickly the parking one.  
 3 MR. KISIELIUS: I don't think there's  
 4 going to be any objection, because the opponents  
 5 have raised this as an exhibit as well and asked for  
 6 stipulation on it. So I'd -- I would just simply  
 7 move to enter the EIS and the Technical Appendices  
 8 as exhibits as -- and that way we can -- there's  
 9 stipulation, I think, to that effect. And the  
 10 City's presented them sort of a standalone to make  
 11 it a little easier.  
 12 MR. SCHNEIDER: Well, I think there's  
 13 obviously no objection, but we need to make sure we  
 14 get all of the documents entered including the  
 15 draft. It's not just the final EIS people are going  
 16 to be testifying about, but the draft as well. So I  
 17 would suggest we do it all in one fail swoop here.  
 18 MR. KISIELIUS: There's no objection  
 19 on that.  
 20 THE HEARING EXAMINER: Well, I don't  
 21 know that we need to -- I guess I was going in a  
 22 different direction. I prefer not to have a single  
 23 exhibit number for all of those documents. It's  
 24 very difficult to know for the record which section  
 25 you're referring to. So, for example, the draft

Page 290

1 should have a whole separate exhibit numbers. And I  
 2 think I was going to break it down, the -- even the  
 3 EIS by its section with exhibit number. So when we  
 4 get to those draft references with the witnesses, we  
 5 can do that at that time. I was just looking at  
 6 what we have here as the Final Environmental Impact  
 7 Statement and then three -- let's see, Volume 2,  
 8 Comments and Responses. Volume 3, the Technical  
 9 Appendices. I also have an Executive Summary.  
 10 This looks like the same thing to me  
 11 as Final of Environmental -- the final Environmental  
 12 Impact Statement. Is it a different document?  
 13 Okay. So is there anything else?  
 14 MR. KISIELIUS: No.  
 15 MR. COHEN: Mr. Examiner?  
 16 THE HEARING EXAMINER: Okay. Then I  
 17 think what I'd like to do is for Exhibit -- we'll do  
 18 R. It's coming in under the Respondent's cross.  
 19 We're going to do R-1 for the Executive Summary and  
 20 the FEIS. R-2 will be the Comments and Responses.  
 21 And R-3 will be the Technical Appendices, Volume 3.  
 22 Okay? If everyone's made a note of that, we can  
 23 continue.  
 24 Thank you.  
 25 MR. KISIELIUS: Thank you.

Page 291

1 (RESPONDENT'S EXHIBITS R-1, R-2, AND R-3 MARKED FOR  
 2 IDENTIFICATION.)  
 3 BY MR. KISIELIUS:  
 4 Q. So, Ms. Hirsche, I'd like you to take a  
 5 look at what has been marked R-3 which is the  
 6 Technical Appendices, and ask you to turn to the  
 7 Transportation Discipline Report. And within that  
 8 report, please turn to page 3-3.  
 9 THE HEARING EXAMINER: One question  
 10 before you proceed.  
 11 Do you mind if I use -- should I be  
 12 using these as my copy, or am I getting anything  
 13 else -- something different?  
 14 THE ASSISTANT: Those were your  
 15 copies.  
 16 THE HEARING EXAMINER: Okay. I'll  
 17 just have these marked then. Thank you.  
 18 BY MR. KISIELIUS:  
 19 Q. Could you read that first paragraph on  
 20 the top of that page, page 3-3?  
 21 A. "Although freight truck volumes typically  
 22 peak during the midday, the volumes for other  
 23 transportation modes in the study vary such as  
 24 non-motorized users and passenger vehicles are  
 25 higher during the p.m. and peak hour. Evaluating

Page 292

1 conditions during the p.m. and peak hours results in  
 2 the worst-case impact for all modes."  
 3 Q. Can you turn the page to Figure 3-2?  
 4 Does that depict freight vehicles against general  
 5 purpose vehicles during the hours of the day?  
 6 A. On page 3-2?  
 7 Q. No. Figure 3-2 on page 3-4.  
 8 A. These figures are combined. They're for  
 9 all traffic.  
 10 Q. They don't distinguish between freight  
 11 and general-purpose vehicles?  
 12 A. Well, yes. The -- when I look closer,  
 13 the bars are the freight, which peaks midday, and  
 14 the general purpose is the red line.  
 15 Q. And did you read this appendix before  
 16 giving --  
 17 A. Yes.  
 18 Q. -- writing your report? And you're  
 19 testimony is that it does not disclose the impact?  
 20 A. It does -- my testimony was that the p.m.  
 21 and peak hour results for delay do not reflect when  
 22 the trucks are at their peak.  
 23 Q. And I -- your report says the EIS does  
 24 not disclose the impacts to businesses during peak  
 25 periods of business activity.

Page 293

1 A. Well, this is actually a presentation of  
 2 truck volumes by time of day and general-purpose  
 3 traffic.  
 4 Q. And does it not disclose the peak hours  
 5 of freight-traffic activity?  
 6 A. It does, but it doesn't do any analysis  
 7 of impacts. It just presents a graphic of the  
 8 volumes.  
 9 Q. And the prior section you read about  
 10 worst-case scenario, that's not a discussion of the  
 11 impact when the impact occurs?  
 12 A. Well --  
 13 Q. I'm just trying to distinguish -- I mean,  
 14 let me phrase the question. I'm trying to  
 15 understand --  
 16 MR. SCHNEIDER: Let her answer the  
 17 question.  
 18 THE HEARING EXAMINER: I think he's  
 19 withdrawing the question and he's going to ask a new  
 20 question. Is that?  
 21 MR. KISIELIUS: Yes.  
 22 THE HEARING EXAMINER: All right. So  
 23 please proceed.  
 24 BY MR. KISIELIUS:  
 25 Q. I'm trying to distinguish between whether

Page 294

1 or not it disclosed the impact or you're disagreeing  
 2 with the impact.  
 3 A. This chart is presenting the volumes from  
 4 the data that was collected. It's not an analysis  
 5 of impacts.  
 6 Q. And the preceding --  
 7 A. And this sentence -- you want me to speak  
 8 to the sentence "evaluating conditions during  
 9 the p.m. and peak hour results in the worst-case  
 10 impact for all modes"?  
 11 Q. Yes.  
 12 A. I would -- if one were to define truck --  
 13 large trucks as a separate mode than general-purpose  
 14 traffic and for projects where trucks are  
 15 significant concern or part of the traffic flow, I  
 16 would speak to them as different modes. The term --  
 17 the "all" is incorrect. It -- it's worst-case  
 18 scenario for general-purpose traffic. Well, it's  
 19 worst-case scenario for general-purpose traffic  
 20 because that's when it's peak. We haven't yet --  
 21 haven't yet found a disclosure of when bicycle and  
 22 pedestrian volumes peak and what hour that is. And  
 23 the trucks peak at a different hour.  
 24 Q. I heard you say "It's incorrect." So  
 25 again, I'm going to ask the question. Is it that

Page 295

1 you disagree with the impact or that it doesn't  
 2 disclose the impact?  
 3 A. It doesn't disclose the impact.  
 4 Q. Okay. Let's talk a little bit about your  
 5 application of the three factors of the National  
 6 Cooperative Highway Research Program Standards.  
 7 THE HEARING EXAMINER: Mr. Kisielius,  
 8 before you go on to that, could you cite the page  
 9 number for the Technical Appendix you were on?  
 10 MR. KISIELIUS: Oh, sure. That was --  
 11 we were just referring to pages 3-3 and 3-4.  
 12 THE HEARING EXAMINER: Thank you.  
 13 BY MR. KISIELIUS:  
 14 Q. So this is on page 10 of your memo. I'd  
 15 like to draw your attention to the analysis of three  
 16 factors. And here it's page 10 of your memo, but in  
 17 the red numbering, it's page 011.  
 18 MR. KISIELIUS: Alayna, are there any  
 19 paper towels over there? We've had a -- here.  
 20 THE HEARING EXAMINER: Yeah.  
 21 MR. KISIELIUS: Assertion?  
 22 THE WITNESS: It's just water. Okay.  
 23 BY MR. KISIELIUS:  
 24 Q. Are we there?  
 25 A. Uh-huh (affirmative response).

Page 296

1 Q. Okay. I heard you talk about one and two  
 2 yesterday in your testimony. I'd like to focus on  
 3 number 3, which according to your memo, asks you to  
 4 consider whether a substantial number of bicyclists  
 5 are already using the street. And you didn't touch  
 6 on that in your testimony yesterday. But in your  
 7 text you say "There's a common perception that there  
 8 are a substantial number of bicycles on Shilshole  
 9 Avenue Northwest, however, p.m. peak hour turning  
 10 movement data show -- provided in the FEIS that half  
 11 of the westbound bicycle volume turns north onto  
 12 17th Avenue Northwest.  
 13 So is that discussion of p.m. peak hour  
 14 turning movement databased exclusively on the data  
 15 provided in the EIS?  
 16 A. Yes.  
 17 Q. And is your assumption of half of  
 18 the p.m. peak turning north you say "common  
 19 perception it starts as substantial," but then you  
 20 say "half turns north on 17th." Is it your  
 21 testimony that the remaining half that stays on is  
 22 not substantial?  
 23 A. No. I have not evaluated a definition of  
 24 substantial. And if I were to, I would keep it  
 25 focused on a comparison of alternatives. And we

Page 297

1 don't have bicycle -- a clear presentation of  
 2 bicycle volume data for various segments on the  
 3 other alignments.  
 4 Q. So I heard you say you didn't apply that  
 5 standard?  
 6 A. No. Because I didn't have information  
 7 for the other alternatives, and the focus is on  
 8 comparing alternatives and where it's best. In an  
 9 alternatives analysis process for transportation,  
 10 we're looking at both alignment alternatives and  
 11 design alternatives, and that was my focus to try to  
 12 compare. I don't have information to do that  
 13 comparison of which is more substantial, for  
 14 example.  
 15 Q. So how would you apply it, though, to the  
 16 preferred alternative not as a comparison? Would  
 17 you --  
 18 A. I don't have -- I didn't choose to define  
 19 a threshold for substantial. I didn't do it.  
 20 Q. But that's one of the three factors --  
 21 A. Yes.  
 22 Q. -- that you analyzed. So you just didn't  
 23 consider it?  
 24 A. No.  
 25 Q. Okay. Let's focus on your conclusion

Page 298

1 that there is, I think you said, "No analysis of the  
 2 No Build alternative." Just want to ask you  
 3 referring to the Technical Appendices, if you could  
 4 turn to Section 4.2 of the Transportation Discipline  
 5 Report.  
 6 THE HEARING EXAMINER: May I please  
 7 ask that everyone double-check their technology and  
 8 make sure the computers and phones are silenced?  
 9 Thank you.  
 10 BY MR. KISIELIUS:  
 11 Q. I'm just going to you generally, did you  
 12 read Section 4.2 of this appendix?  
 13 A. Yes.  
 14 Q. And I'm going to ask you to turn to page  
 15 -- excuse me Section 5.1 of that appendix, which  
 16 begins on page 5.1 -- 5-1. Did you read that  
 17 section in its entirety as well?  
 18 A. Yes.  
 19 Q. And so is it your testimony that there's  
 20 no analysis of the No Build alternative?  
 21 A. Well, I need to go back to the context  
 22 within which I made that -- wrote that sentence.  
 23 Can you point me to where I wrote that sentence?  
 24 Q. Well, I'm referring to how you said it  
 25 yesterday. It was kind of a superlative. It was

Page 299

1 "no" analysis. It was kind of an absolute term.  
 2 You said it that way.  
 3 A. That would be -- if that's what I said,  
 4 that's in error. I don't know what the context is  
 5 though.  
 6 Q. And then, I believe you say it in your  
 7 report as well. Looking at page 019 in red -- page  
 8 18 of your report. And in the second paragraph on  
 9 that page, you say "There are no data to support  
 10 this conclusion." And the conclusion being "will be  
 11 safer than existing conditions." "There are no data  
 12 or analysis of conflict points."  
 13 A. That's correct.  
 14 Q. So is it yesterday you said "No analysis  
 15 of the existing conditions -- that's not correct.  
 16 Did I hear you say that?  
 17 MR. SCHNEIDER: Well, I would --  
 18 THE WITNESS: I have no idea if that's  
 19 exactly how I phrased it.  
 20 MR. SCHNEIDER: Yeah. And I don't  
 21 remember the testimony that way, so I -- rather than  
 22 characterizing your memory of what was said  
 23 yesterday, I think a question focus that doesn't  
 24 require us all to have a collective memory --  
 25 THE HEARING EXAMINER: She's already

Page 300

1 answered the question, so, I mean.  
 2 BY MR. KISIELIUS:  
 3 Q. Okay. Turn to your testimony this  
 4 morning about what you observed in terms of the  
 5 truck movements. You compared it to what was  
 6 presented in the AutoTURN analysis. How were you  
 7 doing that? How were you transposing what is  
 8 depicted on a graphic into real-life conditions to  
 9 be able to compare whether the truck maneuvered  
 10 consistent with that?  
 11 A. That's done in their consultants. So  
 12 it's not as accurate as digital, but they put out  
 13 ropes and cones to mimic where the trail position  
 14 would be relative to the street and so a truck could  
 15 show the maneuvers.  
 16 Q. That's not what I'm asking. I'm asking  
 17 about the swept path that's depicted on here. Was  
 18 it your testimony that it was consistent with that  
 19 or inconsistent with that? I heard you say that  
 20 there was a margin of --  
 21 A. Oh. It was basically consistent. What  
 22 it demonstrated is the margin of error that occurs  
 23 naturally as trucks are -- drivers operate their  
 24 truck was having that truck right turn movement go a  
 25 little beyond what you would show in a digital --

Page 301

1 Q. And that's --  
 2 A. -- what you would show from a truck-  
 3 turning template.  
 4 Q. And that's precisely my question.  
 5 How do you know whether the truck  
 6 maneuver was consistent with the swept path or  
 7 demonstrated even a margin of error of the swept  
 8 path in real-time conditions in real life? Was the  
 9 swept path shown?  
 10 A. Yes. They coned it off.  
 11 Q. The swept path itself?  
 12 A. Yes.  
 13 Q. Consistent with this one? It was your  
 14 understanding that SDOT was using the AutoTURN  
 15 analysis that was prepared for this --  
 16 A. I actually don't know that.  
 17 Q. Okay.  
 18 A. They could have done their own AutoTURN  
 19 and laid things out from their own AutoTURN  
 20 analysis.  
 21 Q. You said this demonstrated what will  
 22 "likely occur." Those were the words you used.  
 23 What's your understanding of the frequency with  
 24 which a truck of that size will use that driveway?  
 25 A. I would have to go back to the driveway

Page 302

1 number and the volumes that are in the EIS for that  
 2 driveway. You're concerned about --  
 3 Q. Yeah. I'm -- I would just like to  
 4 understand what's the basis of your understanding  
 5 that it would likely occur, and I'm asking  
 6 specifically the truck that you witnessed driving in  
 7 and out of that driveway, how often would a truck  
 8 like that move in and out of that driveway? What's  
 9 your understanding of the frequency?  
 10 A. If I -- I would need to look up the  
 11 driveway number. I can do that in the FEIS and look  
 12 up the volume.  
 13 Q. And it would be based upon the  
 14 information in the EIS?  
 15 A. Yes. As long as the -- I believe there  
 16 is an inventory of that driveway in the EIS, if I  
 17 recall.  
 18 Q. Okay.  
 19 A. Yes.  
 20 Q. What's your understanding of how that  
 21 maneuver would be executed now without the cones  
 22 showing the driveway and the swept path?  
 23 A. Well, the area beyond the 24 feet of  
 24 concrete pavement is not well defined. And so,  
 25 trucks basically make their maneuver across some

Page 303

1 dirt, some gravel, and then onto the pavement on the  
 2 driveway.  
 3 Q. Do you know whether they stay within the  
 4 lane or within available pavement?  
 5 A. Well, in that demonstration they -- the  
 6 driver did -- showed both conditions.  
 7 Q. Okay. But I understand that was sort of  
 8 conforming to cones that were. I'm asking right  
 9 now, today, what's your understanding, if you have  
 10 any, of how that maneuver would be executed today  
 11 without the cones guiding the path.  
 12 A. A right turn movement, the trucks on  
 13 Shilshole would be -- for a right-turn movement into  
 14 a driveway they would likely stay in their lane and  
 15 do the best they can to enter that driveway based on  
 16 the -- any particular driveway based on the  
 17 dimensions of that driveway. I think yesterday, Vic  
 18 described a lot of the movements trucks make to go  
 19 in and out of those driveways.  
 20 Q. I'd like to interrupt just to focus you  
 21 on the driveway that you observed --  
 22 A. Okay.  
 23 Q. -- not specific movement. Would they  
 24 stay within the lane or would they use available  
 25 pavement? Do you know?

Page 304

1 A. They would use available -- well, they  
 2 would do it both ways. It just depends how they  
 3 positioned their truck upon exiting or upon  
 4 entering. There would be variation.  
 5 MR. KISIELIUS: Bear with me for just  
 6 one minute. Thank you. Ms. Hirschey, I don't have  
 7 any other questions for you. Thank you.  
 8 THE WITNESS: Okay.  
 9 THE HEARING EXAMINER: Ms. Hirschey,  
 10 have just a few questions for you before we go back  
 11 to redirect. I think --  
 12 MR. SCHNEIDER: I think --  
 13 MR. COHEN: I have a few questions.  
 14 THE HEARING EXAMINER: Yes. Go ahead.  
 15 That's a better order.  
 16 CROSS-EXAMINATION  
 17 BY MR. COHEN:  
 18 Q. Ms. Hirschey, I'm Matt Cohen. I'm here  
 19 for the Cascade Bike Club, and I have just a few  
 20 questions.  
 21 My understanding is that you did not  
 22 prepare any of the AutoTURN analysis about which  
 23 Mr. Bishop testified yesterday. Is that correct?  
 24 A. I did not.  
 25 Q. And that those analyses were prepared by

Page 305

1 Mr. Kuznicki of Transpo?  
 2 A. Yes.  
 3 Q. Tell me what information you provided on  
 4 site conditions to Mr. Kuznicki to support -- or to  
 5 anyone at Transpo to support their AutoTURN  
 6 analysis.  
 7 A. It was very -- there was a slight bit of  
 8 confusion with driveways because they're ill-defined  
 9 currently out there. And so, we cross-checked with  
 10 each other what my inventory said versus what was on  
 11 the base maps provided. And the only confusion,  
 12 actually, you'll see in my Table 1, there's a  
 13 difference in number of driveways compared to FEIS  
 14 And it's simply a difference at Standard Base Sand  
 15 and Gravel of defining those driveways as five  
 16 versus four. In the FEIS, whoever did the inventory  
 17 and observation called it four and at this point  
 18 we're calling it five for the way it functions.  
 19 Q. So --  
 20 A. So we just kind of put our heads together  
 21 and kind of clarified what condition are we going to  
 22 evaluate. It's minor.  
 23 Q. Thank you. So other than that one  
 24 driveway, did you provide any data on the location  
 25 or size of the driveways to Mr. Kuznicki other than

Page 306

1 what was on the base information he obtained from  
 2 the City?  
 3 A. No.  
 4 Q. Okay. Did you provide Mr. Kuznicki or  
 5 Transpo with any information on the volume of  
 6 traffic entering and leaving those driveways?  
 7 A. No.  
 8 Q. Other than that one driveway you  
 9 mentioned, did you provide Transpo with any  
 10 information about the width or magnitude of the  
 11 driveways?  
 12 A. No. That all came from base maps and  
 13 Google.  
 14 Q. Okay.  
 15 MR. COHEN: No further questions.  
 16 THE HEARING EXAMINER: I just have a  
 17 couple questions, Ms. Hirschey.  
 18 EXAMINATION  
 19 BY THE HEARING EXAMINER:  
 20 Q. I want to understand your concern about  
 21 the level of analysis or lack thereof of conflict  
 22 points and safety. Is -- well, I, first I should  
 23 ask are those -- did you say -- I think you said and  
 24 I think your report says that "conflict point safety  
 25 analysis is missing entirely from the FEIS." Is

Page 307

1 that correct?  
 2 A. "Entirely" is exaggerating. Yet another  
 3 superlative. But it -- what's in the FEIS is very  
 4 qualitative and broad. There's no quantitative  
 5 analysis.  
 6 Q. And is that of conflict points  
 7 specifically or is there a difference between the  
 8 safety analysis in general or is conflict points --  
 9 is conflict points a subset, for example, of safety  
 10 analysis or I want to make sure I -- I haven't read  
 11 the whole EIS the way -- as closely as you have. So  
 12 are you saying --  
 13 A. Why don't I --  
 14 Q. -- that there's no safety analysis or  
 15 that there's no conflict analysis. Is there -- it  
 16 seems to me that there might be other safety  
 17 analysis issues than the conflict points.  
 18 A. You're right. And my Table 1 has listed  
 19 all the safety factors in the text of -- my Tech  
 20 Memo is description of many, many safety factors.  
 21 Q. And, of those, are any covered by the  
 22 EIS? Are you saying that none of them are covered  
 23 beyond -- conflict points being one issue?  
 24 A. Well, I can actually read to you what the  
 25 FEIS says --

Page 308

1 Q. Or you can reference the point in it.  
 2 A. -- for analysis.  
 3 Q. We don't have to --  
 4 A. Yeah.  
 5 Q. Unless it's that short that you would  
 6 read it, but...  
 7 A. It's pretty short. And I'll first assist  
 8 you with the Transportation Discipline Report page  
 9 3-7.  
 10 Q. And is this the Technical Appendix?  
 11 A. Yes.  
 12 Q. Okay. So we're looking at R-3 and which  
 13 page?  
 14 A. Page 3-7.  
 15 Q. Okay.  
 16 A. So this is in the Methodology Section and  
 17 this is the methodology. At the bottom is 3.5.2.6  
 18 impacts on safety. It says "A safety analysis  
 19 considered" and it bullets: "The potential where  
 20 increasing or decreasing risk of motor vehicle trail  
 21 user conflicts, the potential for increasing or  
 22 decreasing risk of motor vehicle motor vehicle  
 23 conflicts, and impacts on sight distance at affected  
 24 driveways and intersections." So then if we go to  
 25 the Preferred Alternative Safety Section, that is

Page 309

1 page 5-19, and that's the Analysis of Safety  
 2 5.3.2.7.  
 3 Q. And that continues on to 5-20?  
 4 A. Small paragraph at the top of 5-19.  
 5 Q. Uh-huh. And --  
 6 A. See that's the analysis for safety for  
 7 the preferred alternative.  
 8 Q. Right. And that goes from 5-19 to 5-20?  
 9 A. Yes. Uh-huh, that section.  
 10 Q. And so, if I understand the scope of what  
 11 your statement is is that there is some analysis of  
 12 safety, but there might be missing analysis of some  
 13 elements, but specifically the element of conflict  
 14 points you're stating that there's no data or  
 15 analysis for those at all?  
 16 A. Right. And there's no comparison between  
 17 alternatives to assist with that part of  
 18 alternatives analysis and purposes of Environmental  
 19 Impact Statement.  
 20 Q. Okay. You mentioned in your testimony  
 21 that there is a generality with regard to lane  
 22 widths?  
 23 A. Uh-huh (affirmative response).  
 24 Q. As far as gaining -- can you help me  
 25 understand why that would be something you'd be

Page 310

1 looking for more specificity for in design? For  
 2 example, would it identify new conflict points or?  
 3 A. Near -- lane widths that would -- that  
 4 are too narrow would increase side-swipe accidents.  
 5 One good example where I would be particularly  
 6 concerned with lane width is at the intersection of  
 7 Market Street and 24th. And Vic Bishop spoke to at  
 8 length yesterday. And he noted the -- on Market  
 9 Street if you think the westbound and the eastbound  
 10 lane configurations, he noted that the westbound  
 11 thru-lane faced directly the eastbound left-turn  
 12 lane, and that it would require 11 feet of offset.  
 13 In other words, a vehicle that gets the green has to  
 14 shift -- has to drive in a shifting way 11 feet  
 15 across to enter the thru-lane because of the way  
 16 it's aligned. And so, for example, in a condition  
 17 like that it would be much more important to achieve  
 18 an 11-foot lane versus a 10 because vehicles  
 19 including large trucks and busses, even perhaps  
 20 recreational vehicles in the summer are needing to  
 21 do quite -- a very large -- we would consider that a  
 22 very, very large offset to arrive at the next lane.  
 23 And any -- the thousands of vehicles that go through  
 24 there all day are all going to have variability in  
 25 how they position themselves in a lane and approach

Page 311

1 that lane as they shift over an entire 11 feet if  
 2 that makes sense. So I would just -- that would be  
 3 an example condition where it would be very  
 4 important to have 11-foot instead of 10 to be able  
 5 to accommodate --  
 6 Q. From a -- strictly from an analysis  
 7 point, could the EIS -- let's say if you -- if they  
 8 included a range of 10 feet which includes what your  
 9 testimony says is there's a greater increase --  
 10 there's an increase in potential safety issues. If  
 11 the EIS included that in its analysis, would that be  
 12 adequate?  
 13 A. You mean if it addressed the fact that  
 14 narrower lane widths can increase side-swipe  
 15 accidents?  
 16 Q. Uh-huh (affirmative response).  
 17 A. Yes. That one would be okay to address  
 18 qualitatively in my mind.  
 19 Q. Did you see the EIS do that?  
 20 A. I don't remember.  
 21 Q. Okay.  
 22 A. I'd have to reread it.  
 23 Q. Okay. All right. And if you don't  
 24 remember that's fine.  
 25 A. Then the other issue gets back to all the

Page 312

1 discussion Vic Bishop had with truck turning  
 2 movements there. A -- one more foot of a wider lane  
 3 gives the truck that much more distance when he has  
 4 to make a critical turning movement and really be  
 5 careful not to encroach on a curb or on an opposing  
 6 lane in a conflict situation like that. Another  
 7 foot gives the truck that much flexibility to  
 8 execute the turn with caution in avoiding hitting  
 9 things he doesn't want to hit.  
 10 Q. Okay. And then I didn't hear you say  
 11 this, but I just wanted to check to see, did you  
 12 complete any analysis related to industrial traffic  
 13 peak or not?  
 14 A. For truck volumes I relied on the FEIS.  
 15 And then, on the other alignments, there was much  
 16 fewer data availability. So then, I relied on my  
 17 inventory and characterization of the driveway. But  
 18 only in as much as some were abandoned. Some, I  
 19 could tell, were very, very lightly used.  
 20 Q. And I thought I understood you to say  
 21 that -- so the DIS has used a p.m. peak hour --  
 22 A. The --  
 23 Q. -- in its analysis, but that it hadn't  
 24 necessarily identified an industrial peak hour --  
 25 industrial activity peak hour.

Page 313

1 A. The level of service analysis that is a  
 2 quantification of vehicle delay for all vehicles,  
 3 all approaches was done for the p.m. peak hour,  
 4 which is the highest volume hour for all traffic is  
 5 the p.m. peak from 5 to 6 that they evaluated. But  
 6 that's not the same as the highest hourly volume for  
 7 the trucks.  
 8 Q. Right. And so, my question was did you  
 9 do any independent analysis for the --  
 10 A. The level of service or delay?  
 11 Q. -- around the -- with the --  
 12 A. On the -- at the truck peak?  
 13 Q. -- truck peak?  
 14 A. No. I did not.  
 15 THE HEARING EXAMINER: Okay. I don't  
 16 have any further questions.  
 17 Redirect?  
 18 REDIRECT EXAMINATION  
 19 BY MR. SCHNEIDER:  
 20 Q Ms. Hirschey, you directed our attention  
 21 to page 5-19 and 5-20 of the Transportation  
 22 Discipline Report. The -- and specifically to the  
 23 safety analysis of the preferred alternative. There  
 24 are many assertions in those paragraphs about what  
 25 would happen. Is, in your opinion, is there any

Page 314

1 data or analysis to -- in the EIS to support those  
 2 assertions?  
 3 A. Not that I have found. No.  
 4 Q. Let's turn to page 18 of your report.  
 5 Mr. Kisielius asked you about the second paragraph,  
 6 the one that begins "The FEIS asserts that the  
 7 two-way trail will be safer than existing  
 8 conditions." Then you say, "However, there are no  
 9 data to support this conclusion." And you have  
 10 several sentences after that referring to no data.  
 11 Do you stand by the assertions in that paragraph  
 12 about no data to support the assertions in the FEIS?  
 13 A. Yes. With regard to safety.  
 14 Q. With regard to safety.  
 15 A. Well, I will make one exception. They  
 16 did summarize for existing conditions historical  
 17 crash data including all vehicles at their study  
 18 intersections.  
 19 Q. So Mr. Kisielius asked you a lot of  
 20 questions at the outset of his cross-examination  
 21 about methodology. And your attempt to find a  
 22 methodology to analysis safety, how common is it in  
 23 the environmental review that you've done for  
 24 transportation projects to have to develop a  
 25 methodology that is specific to that project?

Page 315

1 A. It's what we do. Basically, on a complex  
 2 project, we actually write, before we even start it,  
 3 we write a methodology report. And that's a team  
 4 effort where amongst a team of transportation  
 5 traffic engineers that are considering all these  
 6 various aspects of a transportation project.  
 7 Q. And is there any such methodology in the  
 8 EIS for this project?  
 9 A. There's what I pointed out to Mr. Vancil  
 10 on page -- with regard to safety, the methodology is  
 11 on page 3-7 of the Transportation Discipline Report.  
 12 Q. And can you give us an example of another  
 13 transportation project where you developed -- had to  
 14 develop the methodology?  
 15 A. Yes. We did -- well, I nearly -- well,  
 16 we do it in all the projects. What's consistent,  
 17 for example, level of service that's been around.  
 18 Those types of calculations are a tool that have  
 19 been around forever. But the approach to evaluating  
 20 alternatives and say you have -- in the Kirkland  
 21 Corridor's project, for example, we had started with  
 22 approximately 30 alternatives for HOV direct access.  
 23 It was two or three design concepts per location.  
 24 So we came up with a methodology that considered all  
 25 the elements of the environment, some of which were



Page 316

1 quantitative, some qualitative. And we described  
 2 how we would go through an analysis that would  
 3 screen those alternatives to preferred location and  
 4 then get into alternatives development at that  
 5 location.  
 6 The corollary to this project would be  
 7 evaluation of the alternative alignments which was  
 8 part of the EIS to a limited extent. And at the  
 9 same time, consider alternative designs on each  
 10 alignment. However, in this case, we only had one  
 11 design in the FEIS for each alignment.  
 12 Q. Before you finalized your report, which  
 13 is Exhibit A-3, did you have it reviewed by anyone  
 14 -- peer reviewed?  
 15 A. I did. I had a peer review -- prepared  
 16 report.  
 17 Q. And explain what that means.  
 18 A. Another engineer who's -- she was both  
 19 licensed civil engineer as well as a certified  
 20 planner. It -- we do this in all our projects. We  
 21 have a formalized quality assurance quality control  
 22 process. So they begin reading the report, question  
 23 assumptions, check analysis, check that numbers are  
 24 accurate and tables, do some editing. They  
 25 basically go through the whole thing and our follow-

Page 317

1 on conversation's about two-and-a-half hours long  
 2 where she questioned many things; some of which I  
 3 simply didn't have the time or level of effort to  
 4 address, you know.  
 5 Q. Did -- does the final report as presented  
 6 at this hearing reflect the input you received as  
 7 part of that peer review?  
 8 A. Yes. And she was actually very impressed  
 9 with the quantity of information and the amount of  
 10 analysis for -- I'll just tell you. Up until this  
 11 point in time, up until the hearing, all total I  
 12 spent 193 hours -- 193.5 hours. I tallied it up --  
 13 to do all this work, which is a fee of approximately  
 14 \$30,000.  
 15 MR. SCHNEIDER: Thank you. that's  
 16 all. Oh, except I would offer the exhibit.  
 17 THE HEARING EXAMINER: Any objection?  
 18 MR. KISIELIUS: None.  
 19 THE HEARING EXAMINER: All right. So  
 20 we're admitting then exhibits A-3, and I don't think  
 21 we admitted R-1 through 3, so we'll do that as well.  
 22 Looks like we haven't admitted A-2 either, the  
 23 deposition, so we'll do that now.  
 24 (COALITION'S EXHIBITS A-2 AND A-3 AND RESPONDENT'S  
 25 EXHIBITS R-1 THROUGH 3 ADMITTED.)

Page 318

1 MR. KISIELIUS: And I have copies of  
 2 those.  
 3 THE HEARING EXAMINER: Okay. Are we  
 4 finished with Ms. Hirschey?  
 5 MR. SCHNEIDER: Yes.  
 6 THE HEARING EXAMINER: Thank you,  
 7 Ms. Hirschey.  
 8 THE WITNESS: You're welcome.  
 9 THE HEARING EXAMINER: And your next  
 10 witness?  
 11 MR. SCHNEIDER: Mr. Examiner, before  
 12 they call, can I just distribute these into the  
 13 exhibit?  
 14 THE HEARING EXAMINER: And you can do  
 15 that as we're doing it. It's already been admitted,  
 16 so --  
 17 MR. COHEN: I take it that tech hasn't  
 18 shown up?  
 19 THE HEARING EXAMINER: We're still  
 20 recording. They haven't shown up. We just go  
 21 forward. Thank you.  
 22 MS. GRANATT: The Coalition calls  
 23 Scott Anderson.  
 24 MR. ANDERSON: Good morning.  
 25 THE HEARING EXAMINER: Good morning

Page 319

1 Mr. Anderson. Please state your name for the record  
 2 and spell your last name.  
 3 MR. ANDERSON: Scott Evan Anderson,  
 4 A-n-d-e-r-s-o-n.  
 5 THE HEARING EXAMINER: And do you  
 6 swear or affirm that the testimony you provide in  
 7 today's hearing be the truth?  
 8 MR. ANDERSON: Yes.  
 9 THE HEARING EXAMINER: Thank you.  
 10 SCOTT ANDERSON,  
 11 a witness, having been first duly sworn,  
 12 was examined and testified as follows:  
 13 DIRECT EXAMINATION  
 14 BY MS. GRANATT:  
 15 Q Thank you for joining us, Mr. Anderson.  
 16 Would you please state your full name and business  
 17 address for the record?  
 18 A. Scott E. Anderson, CSR Marine, 4701  
 19 Shilshole Avenue Northwest, Seattle, Washington  
 20 98107.  
 21 Q. And what is CSR Marine?  
 22 A. We're a marine repair business  
 23 specializing in yacht repair from 8 feet to 80 feet.  
 24 Q. What's your role at CSR?  
 25 A. I'm one of the owners.

Page 320

1 Q. How long have you owned CSR?  
 2 A. 41 years.  
 3 Q. What do you do as owner of CSR Marine?  
 4 A. What all owners do: make sure the  
 5 business runs and functions, and kind of a lead  
 6 salesman. If you call, you talk to me first.  
 7 Q. How long -- so how long has CSR been in  
 8 Seattle?  
 9 A. 41 years.  
 10 Q. How long has CSR been in its current  
 11 location?  
 12 A. About six, seven years now.  
 13 Q. Why did CSR move there?  
 14 A. It's a great location. One, it's very  
 15 accessible to Ballard. Our last location was in  
 16 Commodore Way. There was some environmental issues  
 17 at Commodore Way, and the opportunity came up to  
 18 move to Ballard, and we did.  
 19 Q. Does CSR have any other locations in  
 20 Seattle?  
 21 A. Not in Seattle. One in Des Moines.  
 22 Q. How many customers does CSR serve at its  
 23 current Ballard location?  
 24 A. Well, that depends. Two to 3,000 a year.  
 25 Q. Are all of these customers local?

Page 321

1 A. Most of them are local, but we have some  
 2 outer-towner people that, you know, they have lots  
 3 of money so they have houses other places. And they  
 4 have boats here, and so, but I'd say 90 percent of  
 5 the people are here in Seattle, yes.  
 6 Q. The boats that are coming from out of  
 7 Seattle, where are they coming from?  
 8 A. Anyplace: Canada, Florida, New York,  
 9 California.  
 10 Q. So in a normal week, how many boat  
 11 deliveries are coming to CSR?  
 12 A. We could have three to four every week or  
 13 five to six. It just kind of depends.  
 14 Q. How do the boats arrive at CSR?  
 15 A. They arrive two ways: one by water and  
 16 one by land.  
 17 Q. Are the out of towners different in how  
 18 they get their boats to CSR?  
 19 A. Well, an example, a person from New York  
 20 bought a boat and they wanted to bring it to  
 21 Seattle. So they put it on a truck, and they  
 22 brought it to Seattle and offloaded it in my yard  
 23 and then they would come and visit the boat when  
 24 they would go on vacation.  
 25 Q. How do you make arrangements for those

Page 322

1 trucks coming from places like New York?  
 2 A. Well, a yacht broker would give us a call  
 3 and say, "Hey, I just sold a boat, and this trucking  
 4 company's coming on Thursday at noon." And  
 5 hopefully, the truck will be there Thursday at noon.  
 6 You can't really tell when they're going to get  
 7 there because of weather conditions.  
 8 Q. Well, how do you know when the driver's  
 9 going to actually show up?  
 10 A. They usually call us a few hours ahead of  
 11 time to let them know if they've made it into  
 12 Seattle.  
 13 Q. Are they typically on time?  
 14 A. No.  
 15 Q. What do you do when they're not on time?  
 16 A. We just wait. I mean, we're constantly  
 17 working. We have 45 guys that are going, so we have  
 18 a crew that just does the offloading and then we  
 19 have a crew that just does the maintenance and the  
 20 work on the boats.  
 21 Q. So when --  
 22 THE HEARING EXAMINER: Ms. Granatt,  
 23 can I -- just before you get too far into the  
 24 details of it, could I find out what they do? I  
 25 don't know CSR, unfortunately.

Page 323

1 THE WITNESS: So we're a yacht repair  
 2 yard. We're like an auto body shop for boats.  
 3 THE HEARING EXAMINER: Excellent.  
 4 THE WITNESS: So if you get run into  
 5 or you're run aground, or you hit the dock or  
 6 something like that, we'll go ahead and repair that.  
 7 We do fiberglass work, engine repair work,  
 8 everything -- the full-service yard, basically;  
 9 interior work, custom work, painting.  
 10 THE HEARING EXAMINER: All right.  
 11 Thank you.  
 12 THE WITNESS: Yeah.  
 13 BY MS. GRANATT:  
 14 Q. Are there any other boatyards like CSR in  
 15 Seattle?  
 16 A. Yes.  
 17 Q. About how many?  
 18 A. One, two, three, four, five, six, I  
 19 think.  
 20 Q. Have there always been six other  
 21 boatyards?  
 22 A. No. We've been -- in 1965 there was 70  
 23 boat facilities in the inner lake system and we've  
 24 just been getting shoved out. They've -- Lake Union  
 25 -- all the industry left Lake Union because they got

Page 324

1 shoved out and we're getting pushed out. We're kind  
 2 of getting squeezed in a vice heading towards the  
 3 locks because we're industry. And it seems Seattle  
 4 doesn't seem to like industry.  
 5 Q. How many folks work at CSR Marine?  
 6 A. About 45.  
 7 Q. What kinds of jobs do they do?  
 8 A. Everything from emptying garbage cans to  
 9 high-end electrical installations.  
 10 Q. How do they get to work?  
 11 A. Drive.  
 12 Q. Where do they park?  
 13 A. They park out in front.  
 14 Q. Can CSR's employees take public  
 15 transportation to work?  
 16 A. I've had a couple young guys coming out  
 17 of the south end and it's a two-hour trip each way.  
 18 And they have to walk about a mile after they get  
 19 off the bus, so it's very difficult.  
 20 Q. Do CSR's employees live in Seattle?  
 21 A. Not too many of them because it's gotten  
 22 too expensive.  
 23 Q. Do they -- do CSR employees often have to  
 24 bring anything with them?  
 25 A. Yeah. They're craftsmen, so they lug

Page 325

1 tools in and out all the time.  
 2 Q. About how heavy are those tools?  
 3 A. It depends. It could be from a volt  
 4 meter to a full-mechanic's toolbox.  
 5 Q. Do you know how heavy a mechanic's  
 6 toolbox would be?  
 7 A. Would be 45 pounds.  
 8 Q. I want to go ahead and turn your  
 9 attention to a couple photographs. They're in  
 10 Volume 4 of the Coalition's exhibits. So I'm  
 11 starting with Exhibit A-235.1.  
 12 MS. GRANATT: And I'm showing them to  
 13 Mr. Anderson here. So I'm going to offer three of  
 14 these photographs which I can do all at once or I  
 15 can do as I go, whatever works for everybody.  
 16 THE HEARING EXAMINER: Are they all  
 17 under the same Tab?  
 18 MS. GRANATT: Yes.  
 19 THE HEARING EXAMINER: We'll do it as  
 20 one.  
 21 MS. GRANATT: Great.  
 22 BY MS. GRANATT:  
 23 Q. So, Mr. Anderson, can you review here  
 24 what's marked as Exhibit A-325.1?  
 25 A. Yes.

Page 326

1 THE HEARING EXAMINER: And we'll mark  
 2 it as A-4.  
 3 (COALITION'S EXHIBIT A-4 MARKED FOR IDENTIFICATION.)  
 4 BY MS. GRANATT:  
 5 Q. Can you tell us what's going on in this  
 6 photograph?  
 7 MR. KISIELIUS: It's been admitted?  
 8 THE HEARING EXAMINER: This has not  
 9 been admitted. It's --  
 10 MS. GRANATT: I'll do them all.  
 11 MR. KISIELIUS: Thank you.  
 12 THE WITNESS: This is a delivery truck  
 13 transporting a couple of concrete floats into our  
 14 driveway to be offloaded by a travel lift to the  
 15 water.  
 16 BY MS. GRANATT:  
 17 Q. Did you take this photograph?  
 18 A. I'm not too sure if I took that  
 19 photograph or not.  
 20 Q. Did you -- is this -- does this depict  
 21 true or is this normal business operations at CSR?  
 22 A. Yes.  
 23 Q. Has anything changed from this  
 24 photograph?  
 25 A. No.

Page 327

1 Q. What kind of truck is this?  
 2 A. That's a regular semi-truck. You see  
 3 it's a little bit higher. A lot of the trucks that  
 4 come to us are Lowboys because they have boats on  
 5 them.  
 6 Q. What's -- can you tell us what's on this  
 7 truck?  
 8 A. There -- those are concrete floats and  
 9 I'm not too sure what company they went to.  
 10 Q. How many times a week would a truck like  
 11 this go into CSR?  
 12 A. A truck like this? We don't do a lot of  
 13 concrete floats, so a couple times a year, maybe.  
 14 Q. How about a truck just of this size?  
 15 A. Oh, three to six times a week.  
 16 Q. How long does it take for a truck like  
 17 this to get in and out of CSR's yard?  
 18 A. It depends on the length of the truck,  
 19 the amount of traffic, if we have to move any cars  
 20 that are parked, pilot cars. It can be a five-  
 21 minute process. It can be an hour process.  
 22 Q. Are you familiar with the Missing Link  
 23 Project?  
 24 A. Yes.  
 25 Q. How are you familiar with it?

Page 328

1 A. In a lot of ways it's -- I don't know how  
 2 to really answer that question. I'm familiar with  
 3 it that it's going to -- there's going to be a bike  
 4 path that's going to be put in front of my business  
 5 and all the other businesses on Shilshole. I think  
 6 it's quite dangerous. Our livelihood is at risk.  
 7 MR. KISIELIUS: Mr. Examiner, I'm  
 8 going to object. I guess he's already answered the  
 9 question.  
 10 THE HEARING EXAMINER: Yeah.  
 11 MR. KISIELIUS: But we're venturing  
 12 here into technical testimony -- opinion testimony  
 13 about future conditions and future build conditions  
 14 that's better for an expert to present.  
 15 THE HEARING EXAMINER: Let's see what  
 16 the other questions are.  
 17 BY MS. GRANATT:  
 18 Q. Based on your understanding of the  
 19 project, where, in relation to CSR, is the potential  
 20 bike path going to go?  
 21 A. It'd be right in front of our building.  
 22 Q. Would a truck like this then, when it's  
 23 coming in and out, block that trail potentially?  
 24 MR. KISIELIUS: Objection. Again,  
 25 we're talking about opinion testimony, which lay

Page 329

1 witnesses don't typically give except under  
 2 specified circumstances. The specific exclusion is  
 3 for things that are scientific technical rather  
 4 specified knowledge under ER-702. Those are limited  
 5 to experts. I understand the Examiner's rules  
 6 allows some discretion to allow lay opinion  
 7 testimony, but in this instance where the Coalition  
 8 has paid for and has already testified to from  
 9 experts related to this very issue, we ought not  
 10 muddle the record with lay opinion testimony that is  
 11 expert testimony.  
 12 MS. GRANATT: May I respond?  
 13 THE HEARING EXAMINER: Uh-huh  
 14 (affirmative response).  
 15 MS. GRANATT: Mr. Anderson's merely  
 16 testifying regarding the business operations at CSR  
 17 Marine, which he is more than competent to testify  
 18 about. And he knows where -- if he knows where the  
 19 trail is located and he knows where trucks go in and  
 20 out that's all we're getting at.  
 21 MR. KISIELIUS: He's -- it's not just  
 22 -- we didn't object to the normal business  
 23 operations to which he testified. We're not  
 24 venturing into what is going to be the impact of the  
 25 trail on his business and the location of the trail

Page 330

1 which is plotted out and they've had experts already  
 2 do that in a very technical way which should  
 3 suffice.  
 4 THE HEARING EXAMINER: There's going  
 5 to be some overlap between what the experts are  
 6 going to be testifying to as far as traffic impacts,  
 7 traffic impacts being the broad spread of trucks,  
 8 pedestrians, bicycles overlap with that and also  
 9 just a lay witness describing his business. I think  
 10 it's, you know, it's going to go to the weight of  
 11 what he's testifying to. If he's saying, you know,  
 12 what the possible impacts are going to be, gets into  
 13 some level of speculation. So I don't think we want  
 14 to go too far down that route.  
 15 But he knows where the route's going  
 16 to go. He knows what his trucks do probably better  
 17 than the experts. So I'd think that that side of  
 18 the testimony's worth hearing. So I'll overrule the  
 19 objection with the understanding that we don't turn  
 20 to Mr. Anderson as an expert on traffic, but on his  
 21 business.  
 22 MR. KISIELIUS: Thank you.  
 23 MS. GRANATT: Thank you.  
 24 BY MS. GRANATT:  
 25 Q. Mr. Anderson, can I turn your attention

Page 331

1 to the figure at Figure 5.5B that's on the screen  
 2 there?  
 3 A. Uh-huh (affirmative response).  
 4 Q. And do you see, you know, can you explain  
 5 this figure to us?  
 6 MR. KISIELIUS: Mr. Examiner, I'm  
 7 sorry. I'm going to object. And maybe I'm not  
 8 understanding where the line is that you just drew,  
 9 but this is again asking to take what's been  
 10 prepared by an expert and testify to what this  
 11 shows. It's an expert's report and an expert  
 12 prepared technical detail. And I'm -- I apologize  
 13 if I'm not understanding the difference.  
 14 THE HEARING EXAMINER: No. I -- I'll  
 15 actually sustain that objection. I -- the phrasing  
 16 of the question needs to be different. This is an  
 17 expert's image, and I -- Mr. Anderson cannot testify  
 18 as to that or I mean, maybe he could, but we've  
 19 already had that testimony. But to the degree  
 20 you're using it as an image or a picture so that we  
 21 can get oriented, obviously, he can utilize it that  
 22 way. But that was not the direction of your  
 23 question.  
 24 MS. GRANATT: I apologize. That was  
 25 precisely the intent.

Page 332

1 BY MS. GRANATT:  
 2 Q. Mr. Anderson, this figure, can you see  
 3 where the trail would be on this figure?  
 4 A. Yes.  
 5 Q. Do you see where -- I can't do it -- and  
 6 is that where your business is located?  
 7 A. Yeah. That's the boats that are out of  
 8 the water and that's the -- one of our driveways.  
 9 That's the main driveway that we use because of the  
 10 slope of getting into the boatyard.  
 11 Q. Okay. And is that the driveway that this  
 12 truck?  
 13 A. Yes.  
 14 THE HEARING EXAMINER: Just for  
 15 clarification, which driveway are you -- when you  
 16 say "that driveway," which one are you referring to?  
 17 THE WITNESS: In the purple, pink --  
 18 THE HEARING EXAMINER: Thank you.  
 19 THE WITNESS: -- color.  
 20 BY MS. GRANATT:  
 21 Q. And that's driveway 12B? I'd like you to  
 22 ahead and flip the page. The next exhibit which is  
 23 A-325.2.  
 24 A. Yep.  
 25 Q. Do you recognize this photograph?

Page 333

1 A. Yep.  
 2 Q. Can you tell us what's going on here?  
 3 A. This is typical offload. Looks like a  
 4 new boat coming across the tracks across where the  
 5 trail would be and into my driveway.  
 6 Q. Can you tell us what kind of truck this  
 7 is?  
 8 A. It's a semi-truck. It's a Lowboy.  
 9 That's probably about 110 feet long, all full with a  
 10 mast.  
 11 Q. How often does a truck like this show up  
 12 at CSR?  
 13 A. Three to six times a week.  
 14 Q. How long -- about how long does it take  
 15 for a truck like this to get in and out of your  
 16 boatyard?  
 17 A. This takes a little bit longer because  
 18 it's a Lowboy. Sometimes they've got stuck before  
 19 because they are so low. And why I call it a Lowboy  
 20 is because you can see the height of the boat.  
 21 There's s 14-6 road clearance that they have to  
 22 maintain or else we do more work on the boat because  
 23 they run into a bridge. So it's pretty important to  
 24 get the boats as low as they can, so that's why it's  
 25 called a Lowboy.

Page 334

1 Q. Based on your understanding of where the  
 2 trail would be located, would this truck block the  
 3 trail the way it's --  
 4 A. That would be blocking the trail right  
 5 there, and it might sit there for five minutes or an  
 6 hour.  
 7 Q. Do you use flaggers for a truck like  
 8 this?  
 9 A. Yes.  
 10 Q. What's a flagger?  
 11 A. It's a person that stands out in the road  
 12 and stops traffic and directs traffic. Pilot cars,  
 13 they'll block -- a truck like this will have pilot  
 14 cars, so the pilot cars will block either side to  
 15 stop the traffic until the truck can make its turn  
 16 into the driveway.  
 17 Q. Does a flagger stop motorized and  
 18 non-motorized traffic?  
 19 A. Yes.  
 20 Q. Are the flaggers always effective?  
 21 A. Sometimes. Sometimes people get  
 22 frustrated in their cars and we've had bicycles run  
 23 into a mast just about a month ago when a guy was --  
 24 a flagger was there. Went right by him and ran  
 25 right into the mast.

Page 335

1 Q. Well, what happened?  
 2 A. Knocked him off his bike.  
 3 Q. I'd like to turn your attention to the  
 4 next photograph. It's just on the next page. It's  
 5 A-325.3. Can you tell us what kind of boat -- what  
 6 kind of photograph this is?  
 7 A. This is a couple of trucks. Looks like  
 8 one is staged already and he's sitting on the  
 9 roadway there waiting to leave. These trucks have  
 10 curfews. They can -- they can't run between 9 and  
 11 three o'clock during the day. So if a truck shows  
 12 up at, you know, two o'clock, he may be stuck there  
 13 until the next morning or until after the high  
 14 volume traffic -- until after six o'clock he can  
 15 run.  
 16 Q. Does this photograph depict typical  
 17 business hours at CSR?  
 18 A. Yeah. You bet. Because there's one  
 19 sitting on the road and there's one coming out of  
 20 the driveway or he could be backing in the driveway.  
 21 And this is also an area where all the UPS trucks  
 22 come, the mail delivery trucks, UPS trucks come in  
 23 that photo.  
 24 Q. How often does it take a truck like this  
 25 to get in and out of the yard?

Page 336

1 A. It depends on the load, but typically a  
 2 couple hours.  
 3 MS. GRANATT: Okay. I'd like to go  
 4 ahead and admit these three photographs into the  
 5 record.  
 6 THE HEARING EXAMINER: Uh-huh  
 7 (affirmative response). Any objection?  
 8 MR. KISIELIUS: None.  
 9 THE HEARING EXAMINER: All right.  
 10 That's A-4 is admitted.  
 11 (COALITION'S EXHIBIT A-4 ADMITTED.)  
 12 MS. GRANATT: Thank you.  
 13 BY MS. GRANATT:  
 14 Q. Mr. Anderson, did you have a video  
 15 prepared regarding the Missing Link Project during  
 16 the course of your involvement with DIS?  
 17 A. Yes. I did.  
 18 Q. And why did you do that?  
 19 A. I felt it was very important to have my  
 20 voice heard. It seems like the City is not  
 21 listening to the people that it's going to affect  
 22 the most: the industry and the employees that work  
 23 there.  
 24 Q. Who did you work with to prepare the  
 25 video?

Page 337

1 A. Citrus Pie. It's a group out of Canada.  
 2 Q. Were you present when the video was  
 3 taken?  
 4 A. Yes.  
 5 Q. I'd like to turn your attention to the  
 6 screen.  
 7 THE HEARING EXAMINER: I'm just going  
 8 to interrupt for a second. I think that this may be  
 9 an objection. Is this included among the documents  
 10 that --  
 11 MS. GRANATT: Yes. I apologize.  
 12 THE HEARING EXAMINER: So can you give  
 13 us the number, please?  
 14 MS. GRANATT: Yes. It's listed as  
 15 A-235.8.  
 16 MS. FERGUSON: That was not included  
 17 in what was produced.  
 18 MS. GRANATT: It's a video and it was  
 19 produced electronically.  
 20 MR. BROWER: We gave you a link to it  
 21 a number of times.  
 22 MS. GRANATT: The link was first  
 23 included on the exhibit list and in the electronic  
 24 production.  
 25 May I continue?

Page 338

1 THE HEARING EXAMINER: Yes. So do we  
 2 have an objection, or are we looking at something?  
 3 MR. KISIELIUS: We're just confirming.  
 4 MS. GRANATT: Sure.  
 5 MR. KISIELIUS: This actually says it  
 6 was publicly available document in the City's  
 7 possession, not that it was provided. You said  
 8 A-325.8?  
 9 MS. GRANATT: Yeah.  
 10 MR. KISIELIUS: The footnote to your  
 11 thing says --  
 12 THE HEARING EXAMINER: Which page are  
 13 you on? Is this in the --  
 14 MS. GRANATT: Page 7 of the Ballard  
 15 Coalition's Revised Final Disclosure of Exhibits.  
 16 It's Footnote 20. Says, "Video previously provided  
 17 to the City and Cascade via link provided as MOV  
 18 file alongside this Revised Exhibit List.  
 19 MR. KISIELIUS: I'm sorry. That  
 20 doesn't refer to this exhibit.  
 21 MS. GRANATT: A-325.8?  
 22 MR. KISIELIUS: A-325.8.  
 23 MR. BROWER: Are you looking at the  
 24 Revised Final Disclosure?  
 25 MR. KISIELIUS: It's 20 -- it's the --

Page 339

1 THE HEARING EXAMINER: I see. The  
 2 footnote got moved.  
 3 MR. KISIELIUS: And what I have  
 4 available to me was downloaded -- we downloaded on  
 5 both opportunities and I don't have an A-325.8  
 6 included in anything that was provided to us.  
 7 MR. BROWER: We gave it to you on the  
 8 21st in this and we gave it to you on the 21st in a  
 9 movie file, so which was when we were required to  
 10 give it to you. it was also in our prior exhibit  
 11 lists as a link. Whether you didn't get the right  
 12 --  
 13 MR. KISIELIUS: I literally have the  
 14 folders that we downloaded from what you gave us.  
 15 MS. FERGUSON: And I'm going through  
 16 the emails to make sure.  
 17 MR. BROWER: Okay. I don't know what  
 18 you did or didn't download, but we gave it to you as  
 19 a movie file on the 21st.  
 20 MR. KISIELIUS: And that's what I'm  
 21 looking at.  
 22 MR. BROWER: All right.  
 23 MS. FERGUSON: And I see the email  
 24 saying here you go. And no email from Leia saying  
 25 attached -- find our Revised by (indiscernible).

Page 340

1 MR. BROWER: I think the link --  
 2 MS. FERGUSON: Updated link to  
 3 electronic copies. And so that's -- I -- the next  
 4 email is a link. I go to the link I -- just had us  
 5 download everything that was available on that link.  
 6 And it is not included.  
 7 MR. BROWER: Are you looking at the  
 8 prior lists?  
 9 MR. KISIELIUS: Yes. I'm looking at  
 10 the other ones as well.  
 11 MS. FERGUSON: I'm looking at the  
 12 email that we -- that we got sent on the 21st.  
 13 MR. BROWER: And what does your link  
 14 go to that was in the prior lists?  
 15 THE HEARING EXAMINER: Better than use  
 16 Appellant's time with a witness, what I'd like to do  
 17 is take a break now and we will come back at 20 --  
 18 let's see -- 25 after and you can work it out during  
 19 that.  
 20 (Recess taken.)  
 21 THE HEARING EXAMINER: All right.  
 22 Back on the record. We were going to resolve the  
 23 status of the video.  
 24 MR. SCHNEIDER: Before we do that, I'd  
 25 just like to remind everyone that I have to leave to

Page 341

1 speak at the COE, so I'll be leaving at right at 12.  
 2 I assume that we'll be underway at that point, and  
 3 we'll be back sometimes after 2.  
 4 THE HEARING EXAMINER: Okay. We'll  
 5 take the lunch hour somewhere in there as well.  
 6 MR. COHEN: And I need some credits.  
 7 MR. KISIELIUS: So in terms of the  
 8 resolution, we were unable to find it in ours, but  
 9 we reached a stipulation whereby there'd be sort of  
 10 a revised video prepared consistent with the way it  
 11 will be presented today, which is two -- several --  
 12 two segments of a longer video without audio.  
 13 THE HEARING EXAMINER: Okay.  
 14 MR. KISIELIUS: So the video is not  
 15 currently in that format. It will need to have some  
 16 work to it to get there, but Mr. Brower thinks he  
 17 can depict it that way for today's purposes, so that  
 18 they can proceed with their --  
 19 THE HEARING EXAMINER: All right. So  
 20 there's no objection. And we're going to get a copy  
 21 of the same form, I assume?  
 22 MR. BROWER: Yes. It should be about  
 23 28 seconds long --  
 24 THE HEARING EXAMINER: Okay.  
 25 MR. BROWER: -- with no audio.

Page 342

1 THE HEARING EXAMINER: All right.  
 2 We'll mark the video A-5.  
 3 (COALITION'S VIDEO EXHIBIT A-5 MARKED FOR  
 4 IDENTIFICATION.)  
 5 MR. COHEN: Your Honor, point of  
 6 clarification. The replacement video would be the  
 7 one that would be admitted.  
 8 THE HEARING EXAMINER: I guess I'm not  
 9 clear what I'm going to get, but I hope I'm getting  
 10 what I see today as the exhibit.  
 11 MR. SCHNEIDER: That's correct. Just  
 12 that --  
 13 THE HEARING EXAMINER: Whatever  
 14 happened before that, I don't care about, so...  
 15 BY MS. GRANATT:  
 16 Q Okay. So we'll then, based on our  
 17 understanding jump in and talk about the video.  
 18 Mr. Anderson, can you direct your attention to the  
 19 screen?  
 20 A. Yes.  
 21 Q. And can you let us know, you know, what  
 22 is going on in this image?  
 23 A. Yeah. This -- well, actually backing out  
 24 into the street. He can't see the flagger on either  
 25 side.

Page 343

1 Q. And where is this happening?  
 2 A. This is happening right in the driveway.  
 3 MS. GRANATT: Can you stop it, Josh?  
 4 MR. BROWER: Yep.  
 5 THE WITNESS: It's the main driveway  
 6 referenced in one of the pictures that was up there.  
 7 BY MS. GRANATT:  
 8 Q. The CSR Marine's main driveway?  
 9 A. Yes.  
 10 Q. Okay. And is this a, you know, a typical  
 11 depiction of CRS's business operations?  
 12 A. Yes.  
 13 Q. About how many times a week would a truck  
 14 like that go in and out of the driveway?  
 15 A. Three to five, three to six. It's really  
 16 tough to pick a number.  
 17 Q. Does it vary seasonally?  
 18 A. Yes.  
 19 Q. How?  
 20 A. Well, the boat show's coming up, so we're  
 21 going to be -- there will be 10 boats a day easy  
 22 during the boat show moving in and move out. And  
 23 you think it would slow down in the winter time, but  
 24 it doesn't. And then, in the summer time we get the  
 25 boats coming from the east coast, because of the

Page 344	Page 346
<p>1 snow conditions in the past. So it does vary. And 2 it depends on the yacht brokers on how many boats 3 did they sell. 4 Q. So at the height of the season about how 5 many times do you think? 6 A. An average? Could be a couple times a 7 day. It, you know -- yeah. 8 Q. Okay. And then, this still of the video 9 that's on the screen there, can you tell us what's 10 going on in this image? Yeah. This boat is trying 11 to enter the yard, but there was some hold up that 12 he either got stuck in it -- he was actually there 13 for about a half-an-hour. 14 Q. Can you orient us a little bit to, you 15 know, which side is CSR Marine and -- 16 A. So this would be the south side. You're 17 looking west down Shilshole Avenue toward Salmon Bay 18 Sand and Gravel. The brick building to the right; 19 that's Ballard Industrial. 20 THE HEARING EXAMINER: Ms. Granatt, 21 how long is the video approximately? 22 MS. GRANATT: The new video that we'll 23 prepare? 24 THE HEARING EXAMINER: What I'm going 25 to see today?</p>	<p>1 Q. All right. So based on your 2 understanding of where the trail would be located, 3 would this truck be blocking it all right here? 4 A. Blocking it. Yes. 5 MS. GRANATT: Could you move forward 6 Josh? 7 BY MS. GRANATT: 8 Q. Scott, what's happening here? 9 A. This is the truck entering the driveway. 10 And that is -- okay, go ahead. 11 Q. And what kind of truck is this? 12 A. It's a Lowboy semi-trucks, but it's about 13 a hundred and ten feet long the whole thing with 14 mast. 15 Q. And what's that hauling? 16 A. It a sailboat -- a new sailboat. 17 Q. And how long would this take to get in 18 and out of CSR's driveway? 19 A. It depends. If they get stuck or not, or 20 if there's something in the yard. It could be 21 across the -- it could five minutes, it could be 22 half-an-hour. 23 Q. And based on your understanding of where 24 the trail would go, would this truck block the 25 trail?</p>
<p>Page 345</p> <p>1 MS. GRANATT: Approximately 20 2 seconds/28 seconds? 3 THE HEARING EXAMINER: Okay. So how 4 long will this line -- I have the tech guy showing 5 up now to try to -- 6 MS. GRANATT: Oh. Got it. Not very 7 much longer. 8 THE HEARING EXAMINER: Okay. 9 MS. GRANATT: Maybe 10 minutes? 10 THE HEARING EXAMINER: Okay. Let's -- 11 I'm going to ask him to take a break. 12 And can you ask him to wait and see if 13 they'll wait 10 minutes? 14 All right. Let's go ahead and -- 15 MS. GRANATT: I'll wrap up as soon as 16 I can. 17 BY MS. GRANATT: 18 Q. Okay. So, Mr. Anderson, I -- can you 19 remind us what kind of boat this is? 20 A. That's actually a Hansa sailboat. It's 21 about a 45-foot sailboat that's brand new. It's 22 shrink wrapped. And you can see the mast sticking 23 out. It actually creates quite a problem. And this 24 particular load, the end of that mast actually hit a 25 car on West Lake.</p>	<p>Page 347</p> <p>1 A. It would drive right across it. Yes, 90 2 degrees to it, and it would block the trail 3 depending on what was going on in the boat yard at 4 the time. 5 MS. GRANATT: Thanks, Josh. 6 MR. BROWER: Move ahead to -- 7 MS. GRANATT: Thank you. 8 BY MS. GRANATT: 9 Q. Scott, I'd like to direct your attention 10 back to the video. Can you tell us what's happening 11 in this image? 12 A. Yes. This was quite the interesting 13 project. He felt he had to back out instead of 14 turning around in the boat yard, so he made several 15 attempts to back out. We actually had to move some 16 cars. That took about an hour to make that happen. 17 MS. GRANATT: Josh, can you just pause 18 it? 19 (Video paused.) 20 BY MS. GRANATT: 21 Q. Can you explain what that smaller truck 22 -- the white truck is in front of the boat? 23 A. That's a pilot car. In the city of 24 Seattle, certain loads you have to have a pilot car 25 escorting those trucks in and out of Seattle. He's</p>



Page 348

1 stopping the traffic.  
 2 Q. So based on your understanding of where  
 3 the trail would be located, would this truck be  
 4 blocking the trail?  
 5 A. Either the cab or the truck is right  
 6 where the trail would be.  
 7 Q. And how long would that truck typically  
 8 take to get in and out?  
 9 A. Typically, it should have only been about  
 10 a 20-minute deal, but for some reason it took about  
 11 45 minutes.  
 12 Q. And is that for both entering and exiting  
 13 the driveway?  
 14 A. It varies. Yep. It varies. It's tough  
 15 to say.  
 16 (Video resumes.)  
 17 BY MS. GRANATT:  
 18 Q. And, Scott, can you tell us what this is  
 19 on the screen?  
 20 A. That's a power boat in our travel --  
 21 that's our travel pier -- that's our boat yard  
 22 operation. That's how you pick up boats.  
 23 Q. So how would this truck -- pardon me,  
 24 this boat have arrived at CSR?  
 25 A. That -- well, it looks like it came by

Page 349

1 water, but I could have come on a truck. But I  
 2 would say that one came by water.  
 3 Q. Is it typical for boat yards to be able  
 4 to get to those in and out by both truck and water?  
 5 A. Yes.  
 6 Q. How many boat yards like that are in  
 7 Seattle?  
 8 A. In Seattle -- in the Interlake system  
 9 there's about six, and there's -- then you go to the  
 10 Sound and there's one.  
 11 Q. Can you explain to us what the Interlake  
 12 system is?  
 13 A. The Interlake system consists of from the  
 14 Ballard Locks into Lake Washington. And it's, like,  
 15 Union, Portage Bay. It's the ship canal.  
 16 Q. And earlier you testified that there are  
 17 fewer boat yards than there used to be in that  
 18 system?  
 19 A. Yes.  
 20 Q. Can you explain why?  
 21 MR. KISIELIUS: Objection,  
 22 Mr. Examiner. Again, we're getting into an analysis  
 23 of the industry and causes for industry decline.  
 24 That's -- they've got an economic expert that's  
 25 going to be testifying soon. This is expert

Page 350

1 testimony. He's a lay witness.  
 2 MS. GRANATT: And, may I respond?  
 3 THE HEARING EXAMINER: Yeah.  
 4 MS. GRANATT: Mr. Anderson has been in  
 5 this business as he testified for many, many years.  
 6 And lay witnesses can give opinion testimony under  
 7 the rules so long as that testimony is helpful to  
 8 understand their opinion and their testimony.  
 9 MR. KISIELIUS: The Rule of Evidence  
 10 --  
 11 THE HEARING EXAMINER: I'm going to  
 12 overrule the objection. I'm going to allow it.  
 13 We've got a witness with 41-years of experience in  
 14 the industry and that speaks for itself.  
 15 THE WITNESS: Yeah. I've been sailing  
 16 on Lake Union since I was 10; I'm 63. So I've seen  
 17 a lot of changes on Lake Union, so...  
 18 BY MS. GRANATT:  
 19 Q. So can you explain that, you know,  
 20 uniqueness of the Interlake system and why that boat  
 21 yards, like CSR, have declined.  
 22 A. Yeah. It's a very unique place, because  
 23 it's in the heart of Seattle. It was all industrial  
 24 back in the day before Lake Washington was connected  
 25 to Lake Union. There's a lot of history there. But

Page 351

1 it was an industrial basin for a lot of activity.  
 2 There's a lot of boat building, a lot of ship  
 3 repair, a lot of fishing was going on. Because  
 4 Seattle, you know, kind of grew up on timber and  
 5 fishing, not on Amazon and Microsoft, so and people  
 6 tend to forget that.  
 7 So Lake Union has changed quite a bit. I  
 8 think one of the declines of the boat yard is  
 9 definitely economics and also environmental. And,  
 10 you know, we're all good stewards and a lot of boat  
 11 yards -- the last to be pushed to get rid of the  
 12 boat yards was the strong water coming across their  
 13 property. So that thinned out us, but yeah, there's  
 14 not very many of us left anymore. And I can't go  
 15 anyplace else. So if there's no place else I could  
 16 never get a boat yard permit ever again.  
 17 Q. Would you be able to find another  
 18 location in Seattle like the location that you're  
 19 currently on?  
 20 A. No.  
 21 Q. Scott, did anyone from SDOT ask you about  
 22 how you get trucks in and out of your boat yard?  
 23 A. That one particular time that they did,  
 24 but that was after they had announced that they had  
 25 determined that the trail was going to go on

Page 352

1 Shilshole. Is that confusing?  
 2 Q. Not.  
 3 A. Okay.  
 4 Q. And was that after the EIS was released?  
 5 A. I believe so.  
 6 Q. And how did you find out?  
 7 A. I found out about the bike trail -- I got  
 8 a phone call. I forget what day it was, but I was  
 9 told that in 45 minutes they're going to announce  
 10 that they've finished the Missing Link. And I went  
 11 to a press release with Mayor Murray down by the  
 12 locks. And that was the first that I had heard that  
 13 the bike trail was going in front of all of the  
 14 businesses on Shilshole.  
 15 Q. Did SDOT ever ask you about CSR's  
 16 employees and where they park to get to work?  
 17 A. After that announcement, they came down  
 18 and they had a visit with us and we discussed that  
 19 with them.  
 20 Q. But not prior to the announcement?  
 21 A. No.  
 22 Q. Do you have any concerns if SDOT  
 23 completes the trail on Shilshole?  
 24 A. Yes.  
 25 Q. And what are they?

Page 353

1 A. Someone is going to get hurt, or killed.  
 2 MR. SCHNEIDER: Objection,  
 3 Mr. Examiner. We're venturing in again into expert  
 4 testimony, related potential impacts on a future  
 5 condition not about the witness's business. They've  
 6 had two witnesses, now two experts, testify to  
 7 safety issues. This is not only lay testimony, it's  
 8 also duplicative.  
 9 MS. GRANATT: May I respond?  
 10 Mr. Examiner, Mr. Anderson is down there every  
 11 single day and understands the conditions of his  
 12 business and how it operates better than anyone else  
 13 about CSR Marine. And his lay opinion would be very  
 14 helpful in this regard in determining whether there  
 15 would be potential impacts to his particular  
 16 business.  
 17 THE HEARING EXAMINER: I'm not sure I  
 18 heard the question as being that specific. I do  
 19 want to make sure that we're keeping into what  
 20 Mr. Anderson understands, rather than speculating  
 21 what's going to happen with the trail. We do have  
 22 expert testimony on that, and frankly even if you  
 23 didn't have expert testimony on it, Mr. Anderson  
 24 doesn't want to sit here and speculate about things  
 25 because that's not going to get us anywhere.

Page 354

1 MS. GRANATT: I'm happy to rephrase to  
 2 make it more specific?  
 3 THE HEARING EXAMINER: I think that  
 4 would be helpful.  
 5 MS. GRANATT: Okay.  
 6 BY MS. GRANATT:  
 7 Q. Mr. Anderson, do you think the trail will  
 8 have an adverse impact specifically on CSR's boat  
 9 operations?  
 10 A. Yes.  
 11 MR. SCHNEIDER: Objection again about  
 12 adverse impacts which is a technical legal defined  
 13 term that we're here to talk about. They've had two  
 14 witnesses testify about that, and we're asking the  
 15 witness to speculate about the impacts of a future  
 16 trail on his business from a SEPA standpoint and  
 17 from a safety standpoint.  
 18 THE HEARING EXAMINER: I understand  
 19 the objection. I'll overrule it. Everyone at this  
 20 table agrees with you in that "adverse impacts" is a  
 21 technical term. Mr. Anderson does not hear it that  
 22 way is my guess, and then his response will not be  
 23 in that context. He's not being asked a -- it's not  
 24 significant impact, it's adverse impact. And  
 25 significant impact is the technical term. And so, I

Page 355

1 understand it to be a general question that the  
 2 terminology being general, as opposed to being  
 3 specific in the context of SEPA. And in that  
 4 context, I'll overrule the objection and allow the  
 5 answer to be given.  
 6 MS. GRANATT: Would you like me to ask  
 7 the question again?  
 8 THE WITNESS: Yes, please.  
 9 THE HEARING EXAMINER: No. Well,  
 10 okay.  
 11 MS. GRANATT: Okay. That was my last  
 12 question for Mr. Anderson.  
 13 MR. ANDERSON: Is that it?  
 14 BY MS. GRANATT:  
 15 Q. I'm going to ask again.  
 16 A. Could I just say a couple things?  
 17 Environmental is our first concern at our boat yard.  
 18 Safety is the second. We run a very dangerous  
 19 operation. And that's -- it's dangerous right now  
 20 the way it is. And if things change it could get  
 21 dangerous -- even more so dangerous. But safety is  
 22 one of our paramount things that we deal with there  
 23 all of the time.  
 24 Q. Just so we're clear and we have a nice  
 25 record, I'll ask the same question again, then we

Page 356

1 can wrap up. Mr. Anderson, do you believe that the  
 2 trail will have an adverse impact specifically on  
 3 CSR's boat operations?  
 4 A. Yes.  
 5 MS. GRANATT: No further questions.  
 6 THE HEARING EXAMINER: All right.  
 7 Cross -- before we get to that I just want to  
 8 explain. We actually have tech helping us remotely  
 9 from another computer in another room. So we don't  
 10 have to stop, but Ms. Johnson may have to hop up in  
 11 occasionally. So hopefully that won't be a  
 12 distraction, or at least less of a distraction than  
 13 having to stop.  
 14 And with that, cross?  
 15 CROSS-EXAMINATION  
 16 BY MR. KISIELIUS:  
 17 Q. Mr. Anderson, my name is Tadas Kisielius,  
 18 I'm going to ask you a couple of questions on behalf  
 19 of the City Department of Transportation.  
 20 A. Sure.  
 21 Q. First, have you ever written or  
 22 contributed to an EIS?  
 23 A. Written?  
 24 Q. Written an EIS -- contributed?  
 25 A. No.

Page 357

1 Q. Okay. Are you a licensed engineer?  
 2 A. No. I'm not.  
 3 Q. Have you ever taken courses on traffic  
 4 engineering, traffic design, traffic safety?  
 5 A. No, sir.  
 6 Q. Okay. And similarly, on economics, have  
 7 you taken any specific training on economic trends  
 8 and analysis.  
 9 A. No.  
 10 Q. Okay. I'm going to ask you a couple  
 11 questions just very briefly about some of the images  
 12 that you showed or that you testified to. And I  
 13 think some of the pictures that were entered show  
 14 some parked cars, and you testified to employees  
 15 parking there.  
 16 A. Yes.  
 17 Q. What's your understanding of that  
 18 parking? Are you familiar with the term  
 19 "unregulated parking"?  
 20 A. Yes.  
 21 Q. And is that an example of unregulated  
 22 parking?  
 23 A. Yes.  
 24 Q. Okay. You testified to some of the  
 25 delays that a truck may experience going in and out

Page 358

1 of a driveway?  
 2 A. Yes.  
 3 Q. Can you explain? I'm not sure I  
 4 understood. What's -- what are causing those  
 5 delays? So is it -- what might cause it to take  
 6 longer than five minutes?  
 7 A. The length of the truck and the amount of  
 8 traffic, and the amount of parked cars that could be  
 9 in the way, and the activity that's going on in the  
 10 boat yard at the time.  
 11 Q. Okay. And so, those are the same parked  
 12 cars in the unregulated spots?  
 13 A. Yes.  
 14 Q. Okay. And is part of the delay waiting  
 15 for some of those cars to move?  
 16 A. It could. Yes.  
 17 Q. What's your understanding of if a  
 18 business, like yours, a private enterprise needs to  
 19 occupy the right of way for an extended period of  
 20 time, what's your understanding of what needs to be  
 21 done from a permitting standpoint?  
 22 A. I would not know that.  
 23 Q. Okay. Is the condition of the current  
 24 driveway a factor in the delay? I think you had  
 25 mentioned at one point the Lowboys and interference?

Page 359

1 A. Yes. I was told by somebody from the  
 2 City that they -- the trail was going to be raised  
 3 by a foot-and-a-half and that would -- that  
 4 critically -- that would be disaster for us. We'd  
 5 have to do major work in our yard to bring up the  
 6 ground level, so the truck could get in.  
 7 Q. And is that your understanding of the  
 8 design?  
 9 A. That's -- yes.  
 10 Q. That near your driveway -- that it would  
 11 be -- the trail would be raised?  
 12 A. It would be raised a little bit. Yeah.  
 13 Q. Okay. And I think my question was  
 14 actually about current conditions, and you were  
 15 describing delay of moving a truck in and out.  
 16 A. Oh, right.  
 17 Q. Is the existing -- you'd talked about a  
 18 slope.  
 19 A. Yes.  
 20 Q. Does that factor into the delay of --  
 21 A. It can. Yes. We've had a semi-truck get  
 22 stuck there before where we actually had to go get a  
 23 big forklift to move it.  
 24 MR. KISIELIUS: Okay. I have no  
 25 further questions.

Page 360

1 Thank you.  
 2 MR. COHEN: And I have none.  
 3 THE HEARING EXAMINER: Thank you,  
 4 Mr. Cohen.  
 5 EXAMINATION  
 6 BY THE HEARING EXAMINER:  
 7 Q. Mr. Anderson, I just wanted to ask  
 8 you about one item. You mentioned that there's a  
 9 curfew on?  
 10 A. Yes.  
 11 Q. Can you expand on what that is? What its  
 12 parameters are? Where it comes from?  
 13 A. Yeah. They don't want the large semi-  
 14 trucks going through rush hour. So there's a curfew  
 15 from 6 a.m. to 9 a.m. in the morning and from 3 p.m.  
 16 to 6 p.m. at night.  
 17 Q. And that's by the City?  
 18 A. Yes.  
 19 Q. Okay. And what are the bounds of that?  
 20 Just no trucks crossing into your property or?  
 21 A. There's a -- well, it's no -- it's for  
 22 the road; the city streets.  
 23 Q. They actually can't be on that street in  
 24 that area?  
 25 A. Right. Right.

Page 361

1 Q. From --  
 2 A. Yes.  
 3 Q. You -- and Ballard?  
 4 A. Yeah. You can be on my property all you  
 5 want. It doesn't matter, but it's the city streets.  
 6 Q. So what happens is they end up staying on  
 7 your property until the curfew passes?  
 8 A. Yes. Or parking on the side of the road.  
 9 Q. Right. Okay. Thank you, Mr. Anderson.  
 10 A. You're welcome.  
 11 THE HEARING EXAMINER: Redirect?  
 12 MS. GRANATT: I don't have any  
 13 questions for him.  
 14 THE HEARING EXAMINER: Thank you for  
 15 your testimony, Mr. Anderson.  
 16 THE WITNESS: Yep. You're welcome.  
 17 Thank you.  
 18 MR. BROWER: You ready?  
 19 THE HEARING EXAMINER: Yes.  
 20 MR. BROWER: The Coalition calls Tim  
 21 Olstad.  
 22 THE HEARING EXAMINER: Mr. Olstad,  
 23 would you please state your name for the record, and  
 24 spell your last name?  
 25 MR. OLSTAD: Tim Olstad, O-l-s-t-a-d.

Page 362

1 THE HEARING EXAMINER: And do you  
 2 swear or affirm that the testimony you are providing  
 3 at today's hearing will be the truth?  
 4 MR. OLSTAD: Yes.  
 5 THE HEARING EXAMINER: Thank you.  
 6 Your witness.  
 7 TIM OLSTAD,  
 8 a witness, having been previously sworn,  
 9 was examined and testified as follows:  
 10 DIRECT EXAMINATION  
 11 BY MR. BROWER:  
 12 Q. Good morning, Mr. Olstad. What is your  
 13 business address?  
 14 A. 5228 Shilshole Avenue Northwest.  
 15 Q. And for whom are you employed?  
 16 A. Salmon Bay Sand and Gravel.  
 17 Q. What is your job at Salmon Bay Sand and  
 18 Gravel?  
 19 A. I'm the batch plant operator. I am in  
 20 charge of loading and ordering materials; loading  
 21 the ready-mix concrete trucks.  
 22 Q. And any other duties as the batch plant  
 23 manager?  
 24 A. Yeah. I coordinate all the deliveries of  
 25 add-mix materials, bulk, add-mix materials bulk,

Page 363

1 cement materials, powder dry materials.  
 2 Q. And this is the Salmon Bay Sand and  
 3 Gravel, Ready-Mix Concrete Plant that's located on  
 4 Shilshole Avenue?  
 5 A. That is correct.  
 6 Q. There's been a lot of discussion about  
 7 how many driveways Salmon Bay has. Is it four or  
 8 five?  
 9 A. We have two to the west towards Market, a  
 10 center driveway that is between the two plants, and  
 11 then an exit driveway, as well as a loading dock all  
 12 lining Shilshole.  
 13 Q. If you'd give me a second, maybe I can  
 14 get an image up that will help us clarify this.  
 15 (Pause in proceedings.)  
 16 So what I put up on the screen, it's  
 17 really just to help us illustrate and understand  
 18 this. I'm not going to ask you to testify to  
 19 anything technical about this figure. We've been  
 20 using numbers on the driveways. I'm going to start  
 21 here. This is driveway 9, which is, I think you  
 22 said to the west? Is this one of the driveways?  
 23 A. Yes.  
 24 Q. And so this, would you say this is west  
 25 or north?

Page 364

1 A. That would be west towards Market Street.  
 2 Q. Okay. And then, there's a second  
 3 driveway as you head out east -- 9A.  
 4 A. Correct.  
 5 Q. What is that driveway?  
 6 A. That a warehouse driveway number 3.  
 7 Q. Okay. And then, this diagram shows, kind  
 8 of, a big yellow box. That is the way that the  
 9 driveways have been depicted. And we've labeled  
 10 them 9B, 9C and 9D. What is 9B?  
 11 A. That is an entrance driveway and an exit  
 12 driveway for were we load bulk dry materials into  
 13 dump trucks, and customer pickup trucks and trailers  
 14 and such.  
 15 Q. So this is something that somebody drives  
 16 underneath and that stuff gets dumped from above?  
 17 A. That's correct.  
 18 Q. And then, 9C?  
 19 A. 9C would be the exit driveway.  
 20 Q. Okay. And 9D, would that be the exit  
 21 driveway?  
 22 A. Okay. I'm confused about 9C then. 9C is  
 23 the driveway in-between the two buildings. Is that  
 24 correct?  
 25 Q. I think it's your loading dock where the

Page 365

1 --  
 2 MR. KISIELIUS: Objection,  
 3 Mr. Examiner. We're now testifying on behalf of the  
 4 Witness and answering his own question.  
 5 MR. BROWER: I'm just simply trying to  
 6 speed this along and orient us.  
 7 THE HEARING EXAMINER: We do need the  
 8 testimony coming from him as to where they are. If  
 9 he needs to look at it and sit back down or  
 10 something along those lines.  
 11 MR. BROWER: Okay, Mr. Olstad.  
 12 THE WITNESS: Yeah. Please. Okay.  
 13 So this would be the entrance driveway coming in --  
 14 THE HEARING EXAMINER: Sorry. What I  
 15 meant, Mr. Olstad, is if you need to look at that  
 16 just so you know what numbers go with which -- you  
 17 do need to be back by your mic -- microphone in  
 18 order to testify, so that we can get a record of  
 19 what you're saying. That's all.  
 20 THE WITNESS: So the first one is the  
 21 entrance driveway to the west. Moving to the east  
 22 is another entrance driveway directly next to the  
 23 warehouse. Moving further east, is the loading  
 24 exit/entrance driveway where we load bulk dry  
 25 materials. And then moving further to the east, is

Page 366

1 the main exit driveway for the Ready-Mix trucks and  
 2 any other trucks entering and exiting the yard.  
 3 THE HEARING EXAMINER: And can you see  
 4 the numbers up there the 9, 9A, 9B, 9C at the bottom  
 5 of the image?  
 6 THE WITNESS: I mean, barely. Yes.  
 7 THE HEARING EXAMINER: Can you -- just  
 8 so I understand -- and I appreciate Mr. Brower and  
 9 you orienting us. What are the -- which numbers are  
 10 we talking about starting with -- is it 9 to 10, or  
 11 9D? And if you can -- if you need to get up to look  
 12 at that that would be helpful.  
 13 THE WITNESS: So 9A.  
 14 THE HEARING EXAMINER: I'm sorry. You  
 15 have to go back to the seat. It's a quiz. Look at,  
 16 yeah. Take a look at it and then go back to the  
 17 seat and let us know what.  
 18 THE WITNESS: So 9A, is the entrance  
 19 driveway.  
 20 THE HEARING EXAMINER: Okay.  
 21 THE WITNESS: 9B is the -- another  
 22 entrance driveway. 9C is an entrance/exit driveway  
 23 for the whole plant. 9D is the loading dock. And  
 24 10 -- is it 10 down there? Is an exit driveway, the  
 25 main exit driveway.

Page 367

1 THE HEARING EXAMINER: Sorry,  
 2 Mr. Brower.  
 3 MR. BROWER: Thank you.  
 4 THE WITNESS: Is that correct?  
 5 BY MR. BROWER:  
 6 Q. I think it's good enough for now. Let's  
 7 go back to your job duties. You said that you load  
 8 the Ready-Mix Concrete trucks?  
 9 A. That's correct.  
 10 Q. What does that entail?  
 11 A. Well, I run the batch plant. I sit in an  
 12 office, and I run a computer system that when I  
 13 punch buttons, materials are delivered up through  
 14 into the plant and then mixed into the Ready-Mix  
 15 truck. That's my function. And then the trucks  
 16 pull out from underneath the plant and go out into  
 17 the exit driveway, and further tempering their load  
 18 before they go out on to the street.  
 19 Q. And what does it mean to temper a load?  
 20 A. Just to finalize it. I get it -- I get  
 21 the load of concrete close to what it needs to be  
 22 for specs. And then, the driver's responsibility is  
 23 to finish that up.  
 24 Q. And while the drivers are doing that, do  
 25 the trucks get washed?

Page 368

1 A. Yes.  
 2 Q. And the drivers get out and do that?  
 3 A. Oh, yes.  
 4 Q. And then, the trucks pull out, and do  
 5 they always go one direction or the other?  
 6 A. They can turn either way onto Shilshole.  
 7 Q. And who -- does Salmon Bay Sand and  
 8 Gravel deliver Ready-Mix concrete all over the city?  
 9 A. Yes.  
 10 Q. Do you also just schedule delivery of raw  
 11 materials to Salmon Bay Sand and Gravel?  
 12 A. I do.  
 13 Q. And what does that include?  
 14 A. Well, that's with either the dry bulk  
 15 materials in terms of cement or the wet add-mix  
 16 materials; bulk materials in terms of chemical that  
 17 we get delivered.  
 18 Q. So we heard a lot of talk about concrete  
 19 versus cement. So cement is a component of  
 20 concrete?  
 21 A. That is correct. Cement is the powder  
 22 that goes into the sand and gravel and water.  
 23 Q. And where are the deliveries of cement  
 24 coming from?  
 25 A. Primarily coming out of west Seattle,

Page 369

1 east Marginal and west Marginal. The trucks  
 2 themselves come out of Arlington. It's the main  
 3 yard where the trucks are parked. Then they come  
 4 into the city and pick up whatever materials --  
 5 whichever direction I'm sending them to pick up  
 6 whichever materials I need.  
 7 Q. And when a cement truck arrives, how does  
 8 it pull up to Salmon Bay?  
 9 A. It has to make a left-hand turn into 9A,  
 10 and then pull down inside of our yard along our  
 11 warehouse.  
 12 Q. Do they also sometimes pull up parallel  
 13 to the warehouse on Shilshole?  
 14 A. That is correct. They pull up outside  
 15 alongside the railroad tracks depending on my need  
 16 for that material out there.  
 17 Q. And how is it unloaded from those trucks  
 18 if they pull up parallel to the railroad tracks?  
 19 A. Air pressure.  
 20 Q. So a hose?  
 21 A. Hose.  
 22 Q. And where is it pumped or sucked?  
 23 A. Into the silos.  
 24 Q. And that's on the property?  
 25 A. That is correct.

Page 370

1 Q. And what happens if the cement truck  
 2 pulls onto the property through the entrance  
 3 driveway? Where does -- how does it offload its  
 4 material?  
 5 A. He offloads inside. We have the  
 6 capability to offload in two different places with  
 7 inside the plant. When they're not outside the rail  
 8 car they're inside and then they exit out.  
 9 Q. And are there any other dry bulk  
 10 materials other than cement that get delivered to  
 11 Salmon Bay by truck?  
 12 A. Yes.  
 13 Q. And what are those?  
 14 A. Sand, gravel.  
 15 Q. And how often do dry bulk tanker trucks  
 16 -- excuse me, dry bulk trucks deliver to Salmon Bay  
 17 Sand and Gravel?  
 18 A. Tanker trucks or dry bulk?  
 19 Q. Let's start with tanker trucks.  
 20 A. Tanker trucks, anywhere from one, to  
 21 four, to five-a-day depending on volume of business.  
 22 Q. And that's every week?  
 23 A. Every day of every week. Yes.  
 24 Q. And how many days a week are you open?  
 25 A. Five.

Page 371

1 Q. What about the other bulk material you  
 2 mentioned? How often is that delivered?  
 3 A. Again, depends on need. There's various  
 4 examples out depending on the barges or volume of  
 5 our business. Our materials, sand and gravel wise,  
 6 are brought in through barges, which depending on  
 7 the locks and weather factors and such we may have  
 8 to call in trucks, if the locks are closed for some  
 9 reason we have to call in trucks. So that's  
 10 constantly varying as to how much we're doing that.  
 11 Q. And you also mentioned there's add-mix  
 12 and wet bulk, what are those?  
 13 A. That's correct. Those are chemical  
 14 add-mixes for the concrete.  
 15 Q. And how is the add mix delivered?  
 16 A. In bulk containers, bulk trucks -- the  
 17 tanker trucks.  
 18 Q. And how often do they arrive?  
 19 A. Again, depending on our business needs  
 20 anywhere from once a week to three times a week.  
 21 Also, depending on the trucking companies, how they  
 22 divide up the whatever. If I order three products,  
 23 sometimes I get one on one day, and another on  
 24 another day and another on another day or sometimes  
 25 all three at once. That's just based up to them;

Page 372

1 their delivery inventory schedule.  
 2 Q. And what about wet bulk? How often is  
 3 that delivered?  
 4 A. Again, one -- you know, any day -- one  
 5 day a week to four/five? Just depends on the volume  
 6 of business.  
 7 Q. Are they arriving at all times during the  
 8 day, or do they always come in the morning, or the  
 9 afternoon?  
 10 A. Any given time during the course of a  
 11 day.  
 12 Q. And what are you hours of operation?  
 13 A. Well, this morning I opened at quarter to  
 14 five -- excuse me, quarter to six, and I had my  
 15 first dry cement tanker delivery at six. And we run  
 16 until we're done, whatever time that may be.  
 17 Q. Do you often run past five o'clock at  
 18 night?  
 19 A. Oh, yeah.  
 20 Q. So what time sometimes?  
 21 A. 7/8.  
 22 Q. And that really depends on the job?  
 23 A. Yep.  
 24 Q. Do you know where the add-mix and wet  
 25 bulk materials are coming from?

Page 373

1 A. The company that transports them is  
 2 located in Kent. The materials are coming out of  
 3 various plants and factories in the U.S. So the  
 4 trucking company has a headquarters here in Kent,  
 5 but they also have -- they're throughout the U.S.  
 6 Q. So I think you said the dry and wet bulk  
 7 materials are coming from west Seattle and Kent? Do  
 8 they also come from the Duwamish area?  
 9 A. Yes.  
 10 Q. Did you say that?  
 11 A. Yes.  
 12 Q. Do you know if the drivers are local and  
 13 familiar with Shilshole?  
 14 A. The wet bulk material drivers are  
 15 typically not local. Occasionally, I'll see the  
 16 same ones, you know, over again, but most of them  
 17 are traveling from out of state. The cement -- the  
 18 dry bulk material drivers are mostly local. A  
 19 couple of them are out of Canada, a couple are out  
 20 of Centralia, but for the most part they're local.  
 21 Q. Why are the drivers coming from out of  
 22 state?  
 23 A. It's just depending on the delivery  
 24 company; how they're being dispatched.  
 25 Q. So are these local companies, national

Page 374

1 companies?  
 2 A. National.  
 3 Q. And do you -- you said sometimes you see  
 4 the same drivers, but are you seeing different  
 5 drivers often?  
 6 A. Oh, yeah. Oh, yeah. At any given time,  
 7 it will be somebody completely new. I never know.  
 8 Q. So somebody who's never been to Shilshole  
 9 before?  
 10 A. Correct.  
 11 Q. Do you have to do anything special to get  
 12 these drivers in and out of Salmon Bay Sand and  
 13 Gravel?  
 14 A. That depends on the individual driver's  
 15 ability to read a map. Sometimes I have to converse  
 16 with them and, you know, guide them in from any  
 17 given location that they found themselves in in  
 18 Seattle.  
 19 Q. Do you use flaggers to aid in the  
 20 navigating?  
 21 A. No.  
 22 Q. Why not?  
 23 A. It's just impractical.  
 24 Q. Why is it impractical? From a cost  
 25 perspective or a logistics?

Page 375

1 A. Cost and logistics. So this morning for  
 2 example, if we were employing flaggers, I would have  
 3 had to have a flagger there at quarter to six.  
 4 Q. And --  
 5 A. And then all day.  
 6 Q. All day.  
 7 A. Yeah.  
 8 Q. So --  
 9 A. Until we're done.  
 10 Q. So it could be 12/14 hours a day?  
 11 A. Easy.  
 12 Q. And how many flaggers would you need?  
 13 A. Well, you would -- I'm not familiar with  
 14 the law; the zoning laws on that or the laws itself.  
 15 But I would assume entrance driveway and exit  
 16 driveway, you would have to have those two places  
 17 manned. And that would just be the two main  
 18 driveways, but all the other driveways are still in  
 19 play as well.  
 20 Q. Does Salmon Bay Sand and Gravel receive  
 21 bulk materials by rail?  
 22 A. Yes.  
 23 Q. How often does that happen?  
 24 A. Once a week -- minimum of once a week  
 25 four cars

Page 376	Page 378
<p>1 come -- four cars go away empty, four cars come in 2 loaded. 3 Q. And where are those cars stored? 4 A. They are stored down the -- alongside the 5 trail down by Shilshole back towards Golden Gardens. 6 Q. And which rail line brings them to you? 7 Is it Ballard Terminal? 8 A. Ballard Terminal. Yeah. 9 Q. So you coordinate with Ballard Terminal 10 for the delivery and pickup of those cars? 11 A. That's correct. 12 Q. I think you also mentioned Salmon Bay 13 Sand and Gravel receives bulk material by barge? Is 14 that correct? 15 A. That is correct. Yeah. 16 Q. And what material comes in by barge? 17 A. Sand and gravel. 18 Q. So that the other material of Ready-Mix 19 concrete? 20 A. That is correct. 21 Q. Do you sometimes have to bring that 22 material in by truck, the sand and gravel? 23 A. Oh, yeah. Oh, yeah. 24 Q. Why is that? 25 A. On any given occasion. Well, a prime</p>	<p>1 A. Yes. 2 Q. And in addition to the 26 ready-mix 3 concrete trucks, does Salmon Bay have other trucks? 4 A. Dump trucks and flat beds -- boom crane 5 flatbed trucks. 6 Q. How many of those? 7 A. Two of each. 8 Q. And about how many trips a day are they 9 making? 10 A. Again, depending on the volume, four to 11 eight per each of those trucks easily. 12 Q. So two what -- I think you said four 13 trucks coming times -- between four and eight trips 14 a day? 15 A. Yep. 16 Q. So we're talking 116 to a 130 trips a 17 day? 18 A. Easily. And then, that doesn't include 19 any of the bulk deliveries that we get. Those 20 bagged sand and gravel materials and cement 21 materials that come in via the other vendors and 22 semi-trucks, nor does that include any of the 23 customer dump-trucks or any of the customers with 24 their trucks and trailers that are getting bulk 25 materials or bagged materials.</p>
Page 377	Page 379
<p>1 example is just the last month, the month of 2 November. It's an annual closure of the locks where 3 our tugs and barges come through. We have to stock 4 -- anticipate our needs and stock for that previous 5 to the locks closure. But depending on the needs, 6 we may fall short on the materials and therefore 7 we're trucking them in. 8 Q. On average, you know, assuming that the 9 locks are open and operating, so you can get the 10 sand and gravel in by barge. How many trips per day 11 -- well, let me back up a second. How many ready- 12 mix trucks does Salmon Bay have in its fleet? 13 A. 26. 14 Q. And on average, how many trips per day 15 are those ready-mix concrete trucks making? 16 A. Anywhere from 50 to 100 plus. 17 Q. And is that a trip in and a trip out? 18 A. One trip in, one trip out; that's just to 19 get a load. But then they also have trips at the 20 end of the day coming in empty and cleaning up and 21 going home for the day. 22 Q. And where do they go home to? 23 A. We have two different lots. The trucks 24 are parked in Ballard off-site. 25 Q. That's a truck yard?</p>	<p>1 Q. So those would be trucks that come to 2 that overhead loading area? 3 A. Correct. 4 Q. And isn't there a loading -- is there a 5 loading dock between the bulk area and the exit 6 driveway? 7 A. That's correct. Yeah. 8 Q. Okay. And what happens there? 9 A. Customer pick up, you know, pickup trucks 10 get both sand and gravel bags or cement bags in that 11 space. 12 Q. So do people pull up nose first or back 13 in? 14 A. Back in. 15 Q. So people would back into that loading 16 dock? 17 A. Yep. 18 Q. Okay. And is your understanding that the 19 Burke-Gilman Trail Missing Link would run in front 20 of all of those driveways and that loading dock? 21 A. That is correct. That is my 22 understanding. 23 Q. So, I mean, so in addition to Salmon 24 Bay's fleet of trucks, and all of the delivery 25 trucks delivering bulk and -- dry bulk, and add-mix,</p>



Page 380

1 and wet materials, you also have customers coming  
 2 and going?  
 3 A. Oh, yeah.  
 4 Q. And are using those driveways?  
 5 A. Home owners. You know; little old men,  
 6 little old ladies.  
 7 Q. So a couple hundred trips a day?  
 8 A. Probably -- easy -- sure depending on any  
 9 given day of business volume.  
 10 Q. And all of them would have to cross the  
 11 trail?  
 12 A. Yep. As well as, you know, get along  
 13 with our mess of trucks that are in the yard getting  
 14 -- coming and going.  
 15 Q. Going back to the annual closure of the  
 16 locks. Do you know approximately how many extra  
 17 trucks it take -- took to bring in the raw material  
 18 that you couldn't bring in by barge?  
 19 A. Yeah. This year it took 234 individual  
 20 loads to keep us in operation.  
 21 Q. So 234. And that's -- and each truck had  
 22 to come in and go out?  
 23 A. Correct.  
 24 Q. So over about 500 -- just under 500?  
 25 A. Yeah. Well, just over 500.

Page 381

1 Q. Right. In the concrete business is time  
 2 important?  
 3 A. Oh, most certainly.  
 4 Q. Why is that?  
 5 A. Because it's a perishable product. You  
 6 know, a concrete load in the truck only has a  
 7 certain shelf life. So it goes in the truck, the  
 8 driver finishes it up, he takes his load out.  
 9 That's the goal -- in and out.  
 10 Q. So what would happen if your trucks were  
 11 delayed getting in or out?  
 12 A. Well, first off, Salmon Bay's yard is not  
 13 terribly large. So it doesn't take a whole lot for  
 14 us to get all backed up with the size of the Ready-  
 15 Mix trucks, as well as the tanker-trucks and  
 16 delivery-trucks. We're going to be backed up onto  
 17 Shilshole. If we can't get into our yard, we're  
 18 backed up into Shilshole. If we can't get out of  
 19 our yard, we're backed up through our yard, as well  
 20 as back out onto Shilshole.  
 21 Q. And that's impacting the shelf life of  
 22 this perishable product?  
 23 A. Certainly. You know, once I load a truck  
 24 it's on the clock.  
 25 Q. Do you have a commercial driver's

Page 382

1 license?  
 2 A. I do.  
 3 Q. And it's called a CDL?  
 4 A. That's correct. Yes.  
 5 Q. Why do you have a CDL?  
 6 A. My original employment at Salmon Bay was  
 7 a concrete Ready-Mix truck driver for the first 11  
 8 years of my employment there.  
 9 Q. How long have you worked for Salmon Bay?  
 10 A. For -- I'm into my 23rd year now.  
 11 Q. And so, you drove a ready-mix truck for  
 12 11 years?  
 13 A. Yep.  
 14 Q. And did you also drive other trucks?  
 15 A. Flat-beds, dump-trucks, whichever --  
 16 whatever they needed.  
 17 Q. So you're a professional truck driver?  
 18 A. Yes.  
 19 Q. In your opinion, do bikers follow the  
 20 rules of the road?  
 21 MR. KISIELIUS: Objection,  
 22 Mr. Examiner. We're now going from his truck  
 23 experience to opining about bicyclists following the  
 24 rules of the road and asking again for what is  
 25 admitted in the question is an opinion.

Page 383

1 THE HEARING EXAMINER: I think it's  
 2 the form of the question is you've asked about  
 3 bikers as opposed to his experience with bikers.  
 4 MR. BROWER: Sure.  
 5 BY MR. BROWER:  
 6 Q. As a professional driver, did you --  
 7 THE HEARING EXAMINER: So it's  
 8 sustained.  
 9 BY MR. BROWER:  
 10 Q. -- did you have experience interacting  
 11 with bicyclists?  
 12 A. Most certainly.  
 13 Q. And what was that experience?  
 14 A. Not always extremely pleasant.  
 15 Q. And why not?  
 16 A. Because they tend to -- bicyclists tend  
 17 not to follow the rules of the road the same as cars  
 18 do.  
 19 Q. What do they do?  
 20 A. Run stop signs.  
 21 MR. KISIELIUS: I'm going to again  
 22 object here. We're making generalizations that are  
 23 beyond -- he's testifying about what they do in  
 24 general, rather than what his experiences are.  
 25 THE WITNESS: Well, that was a

Page 384

1 question to my experience.  
 2 THE HEARING EXAMINER: I think he's  
 3 answering the question which was what's his  
 4 experience with them. I think we can couch it all  
 5 that the witness's testimony is based on his  
 6 experience with bicyclists and that's the weight it  
 7 will carry.  
 8 MR. KISIELIUS: Okay. Thank you.  
 9 BY MR. BROWER:  
 10 Q. In your experience driving a truck did  
 11 you ever have any close encounters with bicyclists?  
 12 A. Oh, numbers of times. Yeah --  
 13 Q. Is there any --  
 14 A. -- as well as automobiles.  
 15 Q. Is there anything unique about a ready-  
 16 mix truck; rather a large truck?  
 17 A. It's size to speak to the very first  
 18 thing; the size of the vehicle, the weight of the  
 19 vehicle, its ability to stop and start, and to be  
 20 able to see in your surroundings. You know, so  
 21 blind spots.  
 22 Q. Do those trucks have blind spots?  
 23 A. Oh, yes. Numbers of them.  
 24 Q. How -- a lot of blind spots?  
 25 A. A lot is a relative term, I guess.

Page 385

1 You're very -- as a driver of those trucks you're  
 2 very dependent on the mirrors and you can't see  
 3 everything through the mirrors alone. You know, you  
 4 can only see things moving behind you alongside the  
 5 mirrors, but you still have blind spots along the  
 6 front of the trucks especially depending on the size  
 7 of the object that's next to you.  
 8 Q. Does the size and bulk of a truck make it  
 9 hard to stop?  
 10 A. Oh, yeah. It's any -- a fully loaded --  
 11 our fully loaded concrete Ready-Mix trucks are  
 12 10-yard trucks. And a 10-yard truck is a  
 13 72,000-pound missile going down the street.  
 14 Q. Do you live on Shilshole?  
 15 A. I do.  
 16 Q. Where do you live?  
 17 A. I live at Ballard Mill Marina, 4725  
 18 Shilshole Avenue Northwest.  
 19 Q. And is that just down the street from  
 20 Salmon Bay?  
 21 A. That is correct?  
 22 Q. On the water side?  
 23 A. That is correct.  
 24 Q. Is it a liveaboard community?  
 25 A. It is a liveaboard community.

Page 386

1 Q. What does that mean?  
 2 A. Well, it means I live on a boat as well  
 3 as a number of people within the marina as well as  
 4 the other marinas up and down Shilshole.  
 5 Q. How long have you lived in that marina?  
 6 A. Seven years.  
 7 Q. Do you know how many residents reside at  
 8 the Ballard Mill Marina as liveaboards?  
 9 A. Currently it's about 60.  
 10 Q. Does that number fluctuate?  
 11 A. Yes.  
 12 Q. Why?  
 13 A. People either tend to -- they try it and  
 14 like it, or they don't.  
 15 Q. Does it all --  
 16 A. And, you know, movement of boats. People  
 17 moving to other marinas and such.  
 18 Q. Does it also go up and down seasonally?  
 19 A. Yes. To a degree I would say, yes. You  
 20 know, people that -- if I have friends that live in  
 21 houses elsewhere, and they choose to live on their  
 22 boats during the summer months, so...  
 23 Q. And how do you get in and out of the  
 24 Ballard Mill Marina?  
 25 A. We have a driveway that is just to the

Page 387

1 west of CSR's yard and it's a gated driveway.  
 2 Q. Was it always a gated driveway?  
 3 A. No.  
 4 Q. When did that change?  
 5 A. The gate's been up about a year now, I  
 6 believe -- year-and-a-half.  
 7 Q. Does -- why did they put the gate up?  
 8 A. Security.  
 9 Q. Does it -- has it changed the way you get  
 10 in and out -- the difficulty of getting in and out?  
 11 A. Oh, yeah. You have to stop, get out of  
 12 the car, walk over to the key fob, activate the fob,  
 13 wait for the gate to open, drive through. Exiting  
 14 the driveway, you just roll up to it and the gate  
 15 automatically opens, but you still have to get out  
 16 through there.  
 17 Q. Is it your understanding that you'd have  
 18 to stop on or near the trail to do that maneuver of  
 19 getting out and using the key fob?  
 20 A. Yep. The location of that gate is  
 21 further out towards the Shilshole Street.  
 22 Q. Do you -- has anybody from SDOT to your  
 23 knowledge come and talk to you or anybody in the  
 24 liveaboard community during the last five years  
 25 about the missing link?

Page 388

1 A. Not at all.  
 2 Q. Are there other liveaboard marinas along  
 3 Shilshole?  
 4 A. Yes.  
 5 Q. How many?  
 6 A. There's four moving between the Ballard  
 7 Bridge towards the locks.  
 8 Q. Are they pretty tight knit communities?  
 9 A. Yeah. For the most part.  
 10 Q. So you know people in those communities?  
 11 A. Oh, yeah.  
 12 Q. Do you know if anybody from SDOT ever  
 13 talked to anybody in those communities who you know?  
 14 A. Nobody that I've asked that question to  
 15 has ever been spoken to about the effect of the  
 16 trail on our liveaboard communities.  
 17 Q. Has this --  
 18 A. Including the manager of our marina,  
 19 whose been the manager for five years. Nobody's  
 20 ever spoken to him.  
 21 Q. Had this portion of Ballard changed in  
 22 the last seven years?  
 23 A. Yeah.  
 24 Q. How so?  
 25 A. Well, Ballard was a, you know, pretty

Page 389

1 much just a fishing village with a drinking problem,  
 2 so to speak. Now it's kind of a restaurant/bar  
 3 village with a condo problem.  
 4 Q. So a lot more -- does that mean more  
 5 people have moved there?  
 6 A. Lots of more people have moved there.  
 7 Q. Is it hard to park where you live?  
 8 A. Where I live, I park in a marina.  
 9 Q. What about outside of the marina.  
 10 A. Outside of the marina it's extremely  
 11 difficult to park.  
 12 Q. And so, since you live there you see  
 13 those parking places being used?  
 14 A. Oh, yes.  
 15 Q. Seven days a week?  
 16 A. Yes.  
 17 Q. And are they used all the time?  
 18 A. All the time.  
 19 Q. Would you say they're used 24/7?  
 20 A. Yes. Especially on the weekends with the  
 21 farmer's market and such. It's really busy.  
 22 Q. So during the week during the day, who's  
 23 using those parking spaces?  
 24 A. Mostly I would --  
 25 MR. KISIELIUS: Objection,

Page 390

1 Mr. Examiner. He's not conducted a parking analysis  
 2 to be able to attribute independent users to  
 3 specific businesses or liveaboards. If he testifies  
 4 to what he's sees that's okay, but --  
 5 THE WITNESS: What I see in my commute  
 6 to work every day.  
 7 MR. BROWER: Tim, wait until the  
 8 Examiner --  
 9 THE WITNESS: Sorry.  
 10 MR. KISIELIUS: We're venturing beyond  
 11 again personal experience into speculation as to how  
 12 it's being used in utilization generally.  
 13 THE HEARING EXAMINER: As I understood  
 14 the question, it was who parks there if he knows, so  
 15 I mean, you wouldn't have to do a study to knows who  
 16 parks next to you.  
 17 MR. KISIELIUS: He's -- and if I could  
 18 just explain a little bit more. He's -- I  
 19 understood the question to mean parking in that  
 20 vicinity generally, which implies a vast knowledge  
 21 of utilization and by whom.  
 22 THE HEARING EXAMINER: All right.  
 23 I'll overrule the objection allowing the testimony  
 24 in the context of the knowledge of the witness as to  
 25 his own personal experience of what parking is like

Page 391

1 in that area.  
 2 THE WITNESS: Okay. So in my daily  
 3 commute, which is walking to work; I walk. But in  
 4 my daily commute I see the same vehicles over and  
 5 over daily. Which are, in my opinion, employees  
 6 going up to the restaurants and bars, and  
 7 boutiques/shops along Ballard Avenue and up on  
 8 Market street -- all the various businesses. So in  
 9 my opinion, those are employees that are going up  
 10 and doing their jobs that are parking along that  
 11 stretch.  
 12 BY MR. BROWER:  
 13 Q. Do people that work at Salmon Bay Sand  
 14 and Gravel, the people that work with and for you,  
 15 do they also park near Salmon Bay?  
 16 A. Yep.  
 17 Q. And where do they park?  
 18 A. Into -- either in front of the office  
 19 across the street from our plant, or alongside the  
 20 Shilshole in front of our plant.  
 21 Q. So in what the City has referred to as  
 22 that unregulated parking?  
 23 A. That's the -- yes, to my understanding,  
 24 that's the unregulated parking they are referring  
 25 to.

Page 392

1 Q. And then, those parking spaces on the  
 2 weekend you see them being used by people going to  
 3 the --  
 4 A. Yeah. General public, as well as  
 5 employees. I mean, those bars and restaurants are  
 6 open 7 days-a-week for the most part, and all the  
 7 boutique shops and such. And then, on the weekends  
 8 you have the farmer's market on Sundays, so that  
 9 brings in a whole new influx of traffic.  
 10 MR. BROWER: Mr. Olstad, thank you. I  
 11 have no more questions for you.  
 12 THE HEARING EXAMINER: Cross-  
 13 examination?  
 14 CROSS-EXAMINATION  
 15 BY MR. KISIELIUS:  
 16 Q. Hi. I'm Tadas Kisielius. I'm going to  
 17 ask you a couple of questions on behalf of the  
 18 Department of Transportation.  
 19 A. Yeah.  
 20 Q. And it should be very brief here. You  
 21 were referring to a -- what Mr. Brower was calling  
 22 driveway 9A. This is sort of second from the west.  
 23 A. Okay.  
 24 Q. Is that going into a building?  
 25 A. It goes underneath an overhang and a --

Page 393

1 yeah, sack bulk materials are inside that warehouse.  
 2 Q. Okay.  
 3 A. We call that Warehouse 3. The customers  
 4 drive down into the driveway to get loaded from that  
 5 warehouse.  
 6 Q. And does that opening -- that overhang  
 7 limit the types of vehicles that can get in and out?  
 8 A. No. Our Ready-Mix trucks can get in and  
 9 out of that driveway as well. When we have flat-  
 10 beds being off-loaded, they're double trailer flat-  
 11 beds of dry bulk materials on pallets. Those trucks  
 12 come in the exit driveway the furthest to the east  
 13 and they sit up on the landing to be off-loaded by  
 14 our warehouse forklifts. So then those trucks are  
 15 in that entrance driveway, all other traffic is  
 16 coming in the driveway next to that underneath the  
 17 overhang.  
 18 Q. Maybe I'm -- I'm going to ask you to look  
 19 at that same exhibit again.  
 20 MR. KISIELIUS: Do you mind putting  
 21 that up?  
 22 MR. BROWER: Sure.  
 23 BY MR. KISIELIUS:  
 24 Q. I'm just -- I worry that we're talking  
 25 about two different driveways, and I just want to --

Page 394

1 it might not be, I just want you to clarify.  
 2 A. Of course.  
 3 Q. And while Mr. Brower is loading that up,  
 4 maybe I'll ask you a different question. You had  
 5 talked about -- Mr. Brower had asked you about the  
 6 time that you couldn't unload by barge and that it  
 7 needed to be by truck. And I think you used the  
 8 number 234 individual loads. For what period of  
 9 time? Was that during the day or was that --  
 10 A. During the course of the day. Yeah.  
 11 Starting at six in the morning.  
 12 Q. Okay. Great. And is it your  
 13 understanding that -- you had testified about the  
 14 City Department not having come out to talk to the  
 15 liveaboard community. Is it -- what's your  
 16 understanding of whether or not the department came  
 17 out to talk to Salmon Bay Sand and Gravel about the  
 18 trail as it was preparing the EIS?  
 19 A. I have not -- I don't have a clear  
 20 understanding of how much conversation has been  
 21 going on with the powers that be --  
 22 Q. Okay.  
 23 A. -- at Salmon Bay Sand and Gravel.  
 24 Q. So you're not aware whether the  
 25 department got any information about the truck

Page 395

1 movements and the truck types from the company?  
 2 A. Well, I know that there's been studies  
 3 done, but I'm not privy to the information about  
 4 those.  
 5 Q. Okay. Let's go back --  
 6 MR. KISIELIUS: Thank you, Josh.  
 7 BY MR. KISIELIUS:  
 8 Q. Just to be clear, I was referring to  
 9 what's listed as 9A. I just want to make sure that  
 10 when you were testifying about the exit driveway,  
 11 we're talking about the same one. And if you need  
 12 to go up there to take a look again to see the  
 13 numbers better, feel free to do that.  
 14 A. 9A, yes. 9A.  
 15 Q. So we're talking about the same one?  
 16 Great.  
 17 A. Yep.  
 18 Q. You used a couple of different names of  
 19 trucks in answer to some of your questions. I think  
 20 you talked about a tanker-truck, an add-mix truck,  
 21 and a wet-bulk truck. And I just want to make sure  
 22 we're understanding the differences between them.  
 23 A. The wet-bulk trucks are the same as the  
 24 -- the wet-bulk is a tanker add-mix truck.  
 25 Q. Okay.

Page 396

1 A. Yeah. Wet-bulk versus dry-bulk. The  
 2 dry-bulk is the powder.  
 3 Q. Okay.  
 4 A. The wet-bulk is the add-mixes.  
 5 Q. So the difference is what it's carrying  
 6 not the certain type of vehicle?  
 7 A. Correct.  
 8 Q. Okay.  
 9 A. But they're all double-length tanker-  
 10 trucks.  
 11 Q. You testified about the delay that would  
 12 occur in backing up onto Shilshole. What's your  
 13 understanding of the -- do you have an understanding  
 14 of the length of delay that it would take to get --  
 15 how long would it take to get backed up onto  
 16 Shilshole?  
 17 A. That would depend on the circumstances  
 18 within our plant or I suppose, what circumstances  
 19 are going on out on the street. You know, like, for  
 20 example I would think if we have a double flat-bed  
 21 truck off-loading materials in our driveway number  
 22 9, and it became an issue with something, you know,  
 23 a customer's truck or vehicle being parked in  
 24 driveway 9A while they're getting loaded. That  
 25 automatically creates the way of our truck being

Page 397

1 able to get in. Lots of times when that occurs, our  
 2 warehouse guys put out cones to give the signal to  
 3 our drivers coming in that there's something  
 4 blocking that driveway. But that doesn't always  
 5 happen with something blocking their alternative.  
 6 Q. Yeah.  
 7 A. So they'll circle the block, come back,  
 8 try it again.  
 9 Q. And that's all -- I guess what I was  
 10 trying to get at is Mr. Brower's question to you  
 11 said, "What would happen if there was a delay?" And  
 12 you said, "We backed up." And I guess I was just  
 13 trying to get a sense of what order of magnitude of  
 14 delay are you talking about there before?  
 15 A. That would -- just again, all depend on  
 16 the circumstances. What's causing the delay, and  
 17 how long is it going to be done with it?  
 18 Q. Okay. Just a couple more quick  
 19 questions. The -- you said, you're testifying about  
 20 the gate in front of the Ballard Mill Marina?  
 21 A. Uh-huh (affirmative response).  
 22 Q. That -- and the question was about "they"  
 23 and "they put it up." Who put that gate up?  
 24 A. The Marina.  
 25 Q. Okay. And last question for you, the --

Page 398

1 you talked about the loading that transpires in  
 2 front of the building that's parallel to the rail  
 3 track?  
 4 A. Uh-huh (affirmative response).  
 5 Q. Is your understanding that's in the  
 6 right-of-way?  
 7 A. In the right-of-way of the --  
 8 Q. The street.  
 9 A. -- the street? No. It's not in the  
 10 right-of-way of the street as far as I know.  
 11 Q. Not in the street. The public right of  
 12 way.  
 13 A. Public right of way? I don't know how  
 14 far off the street the public right of way is.  
 15 Q. Where is that loading activity happening  
 16 as you describe it generally?  
 17 A. There's a -- rail cars, the railroad  
 18 tracks. Are you familiar with that?  
 19 Q. Uh-huh (affirmative response).  
 20 A. Okay. The railroads cars are there. And  
 21 then, on the outside of those railroad cars is where  
 22 we're off-loading tanker-truck deliveries.  
 23 Q. And let me just pause to make sure I'm  
 24 getting -- when you say the outside of that you mean  
 25 towards the street?

Page 399

1 A. Towards Shilshole.  
 2 Q. Okay.  
 3 A. I mean, away from our buildings towards  
 4 Shilshole.  
 5 Q. Okay. Do you know at all, whether the  
 6 business has gotten authorization for a loading spot  
 7 there?  
 8 A. I do not know that answer.  
 9 MR. KISIELIUS: Okay. Thank you. I  
 10 have no further questions.  
 11 THE WITNESS: Okay.  
 12 THE HEARING EXAMINER: Mr. Cohen?  
 13 MR. COHEN: I do have a few.  
 14 CROSS-EXAMINATION  
 15 BY MR. COHEN:  
 16 Q. Mr. Olstad, I'm Matt Cohen. I'm  
 17 appearing for the Cascade Bike Club. You're a lucky  
 18 guy. You get to walk to work. Is that the normal  
 19 way you get to work?  
 20 A. Well, it's a lifestyle choice that I  
 21 chose to make.  
 22 Q. Congratulations on that.  
 23 A. Thank you.  
 24 Q. How many employees work at the Salmon Bay  
 25 Mix Plant on a daily basis?

Page 400	Page 402
<p>1 A. In the Mix Plant, or for the company 2 itself?</p> <p>3 Q. I want to be careful. At that location 4 where the south side of Shilshole where you're 5 employed.</p> <p>6 A. There is, depending on how many times 7 warehouse employees which are five, are on that side 8 of the yard, and our yard employees, which is five, 9 and three dispatch employees and myself.</p> <p>10 Q. Can you count them up for me?</p> <p>11 A. 13/14?</p> <p>12 Q. And how many of them walk to work?</p> <p>13 A. None.</p> <p>14 Q. Not counting you?</p> <p>15 A. Correct. I'm the only one.</p> <p>16 Q. Okay. Do they drive to work?</p> <p>17 A. Yes.</p> <p>18 Q. Where do they park their cars?</p> <p>19 A. Wherever they can, scattered up and down 20 Shilshole.</p> <p>21 Q. Uh-huh. Does Salmon Bay Sand and Gravel 22 have any on-site on your property employee parking?</p> <p>23 A. On the store side of the street. And I 24 can't speak to the technical of do they own those 25 sites or are they City sites or not. They are all</p>	<p>1 A. Each four empties away, delivers four 2 fulls.</p> <p>3 Q. And how much cement does each of those 4 cars hold?</p> <p>5 A. 238,000 pounds.</p> <p>6 Q. And you unload them hydraulically?</p> <p>7 A. Air -- air pressure.</p> <p>8 Q. What's the difference?</p> <p>9 A. Well, hydraulic is liquid oil, air is 10 air.</p> <p>11 Q. Okay. So you basically you suck the 12 cement out of the car?</p> <p>13 A. We blow it. We fill the car with air 14 pressure that blows the cement into the silos.</p> <p>15 Q. Okay. Does the train come the same time 16 every week?</p> <p>17 A. No. No. It's up to the -- it's up -- 18 again, it's based on when I have the empties and 19 when they have the fulls. It's also based on their 20 schedule when they choose to run versus when I 21 coordinate with them that I'm ready to go.</p> <p>22 Q. And is always a four-car train?</p> <p>23 A. Yes. Four cars plus the locomotive.</p> <p>24 Q. Right. And all the deliveries are by 25 Ballard Terminal Railroad?</p>
Page 401	Page 403
<p>1 regulated by meter maids, that much I do know. But 2 they are not metered sites.</p> <p>3 Q. And the store side of the street is the 4 north side?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. On the south side on -- at your -- 7 on your plant site are there any employee parking 8 stalls?</p> <p>9 A. Not stalls, per se. It's first come, 10 first serve. The earlier in the day you start, the 11 luckier you're going to be.</p> <p>12 Q. Within the plant?</p> <p>13 A. No. Nothing within the plant --</p> <p>14 Q. It's all out on --</p> <p>15 A. -- for employees.</p> <p>16 Q. -- Shilshole Avenue?</p> <p>17 A. That is correct.</p> <p>18 Q. Okay. You said that you receive dry-bulk 19 cement by rail and by truck?</p> <p>20 A. That is correct.</p> <p>21 Q. I think you testified a train once a 22 week?</p> <p>23 A. A train runs once a week delivering four 24 cars.</p> <p>25 Q. Four cars.</p>	<p>1 A. That's correct.</p> <p>2 Q. Thank you. If it is possible to get 3 cement delivered by rail in the quantities you've 4 described, why does Salmon Bay receive any dry-bulk 5 cement by truck?</p> <p>6 A. For one, they can't keep up. And the 7 terminal -- the rail cars only deliver one type of 8 cement product --</p> <p>9 Q. Uh-huh (affirmative response).</p> <p>10 A. -- and we use four.</p> <p>11 Q. Where does the cement come from that the 12 rail cars deliver?</p> <p>13 A. From west Seattle.</p> <p>14 Q. Ash Grove?</p> <p>15 A. Negative. They do truck out of Ash 16 Grove, but they come out of CalPortland.</p> <p>17 Q. So as your one train a week statement, is 18 that on average?</p> <p>19 A. It's every week. Yes. Once a week, 20 every week.</p> <p>21 Q. So I think you said there are times when 22 the trains show up more often than seven days apart?</p> <p>23 A. More often than seven days apart?</p> <p>24 Q. Sorry. I mean, are there less than seven 25 days between deliveries on a train?</p>

Page 404	Page 406
<p>1 A. Yes. Typically, yes.  2 Q. Okay.  3 A. But again, we're kind of dependent on  4 Burlington Northern. They -- Ballard Terminal has  5 to coordinate with Burlington Northern. So when  6 Burlington Northern brings their loads to the  7 transfer point where we can pick them up, that's --  8 we're dependent on that.  9 Q. Uh-huh. And if you looked over a period  10 of say, a year, would it work out to one delivery a  11 week?  12 A. I would have to say yes to that. Yeah.  13 Q. Or less?  14 A. No. It's usually just the once -- once a  15 week because again, our allotment of rail cars  16 depending on our business, sometimes they can't keep  17 up with getting them to us, so...  18 MR. COHEN: Right. Okay. No further  19 questions. Thank you.  20 THE WITNESS: Okay.  21 THE HEARING EXAMINER: Redirect?  22 MR. BROWER: Mr. Examiner, I'm asking  23 the witness to look at Volume -- I believe it's 1  24 Exhibit A-310.21, which is the figure that we have  25 up on the TV. I figured it would be easier to just</p>	<p>1 Q. And then, 9B, is that the overhead bulk  2 area where the trucks pull in and --  3 A. Well, are we calling 9D the main exit  4 driveway?  5 Q. Yes.  6 A. So 9C would be the tunnel underneath the  7 plant, or is that the loading dock out on Shilshole?  8 MR. KISIELIUS: Objection,  9 Mr. Examiner.  10 MR. BROWER: I'm going to use a  11 question.  12 MR. KISIELIUS: Thank you.  13 BY MR. BROWER:  14 Q. What is between the tunnel and the main  15 exit?  16 A. The loading dock.  17 Q. So let's call that 9C.  18 A. Okay.  19 Q. Okay. So just so everybody is clear, 10  20 is not up Salmon Bay driveway?  21 A. No. No, I don't -- 10 looks like Covich  22 on this map to me.  23 Q. Got it. So 9 is the main entrance in on  24 the east and 9D is the main entrance out on the  25 west?</p>
<p>Page 405</p> <p>1 put it in front of him.  2 Thank you, Tadas, for the suggestion.  3 REDIRECT EXAMINATION  4 BY MR. BROWER:  5 Q. Tim, this is the figure that you've been  6 quizzed on -- on the TV.  7 (Counsels confer.)  8 THE HEARING EXAMINER: Actually --  9 MR. BROWER: A-310.21, I believe?  10 THE HEARING EXAMINER: Josh, I'd be  11 grateful if you could put it up there, because I  12 don't have your exhibits.  13 MR. BROWER: Sure. And it's page 021  14 of that exhibit. I have it on the screen as well.  15 THE HEARING EXAMINER: Thank you.  16 BY MR. BROWER:  17 Q. Just -- now that you have this in front  18 of you, I want to get a clean record here.  19 A. Yeah.  20 Q. So starting again on the western edge,  21 driveway 9, is that the main western entrance?  22 A. That is correct.  23 Q. And 9A is the covered entrance that  24 Mr. Kisielius was asking you about?  25 A. That's correct.</p>	<p>Page 407</p> <p>1 A. Correct.  2 Q. Excuse me, the east.  3 A. Correct.  4 Q. Perfect. And, Mr. Olstad, I handed back  5 to you some notes you gave me this morning. They  6 relate to, I believe, the number of bulk sand and  7 gravel trips that Salmon Bay used during the lock  8 closure? Is that correct?  9 A. That is correct. Yes.  10 Q. Okay.  11 MR. KISIELIUS: Mr. -- can I just  12 interject really quickly?  13 Same as yesterday, the witness can use  14 notes to refresh his recollection, but to the extent  15 that he's doing so, we are entitled to take a look,  16 so we'd appreciate that.  17 MR. BROWER: Would you mind handing  18 them around? Great.  19 THE WITNESS: No.  20 MR. BROWER: Great.  21 MR. KISIELIUS: Thank you.  22 BY MR. BROWER:  23 Q. And you just showed them to me this  24 morning?  25 A. Yep. That's correct. The back page is a</p>

Page 408

1 compilation of each day that the locks were closed  
 2 and how many trucks -- how many loads, I should say,  
 3 were delivered.  
 4 Q. So just for the clarity of the record, I  
 5 believe when I was asking you how many trips, you  
 6 said 528? Is that the number written in your  
 7 handwriting?  
 8 A. Five hundred and sixty-eight.  
 9 Q. And I believe one of the Respondent's  
 10 Counsel asked you whether that was in a day? Is  
 11 that correct?  
 12 A. No. That was the total of the lock  
 13 closure, which was two weeks.  
 14 MR. BROWER: Thank you. Nothing  
 15 further.  
 16 THE HEARING EXAMINER: Thank you,  
 17 Mr. Olstad.  
 18 THE WITNESS: Okay.  
 19 THE HEARING EXAMINER: Next witness?  
 20 MR. SCHNEIDER: The Coalition calls  
 21 Mike Walker.  
 22 THE HEARING EXAMINER: Mr. Walker,  
 23 please state your name, and spell your last name for  
 24 the record?  
 25 MR. WALKER: Michael Walker,

Page 409

1 W-a-l-k-e-r.  
 2 THE HEARING EXAMINER: And do you  
 3 swear or affirm that the testimony you are providing  
 4 at today's hearing will be the truth?  
 5 MR. WALKER: I do affirm.  
 6 THE HEARING EXAMINER: Thank you.  
 7 MICHAEL WALKER,  
 8 a witness, having been previously sworn,  
 9 was examined and testified as follows:  
 10 DIRECT EXAMINATION  
 11 BY MR. BROWER:  
 12 Q. Good morning, Mr. Walker.  
 13 A. Morning, sir.  
 14 Q. Thank you for joining us.  
 15 Mr. Walker, what do you do for a living?  
 16 A. I'm a business agent, and teach Local  
 17 174. I represent 450 members from the International  
 18 Brotherhood of Teamsters.  
 19 Q. What is a business agent for at the  
 20 Teamsters?  
 21 A. I'm a liaison between the employers and  
 22 the employees. I help members with problems; life  
 23 problems, contractual problems, employment problems,  
 24 enforce a contract and other services.  
 25 Q. Are the Teamsters a member of the

Page 410

1 Coalition that's pursuing this appeal?  
 2 A. Absolutely.  
 3 Q. And what are your -- how long have you  
 4 been a business agent for the Teamster's Local 174?  
 5 A. Almost a year.  
 6 Q. And what did you do before that?  
 7 A. I drove a Ready-Mix truck in Seattle.  
 8 Q. How long did you do that?  
 9 A. 18 years.  
 10 Q. Did you drive a Ready-Mix truck just in  
 11 the Seattle area or other places?  
 12 A. I used to drive back east. I've got 25  
 13 years in Ready-Mix total. 18 in Seattle.  
 14 Q. So that's seven back east?  
 15 A. Yeah.  
 16 Q. And where was that?  
 17 A. Dayton, Ohio.  
 18 Q. And are you familiar with the Shilshole  
 19 area of Seattle??  
 20 A. Very.  
 21 Q. How are you familiar with it?  
 22 A. I've poured concrete up there, and now I  
 23 work for members of Salmon Bay Sand and Gravel.  
 24 Q. Are there teamsters who work for Salmon  
 25 Bay?

Page 411

1 A. There are teamsters all up and down  
 2 Shilshole. We do daily deliveries with EPS. We've  
 3 got a freight companies. Yes, there's 30 -- over 30  
 4 members at Salmon Bay. Not only with our local, but  
 5 with other locals. There's other Union members  
 6 there. We do all the trash and recycle pickups all  
 7 up and down all through the city.  
 8 Q. So, Jonathan, (sic) you said that you  
 9 have teamsters members who drive would you call them  
 10 a garbage or recycling truck?  
 11 A. Sanitation, yes, absolutely. Garbage,  
 12 recycle, water waste, if there is some -- Shilshole  
 13 probably not so much. We do freight deliveries of  
 14 the marinas. They do deliveries. They order pumps.  
 15 They order whatever that gets delivered on freight  
 16 trucks. We got Peninsula, YRC, we got Oak Harbor;  
 17 there's all kinds of freight companies that are  
 18 signatories. We do UPS. Every driveway takes UPS.  
 19 Q. Every driveway on Shilshole?  
 20 A. Every driveway.  
 21 Q. And in this study area?  
 22 A. Everybody.  
 23 Q. What about FedEx?  
 24 A. Oh, yeah. I'm sure we take them too.  
 25 Q. Okay.



Page 412

1 A. I don't represent them.

2 Q. Would you classify these as blue-collar

3 jobs?

4 A. These are high paying blue-collar jobs.

5 On average, according to federal government, the

6 union members make 30 percent more than non-union

7 members. And our members are in six figures all up

8 and down the yard ranks.

9 Q. And these are -- those -- your members at

10 Salmon Bay are making that kind of money?

11 A. Absolutely. And fully medical and a

12 pension they can retire on and afford to live on.

13 It's a great package.

14 Q. And do your members work for other Ready-

15 Mix Concrete trucks in the -- excuse me -- ready-mix

16 concrete companies in the area?

17 A. Yeah. We represent four city tour

18 companies in the Seattle -- in the greater Seattle

19 metro area in Kent county. Cadman and CalPortland

20 were the two multi-nationals, Salmon Bay Sand and

21 Gravel and the other family-owned company Dominion

22 Stoneway.

23 Q. And in your role as both having been a

24 ready-mix concrete driver and as a business agent,

25 do you have to interact with those other companies?

Page 413

1 A. I interact with all the companies.

2 Q. And how do you interact with them?

3 A. Members call me with problems, managers

4 call me with problems and I'm the mediator. I'm the

5 guy that sits in the middle and tries to help

6 resolve the issues.

7 Q. So do you help negotiate their labor

8 contracts?

9 A. We just finished one in August.

10 Q. With whom?

11 A. With all four of the signatories.

12 Q. And who are those signatories?

13 A. Salmon Bay, Stoneway, CalPort and Cadman.

14 Q. So those are all the companies that

15 compete against each other?

16 A. Yes.

17 Q. Are you familiar with the economic

18 pressures that those companies face?

19 A. We talk about --

20 MR. KISIELIUS: Mr. Examiner, this is

21 again, we were patient with the first parts. I'm

22 not sure that that's relevant, but now we're getting

23 into speculation about broader business impacts

24 which this witness has not established foundation.

25 MR. BROWER: If it's a foundation, I'm

Page 414

1 happy to lay more. The heart of this case goes to

2 land use. These are water-dependent industrial

3 businesses that provide Union and family wage jobs.

4 And part of the argument is that a multi-use trail

5 is going to make it harder for these companies to

6 compete. And if it's harder for them to compete,

7 then it impacts the land use and linear zoning

8 choices that we make as a City.

9 THE HEARING EXAMINER: I'm sorry. I

10 think the issue though with the objection is whether

11 there's a foundation for this witness to speak to

12 those things.

13 MR. BROWER: Certainly.

14 THE HEARING EXAMINER: And I don't see

15 that that's happened, so I sustain the objection.

16 MR. BROWER: Okay.

17 BY MR. BROWER:

18 Q. So, Mr. Walker, let's go back and talk

19 more about your experience with Cadman and

20 CalPortland. How are you familiar with them?

21 A. I'm familiar with them from working with

22 the one, from negotiating with the other. We just

23 finished our contract negotiations which covers

24 every aspect of the business, the way the business

25 is run, the way the employees are treated and

Page 415

1 handled, economics, everything. We negotiate it all

2 in our collective bargaining agreement.

3 Q. So let's unpack that a little bit.

4 A. Okay.

5 Q. So when you negotiate any labor contract

6 and you're talking to businesses, do they talk about

7 their economic pressures?

8 A. Absolutely.

9 Q. What do they tell you?

10 A. It depends on the company. Everybody,

11 you know, the multi-nationals -- they're bean

12 counters. And all the multi-nationals, they use

13 from shareholders, so they want every penny --

14 they're going to squeeze every penny out of every

15 person living or dead. The smaller family-owned

16 companies, they have a higher impact, because they

17 can't buy on the level that CalPortland can buy.

18 MR. KISIELIUS: Sorry, I'm going to

19 interject.

20 Pardon us for interrupting.

21 This is again getting at I think what

22 Josh -- excuse me, Mr. Brower just described as the

23 heart of the issue. Is about -- talking about

24 business impacts and broader technical analysis of

25 economic impacts and economic pressures. They've

Page 416

1 got an economics expert that is extensively going to  
 2 be talking about these issues. This is expert  
 3 testimony that a lay witness is giving, they have  
 4 not presented him as an expert.  
 5 MR. BROWER: I think what might be  
 6 helpful is I break it down into bite-sized chunks.  
 7 Because what I think Mr. Walker can testify to is  
 8 the economic components that go into this industry  
 9 that his members face, and the types of economic  
 10 pressures that his members face in trying to keep  
 11 their jobs.  
 12 THE HEARING EXAMINER: Which would be  
 13 an aspect that the expert probably can't address --  
 14 cannot address?  
 15 MR. BROWER: No. Because the expert  
 16 doesn't negotiate --  
 17 THE HEARING EXAMINER: I understand,  
 18 but we do need to narrow it down to --  
 19 MR. BROWER: Okay.  
 20 THE HEARING EXAMINER: -- and I  
 21 understand you're starting with the witness, trying  
 22 to get a foundation, so you're broad to being with.  
 23 But we do need to drill down on the point where this  
 24 witness is going to have relevant testimony --  
 25 MR. BROWER: Certainly.

Page 417

1 THE HEARING EXAMINER: -- to what he  
 2 knows. And to what's not going to be redundant with  
 3 an expert.  
 4 MR. BROWER: Certainly. So --  
 5 BY MR. BROWER:  
 6 Q. So Mr. Walker --  
 7 THE HEARING EXAMINER: Sustained and  
 8 -- you know, it's half-sustained, half overruled.  
 9 And it's -- we need to get to that point.  
 10 THE WITNESS: Can I answer the  
 11 question of what he wants?  
 12 BY MR. BROWER:  
 13 Q. Michael -- sorry, Mr. Walker, let me do  
 14 this. I'm going to ask you kind of smaller bite-  
 15 sized questions.  
 16 A. Okay.  
 17 Q. Do you know how many trucks Salmon Bay  
 18 has?  
 19 A. 46 mixer-trucks, I believe two flat-beds,  
 20 and two dump-trucks.  
 21 Q. Do you know how many mixer-trucks  
 22 CalPortland has?  
 23 A. 86.  
 24 Q. And what about the --  
 25 A. Cadman has 110, they just took delivery

Page 418

1 of another dozen new ones, and Stoneway has 76.  
 2 Q. In your interactions with Cadman or  
 3 CalPortland, did you gain knowledge of how many  
 4 trucks they buy at a time?  
 5 A. Yes. They were one of my -- we negotiate  
 6 the entire contract. They come in and we ask them  
 7 for financial records, we ask them their full  
 8 disclosure. Plus we have the list of rosters coming  
 9 to us from members invited. I mean, there's no  
 10 aspect that I'm not privy to. I do all of it, it's  
 11 under the scope of my job.  
 12 Q. So what's your understanding of how many  
 13 trucks CalPortland buys at a time?  
 14 A. CalPortland -- well, they're a multi-  
 15 national corporation. So this last spurt when times  
 16 were still tight, when economy hadn't recovered and  
 17 Ready-Mix hadn't taken off yet, they just went down  
 18 to a subsidiary down in Nevada, and they brought up  
 19 a dozen purple trucks that you see. And we freaked  
 20 out we're like, "Oh, no. There's somebody else in  
 21 town!" No. It's a multi-national that brought up  
 22 subsidiary with a different name, and they just took  
 23 the trucks.  
 24 Cadman, the multi-national, sends it.  
 25 They say, "Hey, we need more trucks." And they say,

Page 419

1 "Okay, we just bought a thousand of them, here's  
 2 20." And they just send them down -- free trucks,  
 3 just take them, brand-new, loaded.  
 4 So Salmon Bay, Stoneway -- they're family  
 5 companies. They're small, small entities. They buy  
 6 used trucks, take them apart, put them back together  
 7 again, make sure everything is safe, put a paint job  
 8 on them. I doubt if the newer truck in Salmon Bay  
 9 is under 10 years old.  
 10 Q. Do teamster drivers have to have a  
 11 certain license as part of their jobs?  
 12 A. They have to have a commercial driver's  
 13 license, like the gentleman before me and myself  
 14 both have. They have to have -- they're constantly  
 15 at the DOT, drug screen regulations, and they have  
 16 to have a medical card. Any number of things can  
 17 make your job in jeopardy really quick.  
 18 Q. Do you know what happens to a person with  
 19 a commercial driver's license if they get in an  
 20 accident or a moving violation?  
 21 A. Sure, they get CSA scores. I was just  
 22 talking to a guy yesterday that lost his job because  
 23 of a CSA score. Nobody will hire him because of the  
 24 CSA score.  
 25 Q. Let me just slow you down -- what's a CSA

Page 420

1 score?  
 2 A. It's a new federal -- I always forget  
 3 what CSA stands for. Everybody here can Google it.  
 4 It's a new federal regulation -- another government  
 5 regulation. And what it does is it basically, it  
 6 (indiscernible) my commercial driver's license. And  
 7 it makes sure, "Hey, if Mike's a bad guy we're going  
 8 to get him out of trucking."  
 9 And so, everything I do, every  
 10 inspection, any anything, every time I get pulled  
 11 over and handed something "sign this," I get a CSA  
 12 -- ding. And you can have -- if you got in a  
 13 fatality and you ran over somebody, you could easily  
 14 get 70 or 100 points. The guy yesterday had 70  
 15 points. He's done. They won't touch him. I sent  
 16 him to a little mom and pop, hopefully, they can  
 17 pick him up, but I doubt it. He can't get insured.  
 18 Once you get the CSA points, you're done.  
 19 Q. So CSA is kind of, like, points against  
 20 your driver's license?  
 21 A. Absolutely. But it's at a federal level,  
 22 so it doesn't matter where you go, you can't run  
 23 from it. You can't hide from it. It's on your  
 24 license.  
 25 Q. So even though you're member is a

Page 421

1 teamster, and covered by a collective bargaining --  
 2 A. Doesn't matter.  
 3 Q. That person can't get a job?  
 4 A. He's unemployable. He still has to keep  
 5 all his credentials that keep him in that truck.  
 6 Just like if he burns a urinalysis or if he loses  
 7 his medical card, he gets Type 1 diabetes and can't  
 8 get a waiver, he's done.  
 9 Q. Do you know why he got points?  
 10 A. I don't know why that gentleman got  
 11 points.  
 12 Q. Okay. Was one of your members involved  
 13 in a fatal accident up in Kenmore about a year or  
 14 two ago?  
 15 A. He was.  
 16 MR. KISIELIUS: Objection,  
 17 Mr. Examiner, relevance? They're talking about a  
 18 different location. And we're talking -- we're  
 19 supposed to be talking about the adequacy of the  
 20 EIS, not about --  
 21 THE WITNESS: Well, it was in the  
 22 Burke-Gilman Trail.  
 23 MR. BROWER: Oh, Mike --  
 24 THE WITNESS: Sorry.  
 25 MR. BROWER: It's up -- the bicyclist

Page 422

1 had left the Burke-Gilman Trail -- was within a  
 2 half-mile of Burke-Gilman Trail and ran into a  
 3 Ready-Mix concrete truck. So it goes directly to  
 4 his member's ability to keep their licenses.  
 5 THE WITNESS: Not a half-mile --  
 6 THE HEARING EXAMINER: So we're  
 7 talking about bicycle and truck accidents someplace  
 8 else, so that we know that those happen?  
 9 MR. BROWER: Yeah, on the Burke-  
 10 Gilman.  
 11 THE HEARING EXAMINER: Allowed this  
 12 question on it, but I don't -- I really don't want  
 13 to go down this path too far. It's --  
 14 MR. BROWER: Certainly. Okay.  
 15 THE HEARING EXAMINER: I mean, I want  
 16 to hear -- as I understand it, we've got a witness  
 17 who's essentially telling me the real side of the  
 18 industry, and I can hear from the economist later.  
 19 MR. BROWER: Okay.  
 20 THE HEARING EXAMINER: That's what I  
 21 want to hear.  
 22 MR. BROWER: It's just really one  
 23 follow-up question on it.  
 24 BY MR. BROWER:  
 25 Q. Do you know if that driver had any CSA

Page 423

1 points assessed to him?  
 2 A. I don't believe so, because they found,  
 3 at the time of the accident back in September of  
 4 2015, the Burke-Gilman Trail runs by CalPortland's  
 5 plant at north Lake Washington, it right there near  
 6 Kenmore. And there's a two-lane road, and then  
 7 there's a grass buffer that's the same distance as  
 8 the two-lane road. The bicyclist kamikazed off of  
 9 the bike trail, blew the stop sign, blew the other  
 10 stop sign and drove right up under a Ready-Mix  
 11 truck. I represent Damon. I know Damon very well.  
 12 He's been a mixer driver for almost 20 years. I  
 13 knew him before I took this job. He has good days,  
 14 and has really bad days, because he saw that guy  
 15 leaking out from under his truck. You know, I get  
 16 it.  
 17 Q. Well, my question was do you know if  
 18 Damon had any CSA points assigned?  
 19 A. I don't know whether -- so, normally you  
 20 don't know if you have CSA points or not unless you  
 21 go out and actively go after the government and say,  
 22 hey, I want to know what my score is.. They don't  
 23 just tell you, and it's not apparent. The way you  
 24 find out is your employer gets a phone call from  
 25 your insurance company, and the insurance company

Page 424

1 says, "We can't insure Mike anymore." Then the  
 2 employer comes downstairs and says, "You're  
 3 uninsurable. You're out of here."  
 4 Q. Do you know if anybody from SDOT called  
 5 you or your Union to talk about how a bike trail  
 6 might impact your members in order to keep their  
 7 commercial driver's license?  
 8 A. SDOT called us in July to ask if I wanted  
 9 to be a part of the design committee that started in  
 10 January. I didn't understand that the design  
 11 committee was half-way through it. And my boss  
 12 initially said, "Hell, yeah." And I said, "Hell,  
 13 yeah. We want to be a part of that. We wanna help.  
 14 We wanna be involved." And when I found out they  
 15 were six-months in, the guy said, "Oh, we'll call  
 16 and give you an overview."  
 17 MR. KISIELIUS: Mr. Examiner, I'm  
 18 going to object here. We're straying past the  
 19 question and talking about something that's occurred  
 20 since the issue of the EIS that you've already ruled  
 21 as --  
 22 THE HEARING EXAMINER: Sustained.  
 23 BY MR. BROWER:  
 24 Q. Yeah. So, Mike go back -- Mr. Walker  
 25 what I'm asking is did they call and ask you about

Page 425

1 the EIS?  
 2 A. No.  
 3 Q. Okay. Let me make sure I understand. So  
 4 Salmon Bay is a family-owned business?  
 5 A. Yes.  
 6 Q. And I think you said Marina is a family-  
 7 owned business?  
 8 A. Yes.  
 9 Q. And CalPortland is a --  
 10 A. Multi-national owned by Tayheiy Cement  
 11 out of Japan.  
 12 Q. And Cadman?  
 13 A. HeidelbergCement out of Germany.  
 14 Q. And so, those are the four main companies  
 15 competing in Seattle?  
 16 A. Right.  
 17 MR. BROWER: Okay. Thank you,  
 18 Mr. Walker, I don't have anything else.  
 19 THE WITNESS: Thank you.  
 20 THE HEARING EXAMINER: Cross?  
 21 MR. KISIELIUS: No questions on cross  
 22 examination.  
 23 THE HEARING EXAMINER: Redirect?  
 24 MR. BROWER: Nope. Sorry.  
 25 THE HEARING EXAMINER: Oh, I'm sorry,

Page 426

1 Mr. Cohen?  
 2 MR. COHEN: No cross.  
 3 THE HEARING EXAMINER: Yes, thank you.  
 4 THE WITNESS: We're good?  
 5 MR. BROWER: Thank you.  
 6 THE WITNESS: Thank you. Have a good  
 7 day.  
 8 THE HEARING EXAMINER: Next witness?  
 9 MR. BROWER: Our next witness will  
 10 actually to be called --  
 11 THE HEARING EXAMINER: Thank you for  
 12 your testimony, Mr. Walker.  
 13 THE WITNESS: Thank you.  
 14 MR. BROWER: -- is going to be after  
 15 lunch.  
 16 THE HEARING EXAMINER: I'm sorry?  
 17 MR. BROWER: Our next witness is  
 18 scheduled for after lunch, so I thought we'd be a  
 19 little behind, so he's at a different appointment.  
 20 Could we take an early lunch?  
 21 THE HEARING EXAMINER: Sure.  
 22 MR. BROWER: All right. And I'll get  
 23 the next witness here.  
 24 THE HEARING EXAMINER: Okay. We'll  
 25 stop, and we will return at 1:15 -- wait, sorry, one

Page 427

1 o'clock.  
 2 MR. BROWER: Thank you.  
 3 THE HEARING EXAMINER: Yes.  
 4 MS. FERGUSON: Before we go, I think  
 5 we were going to do a time check in about mid-day  
 6 today?  
 7 THE HEARING EXAMINER: Sure. Now I  
 8 think that we're accurate. I've got everything that  
 9 says total time for the Appellants is 6:59, so about  
 10 seven hours. And Respondent's is 1:53, just under  
 11 two hours, time used. I still have some  
 12 reservations about how we are going to know though  
 13 the end point. We've talked about how many hours  
 14 there are, but dividing it straight in the middle is  
 15 impossible and what I've seen is sort of moving  
 16 target with that.  
 17 If you look at yesterday for example,  
 18 I don't have the numbers down in front of me,  
 19 because they've changed with today's time. But with  
 20 my intro and just shuffling with paper and stuff,  
 21 time gets used. And so, that end point of saying  
 22 you get 15 hours seems like it may be fictional to  
 23 me to some degree. I'll keep an eye on it to the  
 24 degree that I can and alert you to it tomorrow.  
 25 We'll see where we are. But I think it's not as

Page 428

1 clear and concise as we'd on a clock. So we'll just  
 2 have to work with that. I don't know what else to  
 3 tell you about it.  
 4 MR. BROWER: Thank you. We're on of  
 5 time for right now, I think.  
 6 What's your sense of how much more  
 7 time we've got -- that you've got to go through? We  
 8 only have three more witnesses, so...  
 9 THE HEARING EXAMINER: So we're doing  
 10 fine.  
 11 MR. BROWER: We trying to be efficient  
 12 as --  
 13 THE HEARING EXAMINER: One's an  
 14 expert, so that could -- that'll take some time.  
 15 MR. BROWER: Two.  
 16 THE HEARING EXAMINER: Two are  
 17 experts.  
 18 MR. BROWER: But I don't think they'll  
 19 take as long as --  
 20 THE HEARING EXAMINER: Even if they  
 21 take as long as yesterday, we've still got -- I  
 22 think we're in the range of doing fine and --  
 23 MR. BROWER: Wonderful. Thank you.  
 24 THE HEARING EXAMINER: Okay. Thank  
 25 you, all. We'll see you after lunch.

Page 429

1 MR. BROWER: Thank you.  
 2 (Lunch recess taken.)  
 3 --oOo--  
 4  
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Page 430

1 NOVEMBER 28, 2017  
 2 AFTERNOON SESSION  
 3 --oOo--  
 4 THE HEARING EXAMINER: On the record.  
 5 MR. KISIELIUS: Are the deposition  
 6 transcripts in here?  
 7 THE ASSISTANT: I don't think so.  
 8 MR. KISIELIUS: Not that it's a big  
 9 deal.  
 10 THE HEARING EXAMINER: Is it your  
 11 witness, Ms. Granatt?  
 12 MS. GRANATT: Yes. It -- Josh just  
 13 stepped out. And he'll be right back, and he's  
 14 getting me water.  
 15 MR. BROWER: Okay. We're ready.  
 16 THE HEARING EXAMINER: Are you both?  
 17 Okay. All right. We're ready.  
 18 MR. BROWER: Go ahead.  
 19 THE HEARING EXAMINER: Please state  
 20 your name and spell your last name for the record.  
 21 MR. KUZNICKI: Good afternoon. My  
 22 name is Scott Kuznicki. My last name is spelled  
 23 Kilo-Uniform-Zebra-November-India-Charlie-Kilo-  
 24 India.  
 25 THE HEARING EXAMINER: Do you swear or

Page 431

1 affirm that the testimony you provide in today's  
 2 hearing will be the truth?  
 3 MR. KUZNICKI: Yes, sir.  
 4 SCOTT KUZNICKI,  
 5 a witness, having been first duly sworn,  
 6 was examined and testified as follows:  
 7 DIRECT EXAMINATION  
 8 BY MR. BROWER:  
 9 Q. Good afternoon, Mr. Kuznicki. Thank you  
 10 for joining us today. Would you please state your  
 11 business address for the record?  
 12 A. I work for the Transpo Group, and it's on  
 13 113th Avenue Northeast just south of Northeast 124th  
 14 Street in Kirkland.  
 15 Q. So you know how to get there, you just  
 16 don't know how to send mail to it?  
 17 A. I use email.  
 18 Q. Good. Would you please state your  
 19 educational background for us starting after high  
 20 school?  
 21 A. I have a Bachelor of Science degree from  
 22 the University of Wisconsin Platteville in civil  
 23 engineering.  
 24 Q. And would you please state your  
 25 professional degrees or certifications for the

Page 432

1 record?

2 A. I hold a professional engineering license

3 in Wisconsin and in Washington State.

4 Q. And how long have you had a professional

5 engineering license in Washington State?

6 A. I obtained my Washington State

7 professional engineering license in July of 2006.

8 Q. So you've been a licensed engineer in the

9 State of Washington for about 11 years?

10 A. Yes, sir.

11 Q. And would you please describe your work

12 history for us starting after college?

13 A. I worked for six years for the Illinois

14 Department of Transportation as a Traffic Field

15 Engineer and in that capacity I was responsible for

16 the safe and efficient operation of the arterial

17 highway system that was managed by the State of

18 Illinois in northeastern Illinois. Approximately

19 350 centerline miles of roadway. So I worked with

20 the public and with other local agencies to identify

21 and correct safety and operational issues on their

22 arterial highway system. Then I came to Seattle and

23 was warmly welcomed as an outsider in 2006, where I

24 worked for Parsons Brinckerhoff until 2012 as a lead

25 traffic engineer in their Seattle office. And in

Page 433

1 that capacity my primarily responsibilities included

2 the Alaskan Way Viaduct and Seawall Replacement

3 Program, the -- several Sound Transit Projects and

4 the Burke-Gilman Trail Project that -- the 2008 to

5 2011 iteration.

6 Q. And when did you leave Parsons

7 Brinckerhoff?

8 A. February 2012.

9 Q. And have you been with the Transpo Group

10 ever since?

11 A. No. I actually staked out on my own and

12 spent two years in South Dakota and then returned to

13 Seattle in 2015. I worked for a Virginia-based

14 company called Troxell that does a lot of work for

15 federal clients including the Federal Highway

16 Administration, the National Highway Traffic Safety

17 Administration, and then became a Transpo Group

18 employee on February 1st of 2017.

19 Q. And what is your job title at Transpo

20 Group?

21 A. I'm the director of safety and mobility

22 technology solutions.

23 Q. What does that entail?

24 A. As their director safety and mobility

25 technology solutions, I apply the bulk of my career

Page 434

1 experience to identifying and correcting safety

2 issues and deficiencies related to the

3 transportation system and as the mobility technology

4 solutions person at Transpo, I'm responsible for

5 identifying issues related to automated and

6 connected vehicles deployment and testing and the

7 deployment of automated and connected vehicles

8 technologies.

9 Q. So you're a transportation engineer?

10 A. Yes, sir.

11 Q. And how long have you been a

12 transportation engineer?

13 A. Well, I began my career in June of 2000

14 and previously worked for three public agencies in

15 Minnesota in summer work opportunities.

16 Q. Were you an EIT at that time?

17 A. I became an EIT in 2000.

18 Q. And that's an engineer in training?

19 A. Yes, sir.

20 Q. And that's part of what you have to do to

21 become a licensed engineer?

22 A. That's correct. There are other options,

23 but that's the primary way that people do it.

24 Q. Were you retained by the Coalition to

25 provide professional opinions in this case?

Page 435

1 A. Would you specify which Coalition it is?

2 Q. The Ballard Coalition?

3 A. Okay. So it's not the Klingons and the

4 Romulans?

5 Q. No. It's not.

6 A. Good. Yes, I was retained by the Ballard

7 Coalition through Veris Law Group.

8 Q. And without telling us your opinions,

9 were you asked to form opinions regarding the safety

10 of the proposed Missing Link?

11 A. I was asked to form professional

12 opinions, yes.

13 Q. Were you also, again, without telling us

14 your opinions, were you also asked to form an

15 opinion regarding whether the Missing Link will

16 impact parking within the study area?

17 A. Yes. I was asked to form a professional

18 opinion.

19 Q. And what materials did you review and

20 rely upon in forming those opinions?

21 A. I was able to access and download the

22 Final Environmental Impact Statement from the City

23 of Seattle's website, and I reviewed the -- of the

24 Technical Appendices, I reviewed the Transportation

25 Discipline Report and the Parking Discipline Report.

Page 436

1 Q. Did you also look at the draft EIS?  
 2 A. I don't believe I had an opportunity to  
 3 examine the draft EIS.  
 4 Q. So just the FEIS?  
 5 A. Yes, sir.  
 6 Q. And the Transportation and Parking  
 7 Discipline Reports?  
 8 A. That's correct.  
 9 Q. Let's shift talking about your experience  
 10 with this project and the Missing Link in general.  
 11 A. Josh, I want to follow up. You asked  
 12 just about official documents or other documents  
 13 that could be related to this?  
 14 Q. Thank you, Mr. Kuznicki.  
 15 Did you review other documents other than  
 16 the FEIS?  
 17 A. Yes. There was a memorandum related to  
 18 the Burke-Gilman Trail that was prepared by the  
 19 Transpo Group in 2005, I believe. And I think that,  
 20 as I recall, that assessed parking.  
 21 Q. Would that be in Volume 1 in front of  
 22 you? I think it's the one -- the top one farthest  
 23 from you. That would be Exhibit 309. Is that the  
 24 -- it's open to 309. Is that the Transpo Group 2005  
 25 Memo?

Page 437

1 A. As a matter of fact, it is.  
 2 Q. And okay. And that's another document  
 3 you reviewed?  
 4 A. Yes. I reviewed the document.  
 5 Q. Did you review any research or literature  
 6 regarding bicycle and trail safety issues?  
 7 A. I'm relying on my general expertise  
 8 regarding bicycle and trail safety issues.  
 9 Q. Let's talk about that.  
 10 What is your general expertise regarding  
 11 bicycle and safety issues?  
 12 A. As I mentioned, I worked in traffic  
 13 operations for the Illinois DOT and what -- part of  
 14 that responsibility included collector streets and  
 15 some residential streets that were under the control  
 16 of the State Highway System. So we routinely dealt  
 17 with bicycle and pedestrian issues. We had several  
 18 state highways in the City of Chicago where we  
 19 worked with the City of Chicago Department of  
 20 Transportation to implement bike routes which  
 21 included bicycle accommodations on those streets.  
 22 In Seattle, as part of the Alaskan Way  
 23 Viaduct and Seawall Replacement Program, I  
 24 participated in the design of numerous bicycle  
 25 facilities related to bicycle detours in the

Page 438

1 construction area in the stadium area that are --  
 2 were part of the construction of the Holgate to King  
 3 segment of their viaduct replacement and the  
 4 construction of the tunnel.  
 5 Q. Let's kind of break them down a little  
 6 bit. In your work for the Department of  
 7 Transportation of Illinois, did you have to read and  
 8 review any literature regarding bicycle and  
 9 pedestrian safety issues?  
 10 A. Well, that was 15 years ago, and we  
 11 didn't know as much about bicycle and pedestrian  
 12 safety issues as we do now. These systems have  
 13 become much more complex and much more prevalent.  
 14 But we had access to the latest design documentation  
 15 for bicycle and pedestrian facilities, which has  
 16 changed significantly in the last 15 years.  
 17 Q. So back then were you looking at AASHTO  
 18 documents and AASHTO guidance?  
 19 A. Yeah. We, as a State Highway Department  
 20 we primarily relied upon that.  
 21 Q. And did NACTO exist at that time?  
 22 A. I am unsure as to whether or not NACTO  
 23 existed at that time, but I'm certain they exist  
 24 now.  
 25 Q. Have you had any experience on the

Page 439

1 national level with either AASHTO, NACTO, or who is  
 2 it that does the MUTCD and what does MUTCD stand  
 3 for?  
 4 A. The M-U-T-C-D is the Manual Uniform  
 5 Traffic Control Devices, and I serve on the national  
 6 committee on traffic -- Uniform Traffic Control  
 7 Devices, which is an organization of approximately  
 8 350 volunteers who are professionals and industry  
 9 leaders who get together to advise the Federal  
 10 Highway Administration on the content of the  
 11 M-U-T-C-D. And the M-U-T-C-D is a matter of FHWA  
 12 regulation under 23.CFR.655 Subpart F.  
 13 Q. And that's a federal regulation?  
 14 A. That's correct. It's part of the Code of  
 15 Federal Regulations.  
 16 Q. And I think by its name it kind of says  
 17 what it does. So it's the -- to me it does Uniform  
 18 Traffic Control Signage? Is that what it is?  
 19 A. It addresses traffic control devices on  
 20 all streets that are open to public travel in the  
 21 United States and that includes signing, pavement  
 22 markings, traffic signals for all users.  
 23 Q. So all users would include bicyclists?  
 24 A. That's correct.  
 25 Q. And other non-motorized users?

Page 440

1 A. Yes. Although I would say that it's  
 2 lacking in that area in my personal opinion.  
 3 Q. How long have you served on that national  
 4 committee?  
 5 A. Joined the national committee in 2007,  
 6 January.  
 7 Q. Were you invited by someone in particular  
 8 to join that committee?  
 9 A. I had a number of people who asked if I  
 10 would be interested in participating in the  
 11 committee.  
 12 Q. Are any of them in this room right now?  
 13 A. Not Vic. Phil and I had a conversation  
 14 about it.  
 15 Q. And so I think you pointed to  
 16 \*Mr. Schultise?  
 17 A. Yes, sir.  
 18 Q. And did he encourage you to join that  
 19 committee?  
 20 A. I think I recall that we discussed it.  
 21 And I think as I recall his tone being encouraging  
 22 since he's a nice guy, so...  
 23 Q. And the MUTCD work, would those Uniform  
 24 Traffic Control devices -- would they be applied to  
 25 a multi-use trail like the Missing Link?

Page 441

1 A. The part of the M-U-T-C-D that deals with  
 2 the bicycles does prescribe some traffic control  
 3 devices for multi-use trails, yes.  
 4 Q. And are you still on that national  
 5 committee?  
 6 A. Yes, sir.  
 7 Q. Is there a term limit or as just as long  
 8 as you want to volunteer?  
 9 A. As long as you want to volunteer and  
 10 you're contributing to the national committee, you  
 11 can be a member.  
 12 Q. So let's shift to go back to talk about  
 13 your work on the Alaskan Way Viaduct Project. When  
 14 did you do that?  
 15 A. I began working on the Alaskan Way  
 16 Viaduct and Seawall Replacement Program in 2006 for  
 17 Parsons Brinckerhoff.  
 18 Q. And who was the client?  
 19 A. We actually had two clients: the Seattle  
 20 Department of Transportation through the City of  
 21 Seattle and the Washington State Department of  
 22 Transportation.  
 23 Q. And what did you do for SDOT?  
 24 A. I held several roles in that program.  
 25 Initially, I worked on identifying transit

Page 442

1 accommodations that could help ease traffic  
 2 congestion during the course of construction. Then  
 3 I moved into a role as a designer for utility  
 4 replacement projects eventually leading the design  
 5 of the -- first, there's several phases of utility  
 6 replacements. And without boring this entire group,  
 7 I'll just simply say that ultimately I was the lead  
 8 traffic engineer for the design of pavement marking  
 9 signing construction staging and work zone traffic  
 10 control for the Holgate to King Project, which was  
 11 approximately a \$250 million civil works project.  
 12 Q. And did that project include pedestrian  
 13 and bicycle signage and way finding?  
 14 A. Yes. It included temporary and relocated  
 15 bicycle facilities, pedestrian accommodations,  
 16 pedestrian and multi-use path detours, for example.  
 17 That was all part of our -- not only our work zone  
 18 traffic control as part of the construction staging,  
 19 but also our final design work.  
 20 Q. So I think I probably asked you a  
 21 narrower question, so it wasn't just signage, it was  
 22 actually pathways and ways for people to get through  
 23 the construction area?  
 24 A. Right. We were an integrated design team  
 25 with a number of other consulting firms. Parsons

Page 443

1 Brinckerhoff was the lead consultant on the project,  
 2 so we worked through all of those design issues as a  
 3 team.  
 4 Q. And you said you were the lead traffic  
 5 engineer. Is that correct?  
 6 A. Yes.  
 7 Q. And did you actually do any of the design  
 8 work?  
 9 A. Yes.  
 10 Q. What design work did you do?  
 11 A. So I supervised the design of most of the  
 12 pavement marking, signing, and words on traffic  
 13 control, but where necessary, due to staffing  
 14 considerations and just my own personal interest in  
 15 it, I designed most of the large format signing,  
 16 which include the guide signs, for example. I did  
 17 most of the bicycle and pedestrian facility detour  
 18 signing and then I did some of the works on traffic  
 19 control design. But otherwise, I supervised a team  
 20 of several engineers and CAD operators.  
 21 Q. Is there anything in particular or  
 22 specific that you think about in designing the  
 23 signage and wayfinding?  
 24 A. Well, we want to comply with the  
 25 M-U-T-C-D, since it's a matter of federal



Page 444	Page 446
<p>1 regulation. But we also take into consideration</p> <p>2 human factors. A good traffic engineer will assess</p> <p>3 the ability of human beings to perceive and react to</p> <p>4 their environment when the design signing and</p> <p>5 pavement markings.</p> <p>6 Q. And how do you do that?</p> <p>7 A. Well, we -- classically we undertake an</p> <p>8 exercise to understand the site distance that's</p> <p>9 available to people on the roadway. So there are</p> <p>10 several different kinds of sight distances, but</p> <p>11 simply put we would say that the sight distance is</p> <p>12 the distance that someone can see far enough ahead</p> <p>13 to have a particular reaction whether that's</p> <p>14 stopping or slowing to a certain speed or perhaps,</p> <p>15 executing a turning maneuver. But beyond that, we</p> <p>16 try to understand how to provide information to</p> <p>17 roadway users so that they can undertake the three</p> <p>18 parts of the driving task, which look like a</p> <p>19 triangle.</p> <p>20 So the top part is the navigation task, and</p> <p>21 that's the most complex task, but it takes up the</p> <p>22 least amount of your time. And that's how do I, as</p> <p>23 a road user, whether I'm walking, a person cycling,</p> <p>24 or in a motor vehicle get from point A to point B.</p> <p>25 Then the next part is the guidance task. That's how</p>	<p>1 you know that the driving task definitely taxes your</p> <p>2 ability to concentration and to perform. Whereas</p> <p>3 when you're on I-90 in eastern Washington, that's</p> <p>4 not the case.</p> <p>5 Q. So you took all that information into</p> <p>6 consideration when you were doing the work on the</p> <p>7 Alaska Way Viaduct Project?</p> <p>8 A. I take it into consideration whenever I</p> <p>9 perform design work.</p> <p>10 Q. Have you worked on any other bicycle</p> <p>11 projects in and around Seattle area?</p> <p>12 A. Yes. I was the deputy project manager</p> <p>13 for Parsons Brinckerhoff for the Burke-Gilman Trail</p> <p>14 extension project.</p> <p>15 Q. And when was that?</p> <p>16 A. Approximately 2008 to 2011.</p> <p>17 Q. And who was your client at that time?</p> <p>18 A. We were a sub-consultant to *SvR Design</p> <p>19 Group. And SvR Design Group was retained by the</p> <p>20 City of Seattle.</p> <p>21 Q. So you ultimately worked for SDOT?</p> <p>22 A. Yes, through a sub-consultant agreement.</p> <p>23 Q. And did you -- have you worked on any</p> <p>24 other projects in the Puget Sound region related to</p> <p>25 bicycles/pedestrians?</p>
Page 445	Page 447
<p>1 do I keep my vehicle in the lane? Okay. And that</p> <p>2 takes up more of your time, but it's less complex.</p> <p>3 And then, if we think about the actual task of</p> <p>4 operating the vehicle, you know you can let that</p> <p>5 lapse for a fair degree of time, and you probably</p> <p>6 won't end up, you know, on the wrong side of the</p> <p>7 railing on the floating bridge. But it's the least</p> <p>8 complex part of the driving task.</p> <p>9 And so, we try to assess are we providing</p> <p>10 the adequate information so that users can make</p> <p>11 decisions about navigation so that they can focus on</p> <p>12 the guidance and operation tasks. And if we don't</p> <p>13 provide adequate information, so if we have</p> <p>14 inadequate pavement markings and inadequate</p> <p>15 wayfinding, as you said, what can happen is that</p> <p>16 people experience what's called task saturation.</p> <p>17 They spend too much time trying to figure out how to</p> <p>18 use the facility or how to get to where they're</p> <p>19 going. And task saturation can occur quite readily</p> <p>20 in an urban environment.</p> <p>21 So, for example, in downtown Seattle, where</p> <p>22 there are pedestrian crossings and numerous traffic</p> <p>23 signals, and busses, and restricted lanes, you know</p> <p>24 that the driving task, as anyone who's driven or</p> <p>25 operated a bicycle or walked in downtown Seattle,</p>	<p>1 A. I worked on a number of Sound Transit</p> <p>2 projects that included just by their nature bicycle</p> <p>3 and pedestrian accommodations. But specifically,</p> <p>4 the E to M Street Project in Tacoma had pedestrian</p> <p>5 walkway and bicycle accommodations incorporated into</p> <p>6 it.</p> <p>7 Q. And what did you do on that project?</p> <p>8 A. Again, there I was the lead traffic</p> <p>9 engineer for all the signing, pavement marking, work</p> <p>10 zone, traffic control, construction staging.</p> <p>11 Q. Did the work entail also doing signage</p> <p>12 and pavement markings that lasted beyond the</p> <p>13 construction phase?</p> <p>14 A. Yeah. We would call those permanent</p> <p>15 signing and permanent pavement markings. And so, on</p> <p>16 a WSHDOT plan set, those are separate parts of the</p> <p>17 plan set that are labeled as permanent signing,</p> <p>18 permanent pavement markings. And all the temporary</p> <p>19 markings generally fell under the work zone traffic</p> <p>20 control portion of the plan set.</p> <p>21 Q. So you also worked on those permanent</p> <p>22 markings?</p> <p>23 A. Yes. I did.</p> <p>24 Q. And were you a designer of those?</p> <p>25 A. Yes.</p>

Page 448

1 Q. Let's go back and talk about your  
 2 experience with the Missing Link.  
 3 Have you ever walked what the preferred  
 4 alternative that's at issue in the CIS?  
 5 A. I have walked that alternative a number  
 6 of times in the last decade. I've ridden my bicycle  
 7 through there both in the design process as part of  
 8 my field work and just for my personal purposes in  
 9 terms of commuting. And most recently, I walked the  
 10 entire alignment from the northwest corner to the  
 11 southeast corner.  
 12 Q. And that most recent visit, approximately  
 13 when was that?  
 14 A. I believe it was in September. I was  
 15 there with one of my colleagues from Transpo Group.  
 16 Q. And who was that?  
 17 A. Melissa Waylan  
 18 Q. And approximately how long were you there  
 19 on that visit with Ms. Waylan?  
 20 A. We spent approximately four hours walking  
 21 the trail.  
 22 Q. And so you walked --  
 23 A. I should say the trail alignment. The  
 24 trail doesn't exist yet. Just to be clear to  
 25 everybody in the room, not -- it hasn't been built.

Page 449

1 Q. So you walked the preferred alignment?  
 2 A. Yes, sir.  
 3 Q. And why were you walking the preferred  
 4 alternative?  
 5 A. We had the set of AutoTURN drawings that  
 6 Transpo Group had prepared. And we were carrying  
 7 those drawings on a clipboard. And the reason that  
 8 we walked the alignment was to verify the location  
 9 and approximate width of all the driveways.  
 10 Q. Let's go back to the work you did for  
 11 SDOT I think you said around 2008. Is that correct?  
 12 A. Yes. Approximately in that time frame.  
 13 Q. And you were the deputy project manager?  
 14 A. Yes, sir.  
 15 Q. And what was your job at that point?  
 16 What was your duty -- your job duties for Parsons  
 17 Brinckerhoff as a sub-consultant SvR?  
 18 A. So I directly interfaced with SvR design  
 19 group and they gave us information necessary to  
 20 complete the design of the traffic signals, the  
 21 signing, the pavement markings, and we also prepared  
 22 two -- well, I should say, we prepared one parking  
 23 study. And that was delivered in 2011.  
 24 Q. When you say "we" who are you referring  
 25 to for the parking study in 2011?

Page 450

1 A. Parsons Brinckerhoff.  
 2 Q. And did you have other staff or engineers  
 3 working with you at that time?  
 4 A. Yeah. There was one engineer that worked  
 5 with me and assisting me in preparing the study.  
 6 And then we had a transportation planning engineer  
 7 who also reviewed the study.  
 8 Q. And do you remember their names?  
 9 A. \*Arian Mazuda worked with me, and then  
 10 the person who reviewed the parking study that I  
 11 prepared was \*Tony Lowe.  
 12 Q. Did you develop the methodology for that  
 13 parking study?  
 14 A. I don't recall if the methodology existed  
 15 or if I developed the methodology, but the  
 16 methodology that we used was to examine parking  
 17 occupancy to understand if the displaced number of  
 18 parking spaces would exceed the necessary supply.  
 19 Q. Let's shift and talk about your work on  
 20 SEPA. Approximately how many times in your career  
 21 have you worked on a project that involved SEPA or  
 22 SEPA compliance?  
 23 A. I would say less than a dozen.  
 24 Q. And can you describe for us, generally,  
 25 what that less than a dozen experience is?

Page 451

1 A. So generally the work that I've done on  
 2 SEPA projects has involved examining the traffic and  
 3 transportation impacts in participating in the  
 4 study.  
 5 Q. Have you helped write any sections of  
 6 SEPA documents?  
 7 A. Yes.  
 8 Q. And what were those?  
 9 A. Well, if we could broaden this -- what is  
 10 defined as SEPA, we could say that any documents  
 11 that are related to the environmental process. So  
 12 I've written a number of traffic studies, some of  
 13 them related to adding parking facilities, for  
 14 example. And then, I've also prepared synchro-  
 15 analysis for transit systems as part of their  
 16 environmental documentation.  
 17 Q. In your work on the Alaska Way Viaduct  
 18 Project, did you help prepare any reports or  
 19 documents that were part of the SEPA analysis?  
 20 A. I recall that I did, but I can't say for  
 21 sure because the environmental process on that  
 22 project was quite convoluted.  
 23 Q. So your work on behalf of SDOT as a  
 24 sub-consultant SvR in about 2008 to 2011 for the  
 25 Burke-Gilman Trail, do you know if the parking study

Page 452

1 you helped -- did you help write that parking study?  
 2 A. I wrote that parking study.  
 3 Q. And did that make it into the  
 4 environmental documentation?  
 5 A. I believe that it did. It was referenced  
 6 in the Parking Discipline Report.  
 7 Q. So the Parking Discipline Report in this  
 8 FEIS actually refers to your work from 2011?  
 9 A. Yes. In addition to another study that  
 10 was prepared by SvR in 2008.  
 11 Q. Mr. Kuznicki, do you hold a commercial  
 12 driver's license?  
 13 A. Yes, sir.  
 14 Q. How long have you had a commercial  
 15 driver's license?  
 16 A. I've had a commercial driver's license  
 17 for 19 years.  
 18 Q. Have you driven trucks similar in size to  
 19 those that frequent the businesses within the study  
 20 area?  
 21 A. Yes, I have.  
 22 Q. How often have you done that?  
 23 A. Approximately once every two to three  
 24 years I'll drive some type of commercial vehicle in  
 25 some capacity.

Page 453

1 Q. Why do you have a CDL?  
 2 A. Because it's fun.  
 3 Q. Does it inform your work as a  
 4 professional traffic engineer?  
 5 A. I believe that the experience of  
 6 operating commercial vehicles has helped me  
 7 understand the constraints that commercial vehicle  
 8 operators face.  
 9 Q. Have you ever driven or ridden with a CDL  
 10 driver through the study area?  
 11 A. Yes.  
 12 Q. Who was that?  
 13 A. I rode in a truck with a 53-foot trailer  
 14 with Warren \*Acrovick.  
 15 Q. Would that be what's known as a WB-67?  
 16 A. That is the vehicle upon which the AASHTO  
 17 WB-67 is based, yes.  
 18 Q. And when did you drive with Mr. Acrovick?  
 19 A. I rode with Mr. Acrovick -- I believe it  
 20 was towards the end of October.  
 21 Q. Of this year?  
 22 A. Yes, sir.  
 23 Q. During that drive, did Mr. Acrovick  
 24 describe any challenges of driving in this area and  
 25 did you observe those challenges?

Page 454

1 A. We were there generally to observe  
 2 traffic operations and in particular, understand  
 3 conflicts for bicyclists, because my concern is that  
 4 I want bicyclists riding through this area to be  
 5 safe. So having the opportunity to ride in  
 6 Mr. Acrovick's vehicle and get a sense of the sight  
 7 distance constraints that he faces when trying to  
 8 pull out onto Shilshole was instructive, yes.  
 9 Q. And what did you observe?  
 10 A. Well, we observed that bicycle activity  
 11 in the area is somewhat haphazard at this time. We  
 12 observed people on bicycles riding the wrong way on  
 13 the street. We observed bicyclists disobeying  
 14 traffic control devices. We observed bicyclists  
 15 that seemed to be unaware of the movements of  
 16 commercial vehicles because of the use of personal  
 17 listening devices, for example. And from the  
 18 viewpoint of a truck, you definitely see more from a  
 19 longer distance when you are in a position to look.  
 20 So -- and we also observed that because Shilshole  
 21 can be a very busy street, and is a somewhat  
 22 disorganized area, it's difficult to predict where  
 23 these bicyclists will be or where other commercial  
 24 vehicles might pull in and out, for example.  
 25 Q. In your work reviewing the FEIS at issue

Page 455

1 here, the Transportation Discipline Report and the  
 2 Parking Discipline Report, did you find any  
 3 discussion of the challenges that you just  
 4 described?  
 5 A. I believe that the report said that there  
 6 would be -- that the -- and I don't want to -- I  
 7 can't exactly quote it for you. But I believe that  
 8 the finding of the report is that the impacts would  
 9 be insignificant.  
 10 Q. Did you find any thorough discussion in  
 11 any part of the FEIS that you reviewed that talked  
 12 about sight distances?  
 13 A. I don't recall seeing specific  
 14 information regarding sight distances for either  
 15 stopping or turning particularly related to  
 16 driveways since driveways were not explicitly  
 17 analyzed in this report from the standpoint of a  
 18 typical engineering intersection analysis despite  
 19 the fact that there seems to be a fairly heavy  
 20 commercial vehicle volume at some of these  
 21 driveways.  
 22 Q. Do you think there should have been more  
 23 discussion in the EIS about the driveways and the  
 24 interaction of heavy commercial vehicles?  
 25 A. If I were writing the report, I probably

Page 456

1 would have paid more attention to the commercial  
 2 vehicle operations since it's an integral part of  
 3 the existing land use.  
 4 Q. You mentioned earlier that kind of three-  
 5 part hierarchy of driver tasks and task saturation.  
 6 Did you find any discussion of that subject in the  
 7 FEIS?  
 8 A. To my recollection, no, they did not  
 9 address human factors in the EIS.  
 10 Q. In your professional experience, human  
 11 factors are a critical part of traffic engineering?  
 12 A. I think that the FHWA would agree with me  
 13 that human factors are a critical part of traffic  
 14 engineering. In fact, right now I'm teaching a  
 15 series of classes for the National Highway Institute  
 16 which is part of the Federal Highway Administration  
 17 on human factors and transportation engineering  
 18 design and operations.  
 19 Q. And where are you teaching those classes?  
 20 A. Where I'm teaching them wherever there  
 21 are enough people who want to have a class held in  
 22 their local area. So, for example, just back in  
 23 July I was in Tucson teaching a class to local and  
 24 regional transportation officials.  
 25 Q. As part of your work on this project,

Page 457

1 were you asked to work with any other experts  
 2 retained by the Ballard Coalition?  
 3 A. We were asked to work with Vic Bishop,  
 4 and we met once with Claudia Hirschey.  
 5 Q. And what did you do with Mr. Bishop?  
 6 A. We met with Mr. Bishop several times.  
 7 The first time was to get an understanding of the  
 8 overall layout of the -- of this proposed project  
 9 alignment. So in 2011 and prior to that, I worked  
 10 on a different alignment of this project which  
 11 involved going up Shilshole to 17th Avenue  
 12 Northwest. There was a traffic signal proposed for  
 13 that intersection. The trail was to cross Shilshole  
 14 at 17th and then follow Ballard Avenue up to Vernon  
 15 Place, so that avoided some of the more -- some of  
 16 the busier areas and driveways along Shilshole  
 17 Avenue. But this current preferred alternative  
 18 follows Shilshole Avenue all the way and does not do  
 19 that job onto Ballard. So I reviewed that with my  
 20 staff and with Mr. Bishop. Mr. Bishop also provided  
 21 us with a list of the driveways and the vehicle  
 22 types that were observed using those driveways and  
 23 included in his list, based on his extensive work  
 24 with the business community.  
 25 Q. So would those be what we would call the

Page 458

1 AutoTURN analysis?  
 2 A. Transpo Group did create swept path  
 3 analyses using AutoTURN, yes.  
 4 Q. Okay. So you worked with Mr. Bishop to  
 5 do that?  
 6 A. We received information from Mr. Bishop  
 7 in order to carry out that task, yes.  
 8 Q. And what was that information that you  
 9 received?  
 10 A. Again, as I described, Mr. Bishop  
 11 provided us with a list of the driveways that he  
 12 recommended that the coalition performed -- those  
 13 are the list of driveways for which he recommended  
 14 analysis be performed. And for each driveway he  
 15 also provided the vehicle types that were either  
 16 observed using the driveway or had been enumerated  
 17 by the business owners under which the driveway --  
 18 for which the driveway was under their control. I  
 19 really don't want to end a sentence with a  
 20 preposition, so I'm trying hard not to do that.  
 21 Q. Did Mr. Bishop also give you the  
 22 underlying CAD files?  
 23 A. Yes. He provided us with that  
 24 information.  
 25 Q. And do you know where those CAD files

Page 459

1 came from?  
 2 A. We believe that they were obtained from  
 3 the Seattle Department of Transportation after  
 4 extensive inquiry.  
 5 Q. So just to make sure we all are on the  
 6 same page, so you got the underlying CAD files from  
 7 Mr. Bishop that we  
 8 think -- we believe came from the City of Seattle.  
 9 A. Yes, sir.  
 10 Q. Is that correct? And then Mr. Bishop  
 11 gave you an inventory or list of the driveways that  
 12 he asked you to prepare the swept path analysis for?  
 13 A. Yes, sir.  
 14 Q. And then he also gave you a list of the  
 15 design vehicles. Is that the right term to use for  
 16 each?  
 17 A. That's correct, yes.  
 18 Q. Okay. And then I believe you also said  
 19 that you and Ms. Waylan went out and spent four  
 20 hours walking the alignment to confirm those  
 21 driveways?  
 22 A. Yes. We did.  
 23 Q. And did you perform or conduct any  
 24 interviews with any business owners to confirm the  
 25 design vehicles?

Page 460

1 A. During the course of some data  
 2 collection, I had the opportunity to have  
 3 conversations with some of the people that worked  
 4 for the local businesses, but I wasn't tasked to  
 5 explicitly conduct interviews.  
 6 Q. So did you personally operate the  
 7 AutoTURN software?  
 8 A. No. I did not.  
 9 Q. Who did?  
 10 A. Bryce Kinney from Transpo Group staff was  
 11 the lead for that and Melissa Waylan prepared most  
 12 of the AutoTURN drawings.  
 13 Q. And do Mr. Kinney and Ms. Waylan work for  
 14 you?  
 15 A. They work in a separate group that deals  
 16 with public works infrastructure projects. But  
 17 because of our flexible organizational structure,  
 18 I'm able to use whatever staff I need.  
 19 Q. And they're both trained to operate that  
 20 software?  
 21 A. Yes. They have extensive training in  
 22 AutoTURN and probably prepare at least five to 600  
 23 swept path analyses per year.  
 24 Q. So they do it every day.  
 25 A. This is something they use frequently,

Page 461

1 yes.  
 2 Q. And you supervise their work?  
 3 A. Yes. I ensure that they had adequate  
 4 information to begin the analysis, and I reviewed  
 5 the analyses and asked them questions regarding the  
 6 outputs that they generated to ensure that they were  
 7 consistent with the proper use of the software and  
 8 with the information that had been requested by our  
 9 client.  
 10 Q. Did you also assist in the preparation of  
 11 a graphical annotated cross-section for Shilshole  
 12 Avenue?  
 13 A. Yes. I did.  
 14 Q. And what did you do on that?  
 15 A. We examined the alignment of the trail,  
 16 and we looked at locations where it would displace  
 17 traffic on Shilshole from the current concrete  
 18 roadway which is one lane in each direction off to  
 19 new pavement off to the side. We don't know whether  
 20 that pavement will be asphalt or concrete, but there  
 21 will be some contrast between those areas and in  
 22 inclement weather and with the likelihood that  
 23 pavement markings will be worn off in that area  
 24 rather quickly due to the heavy proportionate  
 25 commercial vehicle traffic, we're concerned that not

Page 462

1 having a pavement joint down the center of the  
 2 roadway could lead drivers to drive in the wrong  
 3 area of the roadway.  
 4 Q. If you'll forgive me, Mr. Kuznicki, I'm  
 5 going to catch up with you and put a figure on the  
 6 television behind me.  
 7 THE WITNESS: Mr. Examiner, am I  
 8 speaking at a pace that's comfortable for you? Am I  
 9 loud enough for you today?  
 10 THE HEARING EXAMINER: I can hear you  
 11 just fine, yes. Thank you.  
 12 THE WITNESS: Okay. Imagine my  
 13 disappointment when I drained this and it wasn't  
 14 coffee.  
 15 BY MR. BROWER:  
 16 Q. Mr. Kuznicki, I've put on the screen  
 17 what's Figure 1, which has been admitted into the  
 18 record as part of Mr. Bishop's testimony. Is this  
 19 the cross-section that we're talking about?  
 20 A. Yes. I directed my staff to prepare  
 21 that.  
 22 Q. And I believe you're referring to the  
 23 joint between the existing concrete pavement and a  
 24 proposed new section of asphalt. Is that correct?  
 25 A. Yes. That's correct.

Page 463

1 Q. And again, why is that an issue?  
 2 A. So if you're -- say, for example, you're  
 3 driving down the freeway, and over the years we've  
 4 added HOV lanes to the freeway system. So the way  
 5 they do that is they take the existing 12-foot lane  
 6 where there are longitudinal joints cut in the  
 7 concrete and they make them 10-and-a-half or 11 feet  
 8 and they shift everything over. So at night, if the  
 9 pavement markings are obscured or missing, you may  
 10 be inclined to drive according to the concrete  
 11 joints because that's all you can see. But then you  
 12 may suddenly realize that that's not the position of  
 13 the lane. It's actually been shifted over one, two,  
 14 three, or four feet.  
 15 And that's an issue in this particular  
 16 area, because pavement markings are extremely  
 17 difficult to maintain for two reasons. Number one  
 18 is that there is a lot of aggregate very close to  
 19 the edge of the pavement, and most of the commercial  
 20 driveways vehicles actually drive through this area  
 21 of crushed rock. They pick up the crushed rock.  
 22 They track it onto the pavement. So not only does  
 23 that obscure the visibility of the pavement  
 24 markings, but it also acts as a friction enhancing  
 25 agent.

Page 464

1 And combined with the actual turning of  
 2 the truck tires, is -- imposes significant wear on  
 3 the pavement markings. And when the pavement  
 4 markings are missing during wet and dark conditions,  
 5 which never happens at this time of year in Seattle,  
 6 it would be very -- just put down that that was  
 7 sarcasm by the way in the notes. It would be very  
 8 difficult to assess where exactly the roadway is.  
 9 Q. And you have experience with pavement  
 10 markings through your professional experience and  
 11 your work on the National Committee with MUTCD?  
 12 A. Yeah. You can just call it M-U-T-C-D.  
 13 Q. M-U-T-C-D.  
 14 A. The -- what my experience in pavement  
 15 markings in the field just primarily from the work  
 16 with the Illinois Department of Transportation and  
 17 my work on several Washington State DOT projects  
 18 understanding the materials and the longevity of  
 19 those materials comes from that experience  
 20 specifically.  
 21 Q. And is there anything unique about this  
 22 design of Shilshole that a large portion of it is  
 23 concrete no asphalt?  
 24 A. Well, it's likely that the -- that  
 25 Shilshole Avenue is paved with concrete because of

Page 465

1 the expected equal and single axle loads. So in  
 2 other words, the truck volumes are projected to be  
 3 high enough over the life span of the roadway that  
 4 it needs to be concrete in order to hold up under  
 5 the weight of all those trucks, so...  
 6 Q. And does asphalt not hold up as well?  
 7 A. Generally, it doesn't.  
 8 Q. Would the fact that it's asphalt also add  
 9 to the -- would it increase or affect the wearing  
 10 off of pavement markings?  
 11 A. There's actually more contrast between  
 12 white markings and asphalt than between white  
 13 markings and concrete. But my observation of the  
 14 City of Seattle's practices in the last decade is  
 15 that they prefer to use asphalt, only using concrete  
 16 where necessary. So, for example, I believe it's  
 17 Stewart Street was repaved five or six years ago.  
 18 And on Stuart Street they used asphalt in one of the  
 19 lanes except where they anticipated bus stops to be.  
 20 So that's why we depicted this using asphalt,  
 21 because we don't know what kind of life-cycle cost  
 22 analysis is going to be done here for the pavement.  
 23 Q. I want to go back to -- so this was the  
 24 graphical annotated cross-section that you helped  
 25 prepare on the -- for Mr. Bishop and Ms. Hirschey.

Page 466

1 Yes?  
 2 A. Yes.  
 3 Q. Okay. Did you also prepare a graphical  
 4 assessment of how blind spots can affect the ability  
 5 of truck drivers to see and react to bicyclists?  
 6 A. Yes. We were asked to prepare that.  
 7 Q. And if you'll bear with me, I'll try and  
 8 find that one as well. I believe that's in Volume  
 9 2, Exhibit 313.1. Do you see that in front of you?  
 10 And I believe it's -- you have that in front of you?  
 11 A. Yes.  
 12 Q. Okay. Let me catch up with you.  
 13 MR. KISIELIUS: Josh, what was that  
 14 number again?  
 15 MR. BROWER: 313.1 in Volume 2.  
 16 BY MR. BROWER:  
 17 Q. Mr. Kuznicki, is this the diagram that  
 18 you prepared?  
 19 A. Yes, it is.  
 20 Q. Can you please tell us what this diagram  
 21 shows and why you prepared it?  
 22 A. So the diagram depicts an expected and  
 23 possibly likely scenario that involves a conflict  
 24 between a turning vehicle and a bicyclist. So what  
 25 you see here on the screen is Truck A is preparing

Page 467

1 to turn left into the driveway. And so, you can see  
 2 the left turn signal is on. And Truck B is stopped  
 3 to allow Truck A to turn left. And you may -- the  
 4 question may come up well, why would -- that's a  
 5 violation of right-of-way right.  
 6 Q. Why would Truck B stop?  
 7 A. Because these people all know each other.  
 8 And perhaps the person who's driving Truck B has a  
 9 similar situation somewhere else on the roadway and  
 10 they know that waving Truck A on will actually help  
 11 relieve traffic congestion on Shilshole. Because  
 12 sometimes trucks that are stopped waiting to turn on  
 13 Shilshole can cause a backup of a dozen or more cars  
 14 and bicyclists on the street.  
 15 Q. And you've observed that during --  
 16 A. Yes. Yes. It typically occurs in the  
 17 morning and also around the lunch period from 11:30  
 18 to approximately 1 p.m. It may also be that Truck B  
 19 was stopped or going very slowly to allow another  
 20 vehicle to turn into the driveway in front of Truck  
 21 B for example. So the operator of Truck B might be  
 22 proceeding slowly or remain stopped and wave Truck A  
 23 into the driveway. This is just a common courtesy  
 24 that see extended all over the place. It's also why  
 25 most of us detest four-way stops in the City of

Page 468

1 Seattle.

2 But what you also observe is that Truck A

3 cannot see beyond Truck B. So the red area is

4 labeled as the Truck A blind zone, and that's the

5 area that Truck A -- operator of Truck A cannot see

6 because it's blocked by Truck B. The yellow area is

7 the Truck B blind spot, and that's the area that

8 Truck B cannot reliably see using the outside

9 mirrors. And the overlapped area of the red and

10 yellow is the shared blind area, and that's the area

11 where -- that neither operator can see.

12 Q. I'm just going to ask you one quick

13 question.

14 Do you have personal experience observing

15 these blind spots as a CDL driver?

16 A. Yes.

17 Q. Okay. Please continue. So what else

18 does it show?

19 A. So also noted on the -- not noted on the

20 diagram, but for the benefit of our Examiner, I'll

21 point out that we illustrated two dark grey

22 rectangles, which are intended to depict either

23 traveling or stopped vehicles just to show the

24 typical conditions under which a truck might make a

25 turn in a busy commercial area.

Page 469

1 So there are two potential scenarios

2 here. One is that we have a slow cyclist who is

3 proceeding along at 14.7 feet per second. And as

4 anyone knows that's 10-miles-per-hour. And that's a

5 typical speed for a cyclist on a recreational path

6 with no grade. Anywhere between 8 to 12 was

7 probably expected. And that cyclist is 100 feet

8 from the center of the receiving lane of the

9 driveway. We also see a fast cyclist that's shown

10 200 feet away and is traveling at 20-miles-an-hour.

11 And if you frequent the Green Lakes Trail you know

12 that those people are all over the place and you

13 love them as much as you love the people at four-way

14 stops.

15 Q. Do you know what that design of speed is

16 that AASHTO recommends? Is it 20-miles-an-hour?

17 A. It's definitely not 20-miles-an-hour.

18 Q. It's lower or higher?

19 A. It's lower.

20 Q. Okay.

21 A. But I haven't seen bicycle police on a

22 trail in Seattle in a long time.

23 Q. Okay. Keep going.

24 A. So what happens here is that Truck A

25 either continues a roll or begins a roll and we

Page 470

1 anticipate that Truck A will turn at a typical

2 turning speed which is approximately 5-miles-an-

3 hour; so just off a crawl speed, because they want

4 to constrain the off-tracking of the trailer, right?

5 So the faster the truck turns the more area swept by

6 the trailers, and because it moves over a longer

7 distance as it's turning. So as they turn, they

8 will not observe either bicyclists because Truck B

9 blocks their visibility of the bicyclists.

10 The slow cyclist who also cannot see

11 Truck A and may not necessarily be aware of why

12 Truck B is stopped, you're -- it's a potential

13 collision hazard with Truck A. And the same thing

14 happens for the fast cyclist. In fact, this might

15 be considered even worst, because the fast cyclist

16 is also in the shared blind area. So it's

17 anticipated that neither truck operator would see

18 the fast cyclist. And the fast cyclist will take a

19 slightly longer distance to stop.

20 The relationship between brake size and

21 stopping distance in bicycles is not the same as it

22 is in cars necessarily. But the hazard is amplified

23 by the fact that the operator of Truck A, when

24 turning, will be looking into the driveway because

25 that's where the vehicle's heading. They'll also be

Page 471

1 checking their left outside mirror. They won't be

2 looking in the general direction of Truck B, because

3 that's not what you're taught to do as a commercial

4 vehicle driver. You're taught to look where you're

5 turning and check your inside mirror.

6 Q. And you know that -- were you taught

7 that?

8 A. Yes.

9 Q. All right. So what is the implication of

10 looking where you're going and looking at your left

11 mirror?

12 A. You're not going to see the cyclists.

13 Q. And you said that there's "time until

14 collision." What does that mean?

15 A. So it takes the slow cyclist seven

16 seconds to cover 100 feet. It takes the truck

17 approximately seven seconds to cover 50 feet. So

18 there's only seven seconds left for the perception

19 reaction time for either the operator of Truck A or

20 the cyclist. Or if they're very fortunate, Truck B

21 may notice that something's happening and may sound

22 the horn of the truck. The operator may sound the

23 horn, but that may lead to confusion on the part of

24 everyone involved.

25 Q. And -- but for Truck B the fast cyclist

Page 472

1 is in that person's shared blind spot?  
 2 A. Yes. So we define that as the area that  
 3 was not visible by the flat outside mirror, so  
 4 trucks are required by 49.CFR to have two, flat  
 5 outside mirrors. And then they also have convex  
 6 mirrors mounted underneath those. They also have  
 7 convex mirrors on the front of the truck if it's not  
 8 a snub-nosed truck. And but the visibility of a  
 9 small object like a bicyclist in the convex mirror  
 10 is questionable, especially if the mirror is not  
 11 heated. If it's not heated, that means that rain  
 12 and condensation will be present on the surface of  
 13 the mirror.  
 14 Q. In your review of the FEIS, did you see  
 15 any information like this included?  
 16 A. My recollection is that there was no  
 17 specific analysis of these types of conflicts. But  
 18 these analyses are becoming more common in our  
 19 industry. In fact, at an ITE meeting, -- IT is the  
 20 Institute of Transportation Engineers. It's a  
 21 professional society that many traffic engineers  
 22 hold a membership in that society. In fact, there  
 23 was an analysis done looking at turning cyclists and  
 24 cyclists on sidewalks, turning cars and cyclists on  
 25 sidewalks, turning cars and cyclists riding the

Page 473

1 wrong way on sidewalks, and whether or not it was  
 2 possible to restrict parking to mitigate the risk of  
 3 a collision from a sidewalk or a side path. And I  
 4 -- sorry I can't recall the specific name of the  
 5 author. But the analysis is very similar to this.  
 6 Q. And what did they conclude?  
 7 A. Well, they concluded that riding the  
 8 wrong way on a sidewalk is very dangerous.  
 9 Q. What you're depicting in A-313.1 is that  
 10 similar to what Ms. Hirschey shows in her conflict  
 11 points of driveways?  
 12 A. I believe what Ms. Hirschey is  
 13 illustrating is all the potential conflict points  
 14 that exist between turning vehicles and pedestrians  
 15 and cyclists.  
 16 Q. And would --  
 17 A. So for people walking and for people  
 18 bicycling, these conflicts are much more hazardous,  
 19 because we have in this particular area, due to the  
 20 land use and the classification of Shilshole Avenue  
 21 as a minor arterial and a truck route, a high  
 22 proportion of heavy commercial vehicles that are  
 23 operating very often on rigorous schedules  
 24 associated with the production of concrete, for  
 25 example. And bicyclists and as we know, people

Page 474

1 biking are among our streets most vulnerable users.  
 2 And so, to face them off against large commercial  
 3 vehicles imposes additional risks on our bicycling  
 4 and walking populations.  
 5 Q. As a traffic engineer and a person who  
 6 holds a CDL, does a contraflow bicycle facility pose  
 7 any unique or significant issues?  
 8 A. Well, I think that there's -- if you look  
 9 at Truck B, if Truck B were making a right turn, we  
 10 already know that the so-called right-hook crash has  
 11 been discussed widely in Seattle. And so, the City  
 12 of Seattle has, to its credit, undertaken measures  
 13 to try to mitigate right-hook crashes, which is  
 14 where a vehicle turns right and a bicyclist adjacent  
 15 to the vehicle  
 16 is -- strikes or the vehicle strikes that bicyclist.  
 17 Those are dangerous crashes, because most people  
 18 turning right do not check their outside right  
 19 mirror.  
 20 I have convex mirrors on my vehicle, and  
 21 I actually check the mirror when I turn right  
 22 because as a bicyclist, who commutes by bicycle and  
 23 rides recreationally, I know the types of risks that  
 24 automobiles pose to me as a cyclist. But to ask  
 25 that or to anticipate that everyone using an

Page 475

1 arterial street that's also a designated truck route  
 2 would pay that same attention is -- I would say that  
 3 it might -- I wouldn't classify it as wishful  
 4 thinking, but I would be looking for a different  
 5 alternative.  
 6 Q. What was your role in preparing this  
 7 figure that's A-313.1?  
 8 A. I prepared the figure myself and  
 9 preformed the calculations myself. And then I gave  
 10 it to someone from our creative services team and he  
 11 prepared the graphic for me and I reviewed it to  
 12 ensure that he incorporated all the information  
 13 correctly and then I had Bryce Kinney check my  
 14 calculations.  
 15 Q. And did he confirm your calculations?  
 16 A. Yes.  
 17 MR. BROWER: Mr. Examiner, I move to  
 18 admit Exhibit A-313.1.  
 19 THE HEARING EXAMINER: This would be  
 20 A-6.  
 21 MR. KISIELIUS: No objection from the  
 22 City.  
 23 THE HEARING EXAMINER: All right.  
 24 A-6.  
 25 MR. COHEN: That's good.



Page 476

1 THE HEARING EXAMINER: A-6 is  
 2 admitted.  
 3 (COALITION'S EXHIBIT A-6 ADMITTED.)  
 4 THE HEARING EXAMINER: There was no  
 5 offer for A-5, the video. Are we -- we want to  
 6 admit that now? That's still --  
 7 MR. BROWER: Yes.  
 8 THE HEARING EXAMINER: -- hanging out  
 9 there as --  
 10 MR. BROWER: -- we do want to move to  
 11 admit that, but I think what might do is bring back  
 12 the 28 second. Let the City confirm it, and --  
 13 THE HEARING EXAMINER: Okay. So we'll  
 14 wait to admit that.  
 15 MR. BROWER: Yeah. Yeah.  
 16 BY MR. BROWER:  
 17 Q. Mr. Kuznicki, going back to the work you  
 18 did with Mr. Bishop and Ms. Hirschey, did you also  
 19 assist them in preparing tables and other charts  
 20 that talked about incursion zones and other issues  
 21 with the trail?  
 22 A. As part of what Transpo Group prepared,  
 23 we prepared a table that showed the portion of the  
 24 trail that would be covered by the swept path of any  
 25 of the turning vehicles that were selected for

Page 477

1 analysis. We also prepared, and I would have to  
 2 reference that table that -- to remind myself of  
 3 exactly what's in it, but I believe we also  
 4 identified in that table the incursion zones. And I  
 5 should define incursion zone for the benefit of the  
 6 examiner.  
 7 What we defined as incursion zone is any  
 8 longitudinal distance along the trail alignment  
 9 where a vehicle leaves the roadway. So, in other  
 10 words, if I am a bicyclist and I am riding along on  
 11 the trail and I see a truck is beginning to leave  
 12 the roadway so they cross the white line, for  
 13 example, on the right edge of the roadway that tells  
 14 me that something isn't right. Is that truck  
 15 turning? Does he have his turn signal on? You  
 16 know, what's happening, right? So we believe that  
 17 the incursion zones are important because they  
 18 identify where unexpected behavior or behavior that  
 19 may or may not lead to an anticipated result is  
 20 occurring.  
 21 Q. So to be real clear, so I'm a cyclist  
 22 riding westbound, and I see the truck coming at me  
 23 heading eastbound. Is that what you're saying?  
 24 A. Yes. So that eastbound truck may be  
 25 preparing to make a right turn and the operator of

Page 478

1 that vehicle in order to ensure that their -- the  
 2 swept path of the trailer doesn't cover too much of  
 3 the trail or perhaps hit a fence or some other fixed  
 4 object, you know, will leave the roadway at some  
 5 point. Or their trailer may actually be off. They  
 6 may be making a right turn out of the driveway and  
 7 they're trailer may be tracking along the five-foot  
 8 buffer between the trail and the roadway for quite  
 9 some distance.  
 10 Q. And does that go to those human factors  
 11 that you referred to earlier?  
 12 A. Yeah. Generally, we prefer to see people  
 13 stay in their lane. And if they aren't staying in  
 14 their lane -- it happens on the freeway, for  
 15 example, or even on an arterial street. If someone  
 16 crosses out of their lane and they run over a  
 17 tactile pavement marking, you hear that noise. And  
 18 your first reaction is to look, right, to -- where  
 19 is the vehicle? What's happening, right? Or if it  
 20 happens to you as a driver, hopefully if you hear it  
 21 on the left side you'll steer slightly right, for  
 22 example. So we depend on people following these  
 23 rules of the road as it were in order to operate our  
 24 vehicles safely or to walk safely or -- and by  
 25 vehicle, I mean either motor vehicle or a bicycle.

Page 479

1 Q. Did you observe in the FEIS something  
 2 that the City called the -- I think it's called the  
 3 warning area?  
 4 A. Yes.  
 5 Q. And was that -- how does that relate to  
 6 the incursion zones?  
 7 A. In the EIS, the warning area was not  
 8 adequately defined, I don't believe. There were  
 9 several depictions in the EIS and they showed what  
 10 was labeled as a warning area. And while they said  
 11 that they intended that to indicate to bicyclist  
 12 that there should be -- that there would be a  
 13 driveway, for example with, you know, some traffic  
 14 on it. There was no threshold indicated in there.  
 15 We did not see that that warning area was  
 16 necessarily related to the area that could be  
 17 covered by a tractor trailer, for example, exiting a  
 18 driveway.  
 19 Q. Is it the driveway that matters or the  
 20 area where a tractor trailer is going to leave it's  
 21 roadway that matters?  
 22 A. So I think and we could think about it  
 23 this way. If I'm heading westbound on the trail,  
 24 northwest bound and a vehicle is turning right out  
 25 of a driveway on the south side, the vehicle will

Page 480

1 pull out into the roadway as it turns, but the  
 2 trailer will follow a swept path that covers much  
 3 more area than the vehicle. And that trailer will  
 4 actually cover, in some cases, a significant portion  
 5 of the trail that could exceed the -- with the  
 6 driveway by two to three times.

7 And as a bicyclist, I need to know where  
 8 that is so that I can prepare to break especially if  
 9 the trail is wet or if there's leaves or anything  
 10 else that would inhibit my ability to stop quickly,  
 11 so that the truck may be here, but the trailer will  
 12 end up over here. And if I'm coming this way, I  
 13 need to be prepared to know where that trailer is so  
 14 that I can stop. And we know that more and more  
 15 people are choosing not to obtain a driver's license  
 16 today. They're choosing to take transits or ride  
 17 their bicycle, for example. So not only have they  
 18 not driven a car on a roadway where they might be  
 19 familiar with the particular operational constraints  
 20 of trucks, they certainly haven't operated these  
 21 commercial vehicles or necessarily even seen how  
 22 they operate in these types of environments. So we  
 23 have to anticipate that the commercial vehicles pose  
 24 a rather significant hazard to bicyclists.

25 Q. Would you say that the incursion zones

Page 481

1 are similar to the warning zones just with more  
 2 science behind them?

3 A. I would say that the expected purpose of  
 4 the warning zone near as I can tell from reading --  
 5 my reading of the FEIS, is to provide a warning of a  
 6 driveway at a distance from the driveway that is  
 7 associated with the bicycle design speed.

8 Q. In your reading of the FEIS did you find  
 9 any of the information that you just described as to  
 10 what the purpose of that incursion or warning should  
 11 be?

12 A. I would have to review that portion of  
 13 the EIS before I could answer for sure that I did or  
 14 did not. My recollection is that they did not  
 15 adequately describe the purpose or the design  
 16 criteria for the warning zone.

17 Q. Going back to what's been admitted as  
 18 Exhibit 6, was this a difficult figure to prepare?

19 A. Are we discussing this blind spot figure?

20 Q. Yes.

21 A. No, it wasn't difficult.

22 Q. And going back to the incursion zones,  
 23 that swept path of the trailer that you were talking  
 24 about that a bicyclist should know about, is that's  
 25 what's depicted in the swept path diagrams that you

Page 482

1 helped Mr. Bishop prepare -- Transpo did?

2 A. What's depicted in the swept path  
 3 diagrams is two things. Number one is the entire  
 4 path of the vehicle including a line that indicates  
 5 the track of the outside edge of the trailer, for  
 6 example. The other thing that's depicted is the  
 7 incursion zone, which again, is the longitudinal  
 8 distance of where along the alignment of the trail  
 9 where the vehicle leaves the roadway. And those two  
 10 things -- that's entirely based on whether or not  
 11 the swept path is outside of the edge of the roadway  
 12 at that point, which we would define as 12 feet from  
 13 the center line of the roadway, or 13 feet depending  
 14 on where in the cross-section we are.

15 Q. As part of your work on this project, did  
 16 you help create any drone footage?

17 A. Yes, I did.

18 Q. And what -- please describe your role in  
 19 preparing the video drone footage.

20 A. So Transpo Group retained the services of  
 21 UAS Company that came with their equipment and I was  
 22 the UAS operator because I hold a FAA remote pilot  
 23 certificate. And so, we launched the drone or the  
 24 UAS, if you will, and this particular UAS is  
 25 equipped with a GPS receiver and complex control

Page 483

1 system that enables it to remain steady in windy  
 2 conditions so it doesn't move relative to a fixed  
 3 point on the ground. Once we had launched the UAS  
 4 we initiated recording a video and then signaled to  
 5 drivers in driveways that it was time for them to  
 6 exit the driveway. And then we asked them to make  
 7 several different kinds of turns. We asked them to  
 8 make the typical turn that they would make. We  
 9 asked them to make a turn that was based on keeping  
 10 their vehicle within the proposed lane, Shilshole  
 11 Avenue, and then we asked them to make a turn where  
 12 their vehicle went all the way to the very edge of  
 13 the proposed opposite edge line of Shilshole Avenue.

14 Q. Just so I make sure I understand it,  
 15 first of all, you got a -- what kind of -- what  
 16 sized truck were you using?

17 A. We used the W -- an AASHTO WB-67.

18 Q. And driven by a professional driver?

19 A. Yes. It was driven by Warren Acrovick.

20 Q. And he has a CDL?

21 A. That's correct.

22 Q. And do I understand you to say that you  
 23 somehow tried to replicate where the lanes would be  
 24 if the bike trail was built along the preferred  
 25 alignment?

Page 484

1 A. Yes. In this particular location, the  
 2 roadway happens to be offset from its existing  
 3 alignment by approximately 12 feet.  
 4 Q. So about the width of a lane?  
 5 A. That's correct. Yes.  
 6 Q. And so, tell us how you instructed  
 7 Mr. Acrovick to replicate the conditions that  
 8 physically exist on the ground out there today.  
 9 A. So I walked with Mr. Acrovick along the  
 10 edge of the roadway and pointed out where the new  
 11 roadway would be. Business owners assisted us by  
 12 park -- parallel parking their vehicles in the  
 13 proposed parallel parking stalls that are going to  
 14 be located on the northeast side of Shilshole  
 15 opposite of Salmon Bay Sand and Gravel. And we  
 16 showed Mr. Acrovick that he was supposed to turn  
 17 into the -- he was supposed to turn east into the  
 18 westbound lane.  
 19 So to conduct that safely, we had a  
 20 flagging operation underway along Shilshole Avenue  
 21 for limited durations while the vehicles were  
 22 turning. And then to have him turn into -- to have  
 23 him use the entire roadway, and I believe that  
 24 Mr. Bishop described to you the difference between  
 25 turning within the lane, turning within the roadway

Page 485

1 yesterday. We had him turn to the edge of the  
 2 parallel parked cars. Normally those vehicles are  
 3 perpendicular parked, but when they were parallel  
 4 parked they left a space that would be occupied by  
 5 the proposed west-bound lane. So he was able to  
 6 make both turns.  
 7 Q. And did the videos that you -- then you  
 8 took that drone footage and what did you do with it?  
 9 A. So after we obtained the drone footage, I  
 10 provided it to our creative services team and using  
 11 the engineering drawings and information from the  
 12 FEIS, the creative services team, excuse me, was  
 13 able to overlay the trail on the drone footage,  
 14 because it remained relatively stable. It would be  
 15 just like drawing it on an aerial photograph, for  
 16 example, or a satellite photograph. And that way we  
 17 were able to depict the proposed Shilshole Avenue  
 18 Northwest and the proposed alignment of the trail.  
 19 Q. So in laymen's term you basically just  
 20 make a video animation?  
 21 A. In laymen's terms, we drew pavement  
 22 markings on a real-life video of an actual truck  
 23 making a turning maneuver the way that a real truck  
 24 would make a turning maneuver.  
 25 Q. And did you ask Mr. Acrovick to replicate

Page 486

1 some of the maneuvers shown in the AutoTURN swept  
 2 path's analysis that you prepared with Mr. Bishop?  
 3 A. What we preferred is that Mr. Acrovick  
 4 would shoot to stay within the lane or within the  
 5 roadway so that we could roughly correlate that with  
 6 the AutoTURN analysis.  
 7 Q. And let's focus on the word "roughly."  
 8 Do you remember you had your deposition taken?  
 9 A. Yes.  
 10 Q. Do you remember during the deposition  
 11 that quite a bit was made out of whether the swept  
 12 path shown in the animation exactly replicates what  
 13 the AutoCAD software, excuse me, the AutoTURN  
 14 software shows?  
 15 A. I believe I stated at that time that the  
 16 purpose of the videos was to provide a  
 17 representation of the turning vehicles that that --  
 18 and also to help us correlate the actions of an  
 19 actual driver with the swept path analysis prepared  
 20 by AutoTURN, which we know to be reliable because  
 21 that company has invested hundreds of thousands of  
 22 Canadian dollars in understanding -- which were  
 23 worth a lot back then -- in understanding how these  
 24 vehicles operate and what the swept paths actually  
 25 are.

Page 487

1 Q. So these videos that I want to show in a  
 2 second, they're more of a rough approximation of  
 3 what the AutoTURN software shows?  
 4 A. I would say they're a fairly close  
 5 approximation, because we had a capable CDL driver.  
 6 But the issue that was made in the deposition if I'm  
 7 not mistaken --  
 8 THE WITNESS: May I speak to the  
 9 deposition at this time, Mr. Examiner?  
 10 BY MR. BROWER:  
 11 Q. What was the issue?  
 12 A. It appeared as though part of that swept  
 13 path which was colored based on closely tracing the  
 14 back end of the vehicle to show where it -- the area  
 15 it had covered on the roadway, it appeared as though  
 16 the truck had hit several parked cars. And then I  
 17 was there and my specific instructions were to not  
 18 hit the parked cars. And the truck did not hit the  
 19 parked cars. The reason why that appears, and it's  
 20 an insignificant -- it's maybe six inches at the  
 21 most if we were to try to measure it, scale it off  
 22 based on the width of the truck which is 8 feet 6  
 23 six inches. The reason why it occurs is because the  
 24 drone is here. The truck starts out here. And as  
 25 it turns it moves this way. So the drone is looking

Page 488

1 -- there's only one place where the camera, which is  
 2 on the UAS, which is facing directly down, is seeing  
 3 the top of the truck exactly. And every place else  
 4 it's in a somewhat oblique view. And so, that's  
 5 what accounts for the appearance that the truck has  
 6 sideswiped several parked cars.  
 7 Q. So as the truck turns can you actually  
 8 see part of the side of the truck?  
 9 A. I believe you can, yes.  
 10 Q. Okay. And let's look at one of these  
 11 videos. And what is this one entitled?  
 12 A. Well, I'm kind of having a little trouble  
 13 seeing it. Can we move the screen a little bit to  
 14 --  
 15 Q. Mind if I tilt it a little bit?  
 16 (The Appellant's Video Exhibit A-7 was  
 17 shown while the following conversation was held:)  
 18 A. Okay. So in this particular case, we did  
 19 not animate any of this video. This is a double  
 20 trailer. Typically it's hauling a dry bulk  
 21 material. An engineer would actually call that  
 22 cement. It's actually one of the components of  
 23 concrete. This -- in this case the operator of the  
 24 double trailer is pulling into an unloading area, so  
 25 that it can be gravity loaded. And that unloading

Page 489

1 area is near that train car on the right-hand side  
 2 of the image.  
 3 (Video paused.)  
 4 Q. So I'm going to pause it. Is that the  
 5 cement truck approaching in the lower left-hand  
 6 corner?  
 7 A. Yes. If I had a steel engineer's rule, I  
 8 would tap the screen with it right now, but I only  
 9 have a pointer somewhere.  
 10 (Video resumes.)  
 11 Q. Okay. And what's happening now?  
 12 A. Oh my goodness. The truck is turning.  
 13 He's not turning left. He's actually preparing to  
 14 make an S-turn, so you'll see him turn to the right  
 15 momentarily.  
 16 Q. And what is that truck at the top with  
 17 the red cab?  
 18 A. That's Mr. Acrovick's vehicle.  
 19 Q. And had you instructed Mr. Acrovick to  
 20 come around the corner at that time?  
 21 A. In that case Mr. Acrovick was not  
 22 following our directions, but it turned out okay,  
 23 so...  
 24 Q. And now what is the cement truck doing?  
 25 A. So the bulk-materials truck is pulling

Page 490

1 alongside the rail car and they would hook up some  
 2 large, in fact, if we can, those tubes at the  
 3 bottom, and with gravity, unload that truck into the  
 4 hopper that they have for cement there. They could  
 5 also gravity unload from the rail car.  
 6 Q. Is it your understanding that -- where is  
 7 that cement truck in relationship to the trail?  
 8 A. In the future -- well, right now I would  
 9 say that the back trailer of the double trailer is  
 10 sitting squarely on top of the proposed alignment of  
 11 the trail.  
 12 Q. All right. And what is happening now?  
 13 A. Mr. Acrovick is preparing to leave the  
 14 driveway.  
 15 Q. And he's exiting heading which direction,  
 16 east or west?  
 17 A. That's southeast bound on Shilshole  
 18 Avenue Northwest.  
 19 Q. Do you see the tire tracks that  
 20 Mr. Acrovick's truck made?  
 21 A. Yes.  
 22 Q. Is that a -- do those resemble or look  
 23 like the AutoTURN analysis?  
 24 A. Yes. I would say that those would be  
 25 representation of the swept -- well, they are the

Page 491

1 swept path of his vehicle's outside and inside rear  
 2 tires, and front tires as well.  
 3 Q. All right. In this case he turned into  
 4 the existing southeast bound lane, so we elected not  
 5 to use that video, because it wasn't representative  
 6 of future conditions.  
 7 THE HEARING EXAMINER: Mr. Bower, is  
 8 it possible to identify which driveway that is on  
 9 the list of driveways we have, 12A or 12B or?  
 10 MR. BROWER: Certainly. Let me go  
 11 find the right -- no, not that one.  
 12 BY MR. BROWER:  
 13 Q. Mr. Kuznicki?  
 14 A. Yes.  
 15 Q. Do you recognize this?  
 16 A. Yes, I do.  
 17 Q. And can you identify which driveway  
 18 Mr. Acrovick just exited from?  
 19 A. It's not visible to everyone and so I'll  
 20 point to --  
 21 Q. You'll need to -- Mr. Kuznicki --  
 22 THE HEARING EXAMINER: Mr. Kuznicki?  
 23 You'll need to save all the testimony for when  
 24 you're seated. Oh, actually, we've -- all right.  
 25 We've actually got an --

Page 492

1 MR. BROWER: It works now.  
 2 THE HEARING EXAMINER: -- option that  
 3 works now. Yes.  
 4 THE WITNESS: No, I can reference it  
 5 here, so... If you have Figure 4.5B open in front  
 6 of you, you can see that that driveway is numbered  
 7 as 9D as in delta. And the blue vehicle is the  
 8 vehicle that is exiting the driveway. And that's a  
 9 cement truck, WB-67D, but I also believe we also had  
 10 a WB-67 with a single trailer depicted right there.  
 11 Yes. So in that same case there's a blue truck  
 12 exiting.  
 13 BY MR. BROWER:  
 14 Q. Thank you.  
 15 (Video concludes.)  
 16 A. And so, the swept path of the rear wheels  
 17 just has to avoid a constraint that we identified in  
 18 AutoTURN, which is the end of a fence that presently  
 19 exists today. And as near as we can tell from the  
 20 preliminary -- very preliminary engineering  
 21 drawings, that fence will exist in the future. And  
 22 in this case, the vehicle is turning all the way to  
 23 the edge of the parallel parking area. I believe we  
 24 have one that's not within available pavement. In  
 25 that case, you can see that the turning vehicle

Page 493

1 actually goes through what -- across the entire  
 2 trail. We don't anticipate that there will be a  
 3 fence over -- across the trail, of course, so...  
 4 Q. Can you tell based upon the 10-percent  
 5 level of design whether there'll be a fence there or  
 6 not?  
 7 A. I'm going to assume that there won't be a  
 8 fence across the trail.  
 9 Q. But could you tell based on the design in  
 10 the FEIS?  
 11 A. Well, typically those types of things  
 12 aren't shown in a 10-percent design.  
 13 Q. What design level are they typically  
 14 shown at?  
 15 A. I would say they probably get shown 30 or  
 16 60-percent design depending on what -- I mean, the  
 17 City of Seattle may use 40 and 75. I don't know  
 18 what they're using these days, so...  
 19 Q. Okay.  
 20 A. Depends on the project.  
 21 Q. Let's go back and look at the next movie.  
 22 MR. BROWER: So, Mr. Examiner, the  
 23 first movie was Exhibit A-313.2. And the next one  
 24 is A-313.3.  
 25 THE HEARING EXAMINER: First one will

Page 494

1 be Exhibit Number A-7. The next will be A-8.  
 2 (COALITION'S EXHIBITS A-7 AND A-8 MARKED FOR  
 3 IDENTIFICATION.)  
 4 BY MR. BROWER:  
 5 Q. Mr. Kuznicki, what is this one labeled?  
 6 A. This is labeled WB-67 entering Salmon Bay  
 7 Sand and Gravel, westbound left turn into driveway.  
 8 (The Appellant's Video Exhibit A-8 was shown  
 9 while the following conversation was held:)  
 10 BY MR. BROWER:  
 11 Q. And I'm just going to pause it right  
 12 there.  
 13 (Video paused.)  
 14 Q. Do you know which driveway number that  
 15 is? I can bring up the other figure if it'd be  
 16 helpful.  
 17 A. I believe it's driveway 9B as in -- or 9C  
 18 as in Charlie.  
 19 Q. Let's bring up the other figure.  
 20 A. Let's bring up the other figure. Then I  
 21 don't have to guess.  
 22 Q. Can you see on here.  
 23 A. Well, lo and behold, it's driveway 9er.  
 24 Q. 9?  
 25 A. Yes, sir. This is why engineers don't

Page 495

1 guess.  
 2 (Video resumes.)  
 3 Q. So again, this is Mr. Acrovick driving?  
 4 A. Yes.  
 5 Q. And --  
 6 A. So here he is slightly over the center  
 7 line of the proposed alignment of Shilshole Avenue  
 8 Northwest.  
 9 Q. And is that depicted by the yellow-dash  
 10 lines running through?  
 11 A. Yes.  
 12 THE WITNESS: So if I may,  
 13 Mr. Examiner, I'd like to just describe what I --  
 14 what's on the screen here for the benefit of the  
 15 record.  
 16 THE HEARING EXAMINER: Uh-huh  
 17 (affirmative response).  
 18 THE WITNESS: What you see here is a  
 19 dashed yellow-center line which is the future or  
 20 proposed center line of Shilshole Avenue Northwest.  
 21 The two white lines are the proposed left and right  
 22 edge lines. And then the trail is shown in green.  
 23 That's the outline of the multi-use path. And then  
 24 just for the purposes of illustration, we've shown a  
 25 dashed yellow-center line down the center of the

Page 496

1 trail.  
 2 BY MR. BROWER:  
 3 Q. And this is based on the plans at  
 4 10-percent from the FEIS?  
 5 A. Yes, which also includes the proposed  
 6 five-foot buffer. And I believe these are 13-foot  
 7 lanes per the cross section that was included in the  
 8 FEIS.  
 9 Q. And in this you can see that Mr. Acrovick  
 10 isn't able to get fully into his lane. Is that  
 11 because there were parked cars there?  
 12 A. That's because we asked him not to hit  
 13 parked vehicles, yes.  
 14 Q. Okay. So what's happening now?  
 15 A. He's waiting to turn left. In this case,  
 16 there was no significant disruption to traffic. So  
 17 now he's working very hard to fit in a space that's  
 18 quite small. But this is just to demonstrate how  
 19 much of his vehicle is actually covering the  
 20 pavement as he turns.  
 21 Q. So, Mr. Kuznicki, is this the area that  
 22 appears that he has struck that parked car that I'm  
 23 pointing to?  
 24 A. Yes. That's correct.  
 25 Q. So that's the parked car parked to the

Page 497

1 east of driveway 9?  
 2 A. Yes.  
 3 Q. And did he actually hit that car?  
 4 A. When I looked at it after he turned, the  
 5 bumper was still attached.  
 6 Q. And you can see what would be the  
 7 driver's side of the truck. Is that because that  
 8 angle you were talking about?  
 9 A. Yes. It's because you can see the drone  
 10 is clearly probably positioned over that second  
 11 white vehicle, maybe a little bit to the south and  
 12 west of there. You can see that his trailer covers  
 13 approximately three times its width on the trail.  
 14 Q. And that would be that swept area shown  
 15 in the turquoise?  
 16 A. Yes. That's correct. So, for example,  
 17 if I were a bicyclist heading northwest bound and  
 18 Mr. Acrovick were to turn in front of me, I would  
 19 see that tractor portion of his tractor-trailer  
 20 combination cross the trail probably approximately  
 21 17 to 20 feet in front of where his trailer will  
 22 ultimately cross the trail. So as a cyclist, I may  
 23 not stop in the location that prevents me from being  
 24 struck by the trailer.  
 25 Q. And would that be the incursion zone?

Page 498

1 A. That would be the swept path, but it is  
 2 roughly related to the incursion zone. If I may, I  
 3 can illustrate the difference between those two  
 4 here. So this area here is the area of the trail  
 5 that's covered by the swept path of the trailer.  
 6 This tiny area here from here to there is what we  
 7 call the incursion zone. That's the area where the  
 8 trailer or some portion of the vehicle leaves the  
 9 roadway. It's -- again, it was just something that  
 10 we used to illustrate how much of the roadway is  
 11 affected by vehicle movements not within the lane.  
 12 So the lane would be defined either by an edge line  
 13 or a curb face, for example, right? And so, in this  
 14 case the incursion zone and the actual swept area of  
 15 the trail are almost concomitant.  
 16 Q. Thank you. And what's happening now?  
 17 A. Warren is congratulating himself for  
 18 making it through that driveway.  
 19 (Video concludes.)  
 20 Q. Let's go to the next one.  
 21 (The Appellant's Video Exhibit A-9 was shown  
 22 while the following conversation was held:)  
 23 A. That is a movement that is regularly made  
 24 by vehicles that -- flatbeds that drop pallets in  
 25 that area, by the way. So you may recall having

Page 499

1 seen in the video there were pallets on the right-  
 2 hand side of that open area next to the driveway  
 3 inside of their fenced-in area. And so, those are  
 4 typically 48 or 53-foot trailers make that maneuver.  
 5 (Video paused.)  
 6 Q. So this is what's been marked as A-8.  
 7 It's Exhibit A-313.3. No, actually. It should be  
 8 what I hope to have marked as Exhibit 9, A-9, so  
 9 it's going to be 313 -- let me just make sure. Yes,  
 10 313.4. And, Mr. Kuznicki, what is this labeled and  
 11 what is it showing?  
 12 (Video resumes.)  
 13 A. This is like is labeled WB-67 leaving  
 14 Salmon Bay Sand and Gravel, right turn from driveway  
 15 to the proposed eastbound Shilshole Avenue  
 16 Northwest, which, as I mentioned, is roughly  
 17 concurrent with the existing west/northwest bound  
 18 lanes. And this is a wide turn using the oncoming  
 19 lane. So this is what a driver will do -- may do,  
 20 may choose to do if there is no oncoming traffic and  
 21 they want to minimize the amount of trail that their  
 22 vehicle will cover.  
 23 Q. And in this diagram towards the upper  
 24 right-hand corner are there a number of Ready-Mix  
 25 Concrete trucks?

Page 500

1 A. Yes. I am observing four, total.  
 2 Q. And again, you've, using video-animation,  
 3 superimposed the trail and the new roadway?  
 4 A. Yes.  
 5 Q. And right here at the -- kind of at the  
 6 center bottom of the video footage, it appears that  
 7 Mr. Acrovick hit a stack of pallets. Is that  
 8 correct?  
 9 A. No. He did not.  
 10 Q. But it looks like that on the video?  
 11 A. It appears to be so unless you take into  
 12 consideration the oblique effect of the camera not  
 13 being directly over that portion of the video.  
 14 Q. And what is happening now?  
 15 A. Mr. Acrovick is completing his turn into  
 16 the future roadway. And you can see that he was  
 17 actually driving in the opposite lane of Shilshole  
 18 Avenue, which is why we had the flagging operation  
 19 in place. And you can see that in this case just  
 20 his trailer only covered approximately  
 21 one-and-a-half times its width on the trail.  
 22 Q. And that's because he used --  
 23 A. The entire roadway. Yes, but that would  
 24 not have been possible in this particular day and  
 25 during this time-period because of the heavy traffic

Page 501

1 volumes on Shilshole Avenue Northwest. Typically  
 2 drivers don't have the benefit of a flagger.  
 3 (Video concludes.)  
 4 Q. Is it common for drivers of big trucks to  
 5 turn into the oncoming lane?  
 6 A. It is in areas where their vehicles are  
 7 not accommodated by the design of an intersection.  
 8 So, for example, in many streets in Seattle are not  
 9 designed to accommodate larger vehicles with  
 10 trailers. So when those vehicles make a right turn,  
 11 in order to prevent the trailer from climbing the  
 12 curb and potentially striking a signpost or a  
 13 utility pole or a light pole, they actually, as they  
 14 turn they will turn wide into the receiving street.  
 15 So -- and again, as a vehicle operator or even a  
 16 pedestrian observing, you've probably noticed  
 17 people's vehicles, a truck's turning and the people  
 18 in the left-turn lane have to put their car in  
 19 reverse and back up or the person on the bicycle has  
 20 to walk their way back to avoid being struck by the  
 21 front-end of the vehicle in their attempt to keep  
 22 the trailer from climbing the curb.  
 23 Q. As a traffic engineer and a designer, is  
 24 this a condition that you would actively design to  
 25 create or would you design to avoid it?

Page 502

1 A. Depends on the functional classification  
 2 and expected land use along the corridor.  
 3 Q. So for a major truck street?  
 4 A. I would attempt to avoid that because it  
 5 not only presents an inconvenience to the trucks,  
 6 but more importantly, it's a hazard to pedestrians  
 7 and bicyclists.  
 8 Q. So forcing truck drivers to do this is  
 9 actually creating a traffic hazard?  
 10 A. If truck drivers choose to do this in  
 11 order to, you know, avoid a -- striking a fixed  
 12 object with their trailer, which is also a hazard,  
 13 they -- there are other hazards associated with that  
 14 maneuver. For example, with -- if this vehicle is  
 15 turning out and another vehicle is in the oncoming  
 16 lane, it may swerve to the right or left and that  
 17 could -- they could strike a pedestrian or a  
 18 bicyclist that they didn't notice.  
 19 Q. This is the last video which is A-313.5.  
 20 (The Appellant's Video Exhibit A-10 was shown  
 21 while the following conversation was held:)  
 22 BY MR. BROWER:  
 23 Q. And what is this one?  
 24 A. This is a WB-67 again leaving Salmon Bay  
 25 Sand and Gravel. It's the same right turn onto

Page 503

1 southeast bound Shilshole Avenue, but it -- in this  
 2 case we instructed the driver. He has several  
 3 practice runs, too. So he took the best to turn  
 4 within the future or proposed lane.  
 5 Q. And what is the main difference for this  
 6 one compared to the last one?  
 7 A. So, number one, you can see that he kept  
 8 the nose of his vehicle within the lane. So he  
 9 never crossed the virtual double-yellow -- or the  
 10 virtual, excuse me, broken yellow-center line. But  
 11 in doing so, because he -- and you could say that he  
 12 turned tighter. In reality, he just turned sooner.  
 13 And this is how truck drivers typically turn when  
 14 their -- the facility accommodates them. The swept  
 15 path of his trailer took up approximately  
 16 two-and-a-half times its width across the trail.  
 17 Q. And would this have a larger incursion  
 18 zone?  
 19 A. Yeah. The incursion zone with this is  
 20 significantly longer as well. And that maneuver he  
 21 makes at the end is to get back into the correct  
 22 lane of the roadway. So that is not something that  
 23 he would typically do. That's why we terminated the  
 24 graphical overlay there.  
 25 (Video concludes.)

Page 504

1 MR. BROWER: Mr. Examiner, I'd move to  
 2 admit what's been marked as Exhibits A-8, 9 and,  
 3 excuse me, A-7, 8, 9, and 10.  
 4 THE HEARING EXAMINER: Any objections?  
 5 MR. KISIELIUS: None here.  
 6 MR. COHEN: None. Thank you.  
 7 THE HEARING EXAMINER: Exhibits A-7  
 8 through A-10 are admitted.  
 9 (COALITION'S EXHIBITS A-7 THROUGH A-10 ADMITTED.)  
 10 MR. BROWER: And we'll provide them on  
 11 a flash drive.  
 12 THE HEARING EXAMINER: Thank you. And  
 13 I'm sorry. Could you give us your exhibit number  
 14 for A-10?  
 15 MR. BROWER: Certainly. It's A-313.5  
 16 THE HEARING EXAMINER: Thank you.  
 17 BY MR. BROWER:  
 18 Q. Mr. Kuznicki, if you'd go back to Volume  
 19 1, Exhibit A-309. What is that report?  
 20 A. It's a memorandum that appears to have  
 21 been prepared for King County entitled the Burke-  
 22 Gilman Trail Crossing Plan.  
 23 Q. And did that report include any  
 24 information about bicyclists on the Burke-Gilman  
 25 Trail and how they react to or comply with signage?

Page 505

1 A. Yes, it does.  
 2 Q. And did you review that?  
 3 A. I made a cursory review of this report,  
 4 yes.  
 5 Q. And what did you learn from reading that?  
 6 MR. KISIELIUS: Mr. Examiner, at this  
 7 point I'm going to object. I know it hasn't even  
 8 been offered yet into evidence, but we're talking  
 9 about a portion of the Burke-Gilman Trail in very  
 10 different situations, and about design treatments in  
 11 those locations that are not what we're talking  
 12 about here.  
 13 MR. BROWER: It's going to the basis  
 14 for his opinion. This is a person who is an expert  
 15 in signage and how people react to signage around  
 16 the country on bicycle facilities and pedestrian  
 17 facilities. And this is a study that was done for  
 18 this very trail here in Seattle.  
 19 THE HEARING EXAMINER: Understood  
 20 But how is it going to the analysis for this EIS?  
 21 That's -- I understand what he's going to say, but  
 22 what are we getting at with that for this --  
 23 MR. BROWER: Well, it goes to that the  
 24 FEIS claims that the City can make this trail safe  
 25 by using signage. And this study goes to how

Page 506

1 bicyclists do or don't comply with signage on bike  
 2 trails.  
 3 THE HEARING EXAMINER: As demonstrated  
 4 by this document?  
 5 MR. BROWER: Yes. On this very trail  
 6 in Seattle.  
 7 THE HEARING EXAMINER: So it's more of  
 8 a general expertise source document as opposed to a  
 9 -- although related to a specific site, not -- we're  
 10 not looking at for that specific site, but for the  
 11 study information that it's got in it?  
 12 MR. BROWER: Yes. As part of his  
 13 opinion because he reviewed this as part of forming  
 14 his opinions.  
 15 THE HEARING EXAMINER: As to whether  
 16 signage, et cetera, will work in a --  
 17 MR. BROWER: Yes.  
 18 THE HEARING EXAMINER: I'll allow it.  
 19 Overruled.  
 20 MR. BROWER: Thank you.  
 21 BY MR. BROWER:  
 22 Q. So, Mr. Kuznicki, did that report include  
 23 findings as to whether or not cyclists obey signage?  
 24 A. Well, in this -- in -- and I preface this  
 25 by noting that the -- while the signing

Page 507

1 recommendations included in this report were  
 2 implemented by King County, it probably may have  
 3 more to do with tort liability than the  
 4 effectiveness of the signing. And also note that  
 5 placement of signing along this portion of the trail  
 6 on Shilshole will be extremely difficult because of  
 7 the offset requirements for signing that cannot be  
 8 met with a five-foot buffer zone.  
 9 Q. What do you mean by that?  
 10 A. The M-U-T-C-D prescribes the offset  
 11 placement distances for signing and the distance  
 12 that signs should be placed from the roadway to  
 13 prevent them from being struck by people on bicycles  
 14 or vehicles. And the -- depending on the width of  
 15 the signs, they may not meet those requirements in a  
 16 five-foot buffer zone.  
 17 Q. Do you know what those offset  
 18 requirements are?  
 19 A. Like any good engineer I can look them  
 20 up.  
 21 Q. Why do you believe that you may not be  
 22 able to comply with them with a five-foot buffer?  
 23 A. Because as I, again, recalling the  
 24 M-U-T-C-D, which I, unfortunately, have not  
 25 committed the entire thing to memory yet. It's



Page 508

1 generally that signs have to be at least two feet  
 2 from -- the edge of the sign has to be at least two  
 3 feet from the edge of the travel way.  
 4 Q. And if we only have five-foot wide buffer  
 5 does that pose a problem?  
 6 A. Yes. Because the width of the sign will  
 7 only be 12 inches. And the only signs that we  
 8 typically place out on the roadway that are 12  
 9 inches wide are no parking signs. Those are  
 10 12-inches by 18-inches in size depending on the  
 11 amount of -- number of regulations noted on the  
 12 sign.  
 13 Q. What's the typical size of signage that  
 14 you've worked on and recommended in your work on  
 15 other bicycle and pedestrian facilities?  
 16 A. A bicycle warning sign is a diamond-  
 17 shaped sign. It's 18-inches on an edge multiplied  
 18 by square root of two over two. That's  
 19 approximately 24-inches wide. So that would be two  
 20 feet wide. And in order to -- that's, I believe,  
 21 why the FEIS depicted the warning zones as a means  
 22 of providing notice to bicyclists of driveways where  
 23 signing could not be incorporated.  
 24 Q. Going back to Exhibit A-309 --  
 25 MR. KISIELIUS: Mr. Examiner, I'm

Page 509

1 going to renew my objection by the witness's  
 2 testimony. He just said this is not about the  
 3 effectiveness of signing. It's more about tort  
 4 liability, which is not at issue in this case. His  
 5 own words.  
 6 THE HEARING EXAMINER: Mr. Kuznicki, I  
 7 think your sarcasm is starting to catch up with you.  
 8 THE WITNESS: In that case I wasn't  
 9 necessarily being sarcastic.  
 10 THE HEARING EXAMINER: Okay.  
 11 THE WITNESS: Tort liability is a huge  
 12 issue for public agencies. They can erect --  
 13 THE HEARING EXAMINER: Are you an  
 14 expert on that subject?  
 15 THE WITNESS: Pardon me?  
 16 THE HEARING EXAMINER: Are you here to  
 17 speak as an expert on that subject?  
 18 THE WITNESS: Probably don't want to  
 19 be asked to, no.  
 20 THE HEARING EXAMINER: So I will  
 21 sustain that objection.  
 22 MR. BROWER: So is that out now?  
 23 THE HEARING EXAMINER: If that's what  
 24 he was speaking about is tort liability.  
 25 BY MR. BROWER:

Page 510

1 Q. Were you going to use that strictly as  
 2 tort liability or does it also go to your opinion as  
 3 to whether signage is effective in this case?  
 4 A. My intention wasn't to discuss the  
 5 application of the signing in -- from a tort  
 6 liability perspective, but rather to draw on some of  
 7 the observations that were made about bicyclists and  
 8 traffic control devices.  
 9 Q. And that's exactly what I wanted you to  
 10 focus on is what were those observations about  
 11 cyclists and signage?  
 12 MR. KISIELIUS: I'm sorry,  
 13 Mr. Examiner. Can I have -- I'm sorry --  
 14 THE HEARING EXAMINER: Hold on a  
 15 second.  
 16 MR. KISIELIUS: Resolve it. I'm  
 17 trying to understand the nature of the objection. I  
 18 heard it was objected (phonetic) -- as sustained,  
 19 excuse me. And I heard based on the witness's words  
 20 that it wasn't about the effectiveness of signing.  
 21 Mr. Brower's asked the same question. He's now  
 22 changed his answer. I'm trying to figure out where  
 23 we are on the objection.  
 24 THE HEARING EXAMINER: Well, the  
 25 objection was sustained. So I -- I'm not quite sure

Page 511

1 where we're going. I don't know if he's trying to  
 2 get -- I think Mr. Brower's concern was that there  
 3 may have been some testimony that would have been  
 4 legitimately allowed because it wasn't necessarily  
 5 related to tort liability. But the witness said  
 6 that his earlier testimony was related to tort  
 7 liability. I don't know if he's trying to  
 8 rehabilitate some of that information that was mixed  
 9 in and there were two subjects, tort liability and  
 10 signage. I'm not --  
 11 MR. BROWER: Could I ask --  
 12 THE HEARING EXAMINER: -- entirely  
 13 sure, but it's a new line of questioning, so I think  
 14 we'll go forward and if there's a new objection, I  
 15 would make it at that time.  
 16 BY MR. BROWER:  
 17 Q. Mr. Kuznicki, did we ask you to look at  
 18 or give an opinion on tort liability?  
 19 A. I was not asked to give an opinion on  
 20 tort liability.  
 21 Q. And did we ask you to look at that study  
 22 as part of your opinion as part of your opinion as  
 23 to whether signage can be an effective means of  
 24 warning bicyclists on this trail?  
 25 A. I was asked to renew the study and

<p>Page 512</p> <p>1 understand its contents, yes.                  2 Q. Okay. And so in that context, what is                  3 your understanding of their findings?                  4 A. I think the understanding of their                  5 findings matches what we are seeing in many European                  6 countries where bicycle is much more prevalent, and                  7 that is that "signs should be kept to a minimum."                  8 I'm quoting from this report right now. Page 13,                  9 which is also page 013 of Exhibit A-309 for                  10 reference. "Signs should be kept to a minimum so as                  11 to not confuse or distract roadway users. More                  12 restrictive controls such as stop signs and traffic                  13 signals should only be placed if defines warrant are                  14 met. Warrants are typically based on minimal                  15 volumes, imbalance of volumes, delay, and safety                  16 issues. If minimal warrants are not met, the                  17 devices are typically not permitted." And the key                  18 statement that's made, and I quote again,                  19 "Unwarranted restrictions lead to disregard."                  20 Q. Why is that?                  21 A. Well, if we take a neighborhood in any                  22 suburban context in the United States and you often                  23 see four-way stops at intersections where there's                  24 hardly any vehicles. And the four-way stops are                  25 placed because generally people request at stop</p>	<p>Page 514</p> <p>1 that is numbered as page A-038. And to summarize                  2 the table, there were approximately 7,000                  3 bicyclists, and the percentage of bicyclists                  4 stopping at stop signs was between 2 and 2.7                  5 percent.                  6 BY MR. BROWER:                  7 Q. Mr. Kuznicki, were you also asked to                  8 review the parking impacts from the project as                  9 reported and discussed in the EIS?                  10 A. Yes. But may I make another note about                  11 this report regarding bicyclist's compliance with                  12 traffic control devices?                  13 Q. Certainly.                  14 A. Okay. So as a cyclist myself, I can                  15 understand and also understand human behavior why                  16 cyclists don't comply with many of these traffic                  17 control devices, because --                  18 Q. Why don't they?                  19 A. Partly because many of them are placed in                  20 response to a perceived hazard or perhaps to                  21 mitigate a hazard that doesn't exist, for example.                  22 If there's adequate sight distance, there's really                  23 no need to have a stop sign. In many neighborhoods,                  24 an uncontrolled intersection is perfectly                  25 acceptable, so that means there's no stop or yield</p>
<p>Page 513</p> <p>1 signs. They don't meet the minimum criteria for the                  2 installation of a four-way stop. And so, what                  3 happens is people come up to the stop sign and it                  4 doesn't matter whether they are from the                  5 neighborhood or not, they'll execute a rolling stop                  6 because there's no perceived hazard, especially if                  7 the sight distance is sufficient.                  8 Q. Did that report come up with a conclusion                  9 as to the rate of compliance with warrants?                  10 A. I believe that it did, but it will take                  11 me a little bit of time to find it here. So if                  12 you'd like, I can look for it.                  13 Q. Do you mind?                  14 A. Okay.                  15 THE HEARING EXAMINER: While he is                  16 looking for that, Mr. Brower, could you give me the                  17 -- your number again for that King County --                  18 MR. BROWER: Certainly. It's Volume                  19 1, Exhibit A-309.                  20 THE HEARING EXAMINER: Thank you.                  21 THE WITNESS: So the compliance is                  22 discussed on page 9 and 10 of the report. And the                  23 stop sign compliance is -- and this is why I didn't                  24 -- it isn't actually in the report. It's included                  25 in Attachment 1, which is page 27 in Exhibit A-309</p>	<p>Page 515</p> <p>1 signs at all in the intersection. And as we place                  2 more and more of these traffic control devices out                  3 there with these restrictions, what happens is                  4 people start to ignore them, and then they don't                  5 give due care to the situations where there are no                  6 traffic control devices and they should be looking                  7 to see if they need yield to a vehicle coming from                  8 the right or a pedestrian crossing, for example. So                  9 I think that we can have some sympathy for the                  10 cyclists that are faced with six stop signs going                  11 down a hill in Queen Anne when none of those                  12 intersections warrant a stop sign.                  13 Q. Is that going back to your discussion of                  14 that triangle of operating tasks? Would that be                  15 part of task saturation? There's just too many                  16 warrants?                  17 A. I think that relates more to human                  18 factors, which is understanding how humans perceive                  19 and react to the operating environment in which                  20 they're in. This is more about human behavior and                  21 risk tolerance and our perception of hazards. And                  22 if we really dig deep down, I think every one of us                  23 can say that we don't always come to a two-second                  24 stop at every single stop sign. So, I'm not                  25 speaking for myself, but...</p>

Page 516

1 Q. Of course. Let's turn now to your work  
 2 in the review of the parking impacts. Were you  
 3 asked to review the parking impacts as discussed and  
 4 reported in the EIS?  
 5 A. Yes, sir.  
 6 Q. And what did you review as part of that  
 7 work?  
 8 A. So in order to assess that work, I  
 9 reviewed Volume 3, and specifically I reviewed -- I  
 10 don't see a Table of Contents in here, but the  
 11 Parking Discipline Report -- I want to tell you  
 12 which appendix it is for the purposes of the record.  
 13 The parking discipline report is part of Volume 3.  
 14 I guess it doesn't have an appendix number or  
 15 letter.  
 16 Q. But it's the Parking Discipline Report in  
 17 the final EIS?  
 18 A. Yes. It's -- has a publication date of  
 19 May 2017.  
 20 Q. And did you review the methodology that  
 21 was used in that report?  
 22 A. Yes. I did.  
 23 Q. And do you have an opinion whether or not  
 24 the Missing Link will cause more than a moderate  
 25 risk of an adverse impact related to parking within

Page 517

1 the study area?  
 2 A. Yes. I have an opinion.  
 3 Q. And what is that opinion?  
 4 A. I think that the parking displacement  
 5 caused by the proposed trail construction will have  
 6 significant adverse, high localized impacts to  
 7 parking.  
 8 Q. And why is that?  
 9 A. It's because the construction of the  
 10 trail requires the displacement of parking spaces in  
 11 order for everything to fit within the proposed  
 12 right-of-way.  
 13 Q. And you said "localized." Why is that  
 14 important?  
 15 A. So, for example, on the west end of the  
 16 trail, there is not as much right-of-way as on the  
 17 east end. The rail line is actually moving off to  
 18 the west of the street continuous to the northwest.  
 19 There's a grade there and the -- in order to fit the  
 20 trail and the street within that area, all of the  
 21 perpendicular parking needs to be eliminated.  
 22 Q. And was that disclosed in the EIS?  
 23 A. The EIS showed a loss of parking in that  
 24 area, but it's -- it assessed the impacts by looking  
 25 at the overall supply of parking within their

Page 518

1 defined study area.  
 2 Q. And how big was that study area?  
 3 A. If you -- if I may, I'd like to just  
 4 briefly examine, so that I don't misspeak. But I  
 5 can tell you where the study area definition is  
 6 located as well. On page 3-3, the extent of the  
 7 parking study as shown in Figure 3-1, it extends  
 8 from 32nd Avenue Northwest to 9th Avenue Northwest  
 9 and from 58th Street down to Northwest 50th Street  
 10 Alley, but eliminates most of the area east of 20th  
 11 Avenue Northwest. And it includes Salmon Bay.  
 12 Q. So is that a large or a small study area?  
 13 A. This study area includes most of this  
 14 alley commercial district.  
 15 Q. Would you say that's large?  
 16 A. I would say it's large and in some ways  
 17 noncontiguous.  
 18 Q. Is the methodology used -- let me just  
 19 back up. Does the FEIS conclude there will or will  
 20 not be a significant impact to parking?  
 21 A. On page 5-8 for the Shilshole South  
 22 alternative which is the alternative we've been  
 23 discussing here, otherwise known as the preferred  
 24 alternative, it says "The loss of parking would not  
 25 be considered a significant adverse impact because

Page 519

1 the parking loss is spread throughout the Shilshole  
 2 South alternative can be absorbed in other on-street  
 3 or off-street spaces throughout the study area  
 4 although drivers may need to travel further and is  
 5 consistent with city planning goals relating to  
 6 street space prioritization."  
 7 Q. Do you agree with that statement?  
 8 A. Well, I agree that it's consistent with  
 9 City planning goals related to street-space  
 10 prioritization. But I don't know that the people  
 11 who are impacted by this would consider that it's  
 12 not a significant adverse impact when they'll be  
 13 required to walk more than the typical distance of  
 14 12 to 1500 feet.  
 15 Q. Why is that a typical distance?  
 16 THE HEARING EXAMINER: Mr. Brower, can  
 17 I -- before we get too much further in this?  
 18 MR. BROWER: Yes?  
 19 THE HEARING EXAMINER: I -- because I  
 20 got the reference was 3-3 and Figure 3.1? Was that  
 21 right?  
 22 THE WITNESS: The extent of the  
 23 parking study area as shown in Figure 3-1, sir.  
 24 THE HEARING EXAMINER: In which Volume  
 25 are you looking in? 3-1 of the FEIS?

Page 520

1 THE WITNESS: This is the Parking  
 2 Discipline Report.  
 3 THE HEARING EXAMINER: So --  
 4 THE WITNESS: It's in Volume 3.  
 5 THE HEARING EXAMINER: Okay. So we're  
 6 talking about, just for reference for the record,  
 7 it's R-3 is the exhibit.  
 8 THE WITNESS: If you have trouble  
 9 sleeping tonight, I recommend reading this. So in  
 10 the conclusion in the Parking Discipline Report is  
 11 that the loss of parking would not be considered a  
 12 significant adverse impact because the parking loss  
 13 is spread -- and here's the key phrase "throughout  
 14 the Shilshole South alternative."  
 15 BY MR. BROWER:  
 16 Q. When you did the parking study when you  
 17 worked with Parsons Brinckerhoff as a sub-consultant  
 18 SvR on behalf of SDOT, did you use the same  
 19 methodology that they did?  
 20 THE HEARING EXAMINER: So, I  
 21 apologize.  
 22 MR. BROWER: I'm sorry.  
 23 THE HEARING EXAMINER: I'm still not  
 24 there.  
 25 MR. BROWER: Sorry. Let us -- that

Page 521

1 you catch up.  
 2 THE HEARING EXAMINER: I've got a 3-3  
 3 and an R-3, technical appendices. Just tell me  
 4 which exhibit number we're on.  
 5 THE WITNESS: Okay, so --  
 6 MR. KISIELIUS: Examiner, can I --  
 7 THE HEARING EXAMINER: I've got  
 8 exhibit numbers for each book. Which one am I in?  
 9 MR. KISIELIUS: You're in the correct  
 10 one. There are several Discipline Reports. You are  
 11 looking for the Parking Discipline Report. You can  
 12 best identify that with the number -- the header as  
 13 the name of the document. The header brief page.  
 14 THE HEARING EXAMINER: Perfect. Got  
 15 it. Thank you.  
 16 THE WITNESS: Forgive me for causing  
 17 confusion there. It wasn't labeled as an appendix,  
 18 so I --  
 19 THE HEARING EXAMINER: We're all set  
 20 Yeah. It's helpful to take a second to get me  
 21 oriented so I can track you, though.  
 22 MR. BROWER: Thank you for asking for  
 23 clarification of that.  
 24 BY MR. BROWER:  
 25 Q. So in -- when you did the parking study

Page 522

1 for SDOT before, did you use the same methodology?  
 2 A. I used an occupancy methodology but I  
 3 limited the parking displacement to areas that -- so  
 4 where there were other parking spaces nearby that  
 5 were in a 12 to 1500-foot walking distance.  
 6 Q. So to put it in laymen's terms, you  
 7 looked at the localized impacts instead of spreading  
 8 them out over a big area?  
 9 A. Right. So, for example, if we found that  
 10 there was a 100-percent loss of parking spaces at  
 11 the west end, but there was a zero-percent loss of  
 12 parking spaces at the east end, which is over a mile  
 13 away, it would be inappropriate to say that there's  
 14 no impact, because the number of parking spaces in  
 15 the study area remains the same.  
 16 Q. Mr. Kuznicki, did you also form an  
 17 opinion as to whether the Missing Link will create  
 18 more than a moderate risk of a traffic hazard or a  
 19 safety hazard?  
 20 A. I think the Missing Link itself creates a  
 21 traffic hazard and some of the proposed solutions to  
 22 the Missing Link do not appear to take the alternate  
 23 safety of people walking and people bicycling into  
 24 consideration.  
 25 Q. Why is that?

Page 523

1 A. Well, the NACTO Urban Design Guide  
 2 specifically addresses this issue when it discusses  
 3 the importance of separating commercial and bicycle  
 4 traffic to the extent possible.  
 5 Q. And what does that say?  
 6 A. Unfortunately I don't have the Guide in  
 7 front of me, but it describes creating adequate  
 8 facilities for commercial vehicles where those uses  
 9 are expected and where necessary, creating positive  
 10 barriers between commercial vehicles and people  
 11 walking, for example. So the National Association  
 12 of City Traffic Officials -- Transportation  
 13 officials, excuse me, published an Urban Design  
 14 Guide. And in that Urban Design Guide they have  
 15 dozens of depictions of typical urban street scenes  
 16 and how you might be able to treat people walking  
 17 and people bicycling so that they can do it safely.  
 18 And there are a number of statements related to  
 19 commercial vehicles. Oh, look at that.  
 20 Q. I've just handed the witness Volume 3.  
 21 A. Now you're going to ask me find this  
 22 without using control-find, right?  
 23 Q. Exhibit A-322. Is that the NACTO Urban  
 24 Design Guideline that you're talking about?  
 25 A. This is the Urban Bikeway Design Guide

Page 524

1 which is a subsequent publication.  
 2 Q. Okay.  
 3 A. But I can tell you what's in the Urban  
 4 Design Guide describes, for example, and this is  
 5 almost -- this, I would say, is a quote verbatim,  
 6 "Ballards" quote, unquote, to prevent turning trucks  
 7 from climbing in the sidewalk and striking the  
 8 pedestrians who are standing waiting for a crossing,  
 9 for example. The Urban Bikeway Design Guide talks  
 10 about the costs of maintain colored pavement and how  
 11 the placement of markings between tire tracks will  
 12 -- or where tire tracks are can increase the wear.  
 13 That's on page 129 of Exhibit A-322. I'm just going  
 14 back to some of the questions you asked me earlier  
 15 for the benefit of the Examiner.  
 16 It also discusses in several places the  
 17 need for sweeping and other maintenance activities  
 18 related to these multi-use paths. And if this  
 19 alignment is chosen and moves forward, there will be  
 20 significant maintenance costs associated with this  
 21 alignment. As it --  
 22 THE WITNESS: Mr. Examiner, are you  
 23 familiar, or can I ask the Examiner a question?  
 24 THE HEARING EXAMINER: No.  
 25 BY MR. BROWER:

Page 525

1 Q. Well, actually, let's --  
 2 THE HEARING EXAMINER: Go ahead.  
 3 BY MR. BROWER:  
 4 Q. I'm going to try and shorten us down  
 5 because --  
 6 A. Right. Okay.  
 7 Q. -- we got to keep moving on.  
 8 MR. BROWER: Mr. Examiner, I do need  
 9 to go back. I want to offer Exhibit A-309 as --  
 10 which is the Transpo study from 2005 that is the  
 11 basis for Mr. Kuznicki's opinion.  
 12 THE HEARING EXAMINER: Okay. That  
 13 would be A-11.  
 14 Any objections?  
 15 MR. KISIELIUS: Our objection remains.  
 16 I mean, he, in his own words, testified to what he  
 17 thought it meant and how it was more related to  
 18 something other than what he's testifying to.  
 19 THE HEARING EXAMINER: Okay. We've  
 20 already ruled on the objection, so I -- all right.  
 21 It's admitted.  
 22 (COALITION'S EXHIBIT A-10 ADMITTED.)  
 23 MR. BROWER: Thank you, Your Honor --  
 24 Mr. Examiner.  
 25 BY MR. BROWER:

Page 526

1 Q. So, Mr. Kuznicki, getting back to your  
 2 ultimate opinion on the safety of this trail and  
 3 whether it creates traffic hazard, the FEIS  
 4 repeatedly says that the trail will make this area  
 5 safer because it's going to organize this area. Are  
 6 you familiar with those statements?  
 7 A. Yeah. I believe there's a number of  
 8 statements related to that in the FEIS, yes.  
 9 Q. Do you agree with that statement?  
 10 A. In contrast to the Leary Avenue and  
 11 Ballard Avenue corridors, I don't believe that the  
 12 Shilshole Avenue's conducive to organization.  
 13 Q. Why isn't it conducive to organization?  
 14 A. Land use doesn't support it. Quite  
 15 simply, we have land use patterns that support and  
 16 have been commercial development for decades. And  
 17 as part of these commercial operations, there is a  
 18 -- the movement of vehicles in and out of driveways  
 19 isn't necessarily something that you can anticipate  
 20 or schedule. There's various vehicle types coming  
 21 in and out of different driveways at different times  
 22 of day. When it's wet, these vehicles go through  
 23 large potholes on private property and track water  
 24 and things all over onto the trail. Further -- or  
 25 onto the roadway. Further limits people's ability

Page 527

1 to understand what's happening. It's a difficult  
 2 area for a person bicycling, a person walking, or  
 3 even a person driving a motor vehicle because  
 4 there's simply a lot of activity. And the activity  
 5 is coming from all directions. There's parking and  
 6 de-parking maneuvers taking place on both sides of  
 7 the street, sometimes across the street. There's  
 8 vehicles coming in and out of driveways. All  
 9 different vehicle types, sometimes it's difficult to  
 10 discern whether the vehicle is waiting for is  
 11 actually imminently turning. It's typical of what  
 12 you would expect in a commercial area. It's highly  
 13 disorganized.  
 14 And speaking as a bicyclist, I personally  
 15 don't feel comfortable bicycling in those types of  
 16 areas because especially if there is a more viable  
 17 alternative, I'd be willing to go a slight distance  
 18 out of my way to simply not have to compete with  
 19 commercial vehicles as a bicyclist, because I know  
 20 how vulnerable I am to a larger vehicle.  
 21 Q. And, in part, because you have a  
 22 commercial driver's license.  
 23 A. Yeah. I mean, I guess I would -- I'm  
 24 combining my experience as -- extensive experience  
 25 as a bicyclist on urban streets all over the world

Page 528	Page 530
<p>1 with my operation of commercial vehicles, yes.                  2 MR. BROWER: Thank you, Mr. Kuznicki.                  3 I don't have any further questions.                  4 THE WITNESS: Thank you. Thank you.                  5 THE HEARING EXAMINER: Cross?                  6 MR. COHEN: Mr. Examiner?                  7 THE HEARING EXAMINER: Yes?                  8 MR. COHEN: When do you propose to                  9 take an afternoon break?                  10 THE HEARING EXAMINER: I was going to                  11 take us until 3:30, since we're going to go until                  12 5:30 after that.                  13 MR. COHEN: Thank you.                  14 THE HEARING EXAMINER: Is there a need                  15 to take one now or? We have an unusual schedule                  16 today because it's extended --                  17 MR. COHEN: Right.                  18 THE HEARING EXAMINER: -- from 8:30 to                  19 5:30. So our normal schedule is off. I don't -- if                  20 there's a request from a party to take one now we                  21 can --                  22 MR. BROWER: Mr. Cohen, do you need a                  23 snack?                  24 THE HEARING EXAMINER: We could do                  25 that.</p>	<p>1 Q. And is there a subcommittee that you sit                  2 on?                  3 A. I serve on the Regulatory and Warning                  4 Signs Technical Committee. I also am a member of                  5 the Pedestrian Task Force and on the Regulatory and                  6 Warning Signs Technical Committee. I generally                  7 represent the viewpoint of maybe the urban traffic                  8 engineer, the bicyclist, for example.                  9 Q. Okay. Let's talk a little bit about your                  10 use -- let's talk about the AutoTURN analysis. I                  11 think you called it the Swept Path Analysis using                  12 AutoTURN I think the vernacular we've just used is                  13 just AutoTURN for shorthand. So I just call it                  14 AutoTURN for the purposes of our questions. For how                  15 many projects have you used AutoTURN?                  16 A. I participated in the design of a number                  17 of projects that use AutoTURN. I probably couldn't                  18 tell you exactly how many, but my typical use of                  19 AutoTURN has been in performing intersection design,                  20 for example. Understanding sight analysis for                  21 private clients in terms of backing in and out of                  22 loading dock bays, for example, so it's been a                  23 fairly varied use of AutoTURN.                  24 Q. Would you say less than 12? Does that                  25 sound about right?</p>
Page 529	Page 531
<p>1 MR. BROWER: We've got a lot of                  2 snacks.                  3 MR. COHEN: I appreciate that. I                  4 don't need a snack.                  5 THE HEARING EXAMINER: Okay.                  6 MR. COHEN: I think a break would be                  7 helpful at some point. I can wait until 3:30 if                  8 that's --                  9 THE HEARING EXAMINER: We'll go at                  10 3:30 then. Thank you.                  11 MR. COHEN: Thank you.                  12 CROSS-EXAMINATION                  13 BY MR. KISIELIUS:                  14 Q Good afternoon, Mr. Kuznicki. I'm Tadas                  15 Kisielius, and I'll be asking you some questions on                  16 behalf of the Department of Transportation.                  17 A. Good afternoon, Mr. Kisielius.                  18 Q. Good to see you again. I'm going to ask                  19 you a real quick question in describing your                  20 background. You described your participation in a                  21 committee on behalf of a national organization to                  22 look at rules. Could you tell us again what that                  23 organization is?                  24 A. The organization is called the National                  25 Committee on Uniform Traffic Control Devices.</p>	<p>1 A. That's a good number.                  2 Q. Do you use AutoTURN commonly to evaluate                  3 driveways rather than intersections, for example?                  4 A. Yes. The private-site analysis work that                  5 I've done over the years in various capacities has                  6 used AutoTURN to evaluate vehicles coming in and                  7 out of driveways.                  8 Q. That's for private site. Were any of the                  9 corridor projects that you've worked on,                  10 transportation projects involving transportation                  11 facilities in a corridor? Do you typically use them                  12 on driveways or intersections?                  13 A. I recall in the -- when you say                  14 "corridor" could you tell me what you mean, please?                  15 Q. Well, you -- you're distinguishing some                  16 of your work, I think, in your answer by saying                  17 sight design facility. I'm referring to something                  18 like a road -- bicycle trail.                  19 Q. Right. So I've evaluated AutoTURN in the                  20 context of sight-access from a public street, yes.                  21 Q. For a driveway?                  22 A. Yes.                  23 Q. Okay. In your role of designing                  24 intersections or driveways, for that matter, what do                  25 you typically do with the AutoTURN results that are</p>

Page 532

1 presented to you? And I'm speaking from a design  
 2 standpoint.  
 3 A. Right. From a design standpoint. So we  
 4 want to determine that the geometric design  
 5 accommodates the vehicle that's been selected for  
 6 analysis if that's the goal of performing analysis.  
 7 We want to understand where that vehicle's swept  
 8 path is relative to roadside appurtenances such as  
 9 illumination poles, signing, the edge of a driveway  
 10 apron, for example.  
 11 Q. Well, how does a person responsible for  
 12 the design of an intersection typically address  
 13 issues that are identified in the AutoTURN analysis.  
 14 For example, other design treatments that you could  
 15 do to address concerns that are raised through a  
 16 swept path analysis?  
 17 A. Yeah. If we discover that he swept path  
 18 of the vehicle is likely to, you know, present a  
 19 hazard relative to striking a fixed object, we can  
 20 relocate the fixed object during design.  
 21 Q. What about design treatments in the  
 22 vicinity of the driveway?  
 23 A. Treatments for what? For hazards or for  
 24 other things?  
 25 Q. Well, yes. What would you do in the

Page 533

1 context of a design? What are some design -- if  
 2 you're -- if you get a swept path analysis that  
 3 shows a swept path that interferes with the design  
 4 or that crosses over something, are there design  
 5 treatments in the vicinity that you can use?  
 6 A. So if you're asking, let's say, for  
 7 example, we have an existing driveway, and a -- we  
 8 do an AutoTURN of a vehicle leaving that driveway  
 9 and we've closed off the median of the street, for  
 10 example, maybe because there's a planter. We're  
 11 trying to reduce vehicle speed, something like that,  
 12 and we find that the trailer's going to off-track  
 13 into the landscaping alongside the driveway, we  
 14 could choose to widen the driveway apron but there  
 15 are trade-offs associated with that. So if we widen  
 16 the driveway apron, now we've created the potential  
 17 for higher speeds for the exiting vehicles which  
 18 could present a hazard to people walking and people  
 19 bicycling on the sidewalk and/or on the street. And  
 20 we also have, by increasing the width of the  
 21 driveway, we've done some damage to driver  
 22 expectation as to where they should expect to see  
 23 that drop. So all these things have trade-offs.  
 24 Q. Could you -- are there other options?  
 25 Could you flatten the curb in the vicinity of the

Page 534

1 driveway?  
 2 A. Well, by widening the driveway apron, of  
 3 course, the curb would adhere to whatever design  
 4 criteria had been selected by the Agency, where the  
 5 driveway meets the street. If it were in an  
 6 intersection, for example, we could flatten the  
 7 curb, but that's not ideal because having a single  
 8 accessible pedestrian crossing apron is also a  
 9 problem because we want to separate them so the  
 10 pedestrian -- so, for example, sight -- pedestrians  
 11 with sight issues, if they can -- they don't want to  
 12 go down a single ramp that we've allowed a truck  
 13 tire to come over. We want to have separate ramps  
 14 for them. So all these things come with trade-offs.  
 15 Q. But that's something you could do. Is  
 16 somebody responsible for the geometric design?  
 17 A. It's something a geometric designer could  
 18 do, yes.  
 19 Q. Anything else from a design standpoint  
 20 that you could do to accommodate the vehicle?  
 21 A. Well, we could widen the radii of the  
 22 corner, but in an urban context I generally avoid  
 23 widening -- or I shouldn't say widening. But it  
 24 does create more pavement. I avoid having larger  
 25 radii on turns, so you could have a very tight curb

Page 535

1 radii in a turn, or you could have a wider, longer,  
 2 larger radii in a turn, which would allow the trucks  
 3 wheels to stay on the roadway instead of going up  
 4 onto the curb or forcing the driver to turn into the  
 5 left-turn lane on the receiving roadway. But the  
 6 down side of that is that it encourages higher  
 7 travel speeds by smaller vehicles, which we want to  
 8 discourage in an urban environment, because we want  
 9 to create a calm, slow speed space that's safer:  
 10 people walking and people bicycling.  
 11 Q. And can you address that specific concern  
 12 using a truck apron, for example?  
 13 A. You could have a concrete truck apron  
 14 that's slightly raised like in a roundabout, for  
 15 example, but that doesn't necessarily discourage  
 16 people that are aware of the -- their vehicle  
 17 dynamics and, you know, the design of the apron from  
 18 using it to short-cut the intersection. I think  
 19 that most motorcyclists and scooter riders would  
 20 probably traverse that space. And generally, they  
 21 ride at a higher speed than even vehicles do when  
 22 they're turning; for example, a single-passenger  
 23 truck -- passenger automobile.  
 24 Q. I understand you added a qualifier to  
 25 that, but is that something you could do to address

Page 536

1 that concern, yes or no?

2 A. I would attempt to find other ways to

3 mitigate that concern.

4 Q. But could you use that?

5 A. A geometric designer could do that, yes.

6 Q. In how many EIS's have you been involved?

7 A. Less than a dozen.

8 Q. Okay. Putting aside your work for your

9 review or your critique of this EIS, have you ever

10 used AutoTURN to support an EIS?

11 A. I believe I've directed staff to use

12 AutoTURN, but there's -- it -- there's so many

13 iterations of projects over the years, that I

14 couldn't possibly enumerate them all for you right

15 now without a considerable amount of research, if

16 that's where you're going. I don't know.

17 Q. Well, I guess I'm just trying to

18 understand the answer and --

19 A. Yeah.

20 Q. Did you prepare or oversee an AutoTURN

21 analysis in support of an EIS in the dozen or so

22 times you've worked on one?

23 A. Yeah. I believe so, yes.

24 Q. Is that consistent with the answer you

25 gave in your deposition?

Page 537

1 A. I may have said in the deposition that I

2 had not prepared any AutoTURN analysis myself,

3 because I couldn't recall specific times where I

4 did.

5 Q. I'm going to hand this to you. I'm going

6 to talk about it. So I'd ask you to turn to page

7 22, and I'm -- here I'm referring to the page

8 numbers on each of the quadrants, the upper right-

9 hand corner of each quadrant. And ask you to look

10 from 10 to -- I'm on 10 to 21. So you've said "yes"

11 just now. Can you --

12 A. To what did I say yes? I believe I said

13 that I couldn't specifically recall. Could you help

14 me understand the question?

15 Q. But you said, "I think yes" and I think

16 that's different than "I can't recall." I'm just

17 trying to get very precise here.

18 MR. BROWER: Objection. I believe he

19 said he can't specifically recall in response to

20 your question.

21 MR. KISIELIUS: I'm happy to clarify

22 that.

23 BY MR. KISIELIUS:

24 Q. Did you -- are you able to recall whether

25 you used an EIS in the context of the -- excuse me.

Page 538

1 Sorry. Are you able to recall whether or not you've

2 used AutoTURN to support an EIS?

3 A. I believe the answer that I gave you just

4 moments ago was that I can't recall if I have or

5 have not specifically, and I would -- I would have

6 to undertake a considerable amount of research to

7 describe to you the projects in which I've used it

8 and whether or not it was specifically in support of

9 an EIS.

10 Q. Okay. Thank you for that clarification.

11 You earlier in your testimony made a distinction

12 between EIS work and I think you said, you know, if

13 you broadened that to talk about all environmental

14 documents other than an EIS, so things that support

15 environmental review that don't lead into an EIS.

16 And making that same distinction, now we've talked

17 about EIS's.

18 Have you used an AutoTURN analysis to

19 support your work on that other category, the

20 broader category of environmental documents that

21 you've worked on?

22 A. I may have, but I can't specifically

23 state yes or no without giving it some due

24 consideration. It seems likely that could have

25 occurred.

Page 539

1 Q. Mr. Kuznicki, could you please turn to

2 page 23 and read from lines 5 to lines 9? Could you

3 please read that out loud, line 5 through line 9?

4 A. So you asked me a series of paragraphs

5 that ended in a question starting on line 5. "Have

6 you ever used AutoTURN analysis to prepare documents

7 that are used in the broader category of

8 environmental review, for example, to support

9 environmental checklists?" And my answer at that

10 time was "no."

11 Q. And so is that your answer?

12 A. My answer is that I -- if I were -- "no"

13 is a conservative answer based on the best of my

14 recollection, but if I were asked to conduct an

15 extensive review of the work that I've done over the

16 past 20 years, I may have done AutoTURN analysis in

17 support of an environmental review. But I don't

18 want to say for certain that, yes, I certainly have,

19 and here's the list of projects, because I don't

20 think that's appropriate in this context.

21 Q. Okay. Let's talk about your incursion

22 zone. Again, and we've had a lot of testimony on

23 that point before. I'd just like to ask you -- I

24 heard you say "We believe it's important."

25 Did you -- is that term, that concept



Page 540

1 reflected in any standard or regulation or  
 2 guideline?  
 3 A. I'm familiar with the concept being used  
 4 in -- well, let's see. How can I -- how can say  
 5 this? I don't specifically recall where I've seen a  
 6 similar concept used, but I know that the concept of  
 7 vehicles leaving the roadway and understanding where  
 8 those vehicles leave the roadway is an important  
 9 considering when you're assessing how pedestrians  
 10 and bicyclists may approach a vehicle that may be in  
 11 conflict with them.  
 12 Q. And I don't think you're answering my  
 13 question. I'm asking you if that's based on any  
 14 standard or guideline or rule.  
 15 A. As far as I know there's no standard that  
 16 says we have to assess how pedestrians might feel  
 17 threatened by the vehicles leaving the roadway.  
 18 Q. Mr. Kuznicki, is it -- in some of your  
 19 AutoTURN -- in some of your swept path depictions,  
 20 you've shown the trucks using both sides of the  
 21 driveway. Are you familiar with what I'm referring  
 22 to -- an entering or exiting truck using either side  
 23 of the driveway? We can pull up some examples if  
 24 you'd like. But I --  
 25 A. If you'd like to that would help me

Page 541

1 understand your question, yes.  
 2 Q. Okay.  
 3 A. Thank you.  
 4 MR. KISIELIUS: Mr. Brower, do you  
 5 mind if we can -- I can --  
 6 MR. BROWER: Sure.  
 7 MR. KISIELIUS: I can ask him to look  
 8 at the paper, but if --  
 9 MR. BROWER: If you can tell me which  
 10 one.  
 11 MR. KISIELIUS: Sure.  
 12 MR. BROWER: Which figure?  
 13 MR. KISIELIUS: I'm pulling it up on  
 14 mine. Sorry. It's taking a little longer. Can --  
 15 just pull up Figure 4.2.  
 16 MR. BROWER: Do A or B?  
 17 MR. KISIELIUS: Start with A, please.  
 18 Thank you, Josh. Mr. Brower.  
 19 MR. BROWER: Certainly.  
 20 THE HEARING EXAMINER: Are we  
 21 referencing A-310.21?  
 22 MR. KISIELIUS: Yes. And it's up on  
 23 the screen as well.  
 24 BY MR. KISIELIUS:  
 25 Q. So what I'm referring to, if you'll look

Page 542

1 at exhibit -- excuse me, driveway 10B, 10 bravo, and  
 2 the inbound vehicle represented in purple and as it  
 3 enters the driveway it is on the left side of the  
 4 driveway. So --  
 5 A. That's correct.  
 6 Q. So some of these, not all of them, but  
 7 some of them and I think driveway 11 shows a similar  
 8 phenomenon. Is the use of the full driveway to make  
 9 a maneuver acceptable?  
 10 A. It is in areas where there are  
 11 constraints whether real or perceived by the driver,  
 12 yes.  
 13 Q. Okay.  
 14 A. We assume, for the purposes of this  
 15 analysis that we would give the drivers the maximum  
 16 amount of space necessary to reduce the amount of  
 17 the trail that was covered by the swept path. So if  
 18 we had turned this vehicle into the right side of  
 19 that driveway and the driveway is not marked as to  
 20 inbound or outbound. There's no traffic control  
 21 devices that indicate whether it is inbound or  
 22 outbound, that we would have covered a significantly  
 23 larger portion of the trail. So in a sense, our  
 24 analysis leaned towards taking up the least amount  
 25 of the trail possible in the swept path analysis.

Page 543

1 Q. Okay. And let's talk a little bit about  
 2 the drone videos that we looked at. I think you had  
 3 explained how you identified conditions that aren't  
 4 there for purposes of both the driver and for the  
 5 animation as measurements from certain existing  
 6 objects. Did you paint any lines in the roadway to  
 7 guide Mr. Acrovick as he was driving the truck?  
 8 A. We used a paint gun to lay out the  
 9 approximately path of the AutoTURN so that we could  
 10 observe how closely he followed that in making what  
 11 he deemed to be an accurate or a typical turn into  
 12 the roadway.  
 13 Q. And how did you measure where to put the  
 14 paint?  
 15 A. Well, we had existing objects that were  
 16 shown on the plans that the City prepared, so we  
 17 were able to measure from an existing utility pole,  
 18 for example, using an engineering scale on a drawing  
 19 that had been plotted to scale. And then we used a  
 20 wheel to measure out in one-foot increments the  
 21 offsets from the center line of the turning vehicle  
 22 in one or three-foot increments along that axis.  
 23 So, in essence, it was like laying out a curb in --  
 24 on a highway, only in a much smaller scale.  
 25 Q. How'd you know which angle to take from

Page 544

1 the fixed object that you were measuring?  
 2 A. We didn't use angles. We simply went  
 3 perpendicular to the roadway. I tended to try to  
 4 keep things orthogonal to simplify this in the  
 5 field.  
 6 Q. And I guess I'm -- I understand the  
 7 distinctions you're making in terms of the level of  
 8 accuracy of the swept path, and I heard you say that  
 9 has a lot to do with oblique angle at those  
 10 locations, and that's reflected in the swept path.  
 11 A. It doesn't affect the accuracy of the  
 12 swept path, but it affects the -- what we perceive  
 13 when we look at the path that was traced behind the  
 14 trailer, yes.  
 15 Q. This is precisely what I want to explore  
 16 with you. How does an -- how is that not affecting  
 17 the accuracy of what we're looking at if, as I  
 18 understand it, the swept path is meant to show where  
 19 the truck has traveled. And on that screen it's  
 20 showing the truck is traveling through objects it  
 21 didn't hit. How is that not affecting the accuracy?  
 22 A. Because those videos are not being used  
 23 for engineering analysis. They were prepared to  
 24 provide a depiction for interested parties in order  
 25 to understand what a turning vehicle looks like when

Page 545

1 it crosses the trail. So a six-inch additional  
 2 swept path on the outside edge of the truck 24 feet  
 3 from the trail doesn't really affect a trail user.  
 4 That's why I attempted to center the drone over the  
 5 trail. We're concerned about the trail, are we not?  
 6 Q. So I guess, again, I understand the  
 7 answer. It's not meant for construction drawings or  
 8 precise engineering, but isn't that a reflection of  
 9 its accuracy? I heard you say you're standing  
 10 behind its accuracy, and I'm just -- it's -- I'm not  
 11 understanding that.  
 12 A. I'm standing behind its realism, which is  
 13 not necessarily to say that I -- that it is  
 14 accurate. I would not put a scale on that drawing,  
 15 and no scale was provided on the aerial video for  
 16 that expressed reason.  
 17 Q. What -- and if we could --  
 18 MR. KISIELIUS: Unfortunately,  
 19 Mr. Brower, there's no other way to do this other  
 20 than ask you to man this again. I'd like to look at  
 21 the video which has been admitted as A-8, please.  
 22 Excuse me. A-9, which is 313.4. If you could just  
 23 get it to the first frame and pause right there?  
 24 Sorry. If you could advance it until it stops?  
 25 Right there. A little further, sorry. That's

Page 546

1 perfect.  
 2 BY MR. KISIELIUS:  
 3 Q. So you had earlier talked about how this  
 4 accurately represents the swept path of this vehicle  
 5 as it was done. And I guess I'm wondering with the  
 6 starting location of that truck in the location of  
 7 the driveway whether you plotted it that way with a  
 8 cement truck to its side? Does the fact that the  
 9 truck is starting to its right, to our left further  
 10 in the driveway affect its ability to perform that  
 11 maneuver?  
 12 A. It actually reflects two things. Number  
 13 one, it reflects what is typically encountered in  
 14 this area, which is concrete trucks blocking the  
 15 driveway, and secondly, the trailer is actually  
 16 starting out further away from the side to which the  
 17 truck is turning. So we would have to see if it's  
 18 completely lined up at the point where he begins to  
 19 turn right. If it is, then there's no effect at  
 20 all. We have to look -- I look at the alignment of  
 21 the vehicle when he begins making the turn. But  
 22 this isn't intended to precisely allow us to draw  
 23 any specific conclusions. It's intended to depict  
 24 what we might expect to see on a typical day.  
 25 Q. And see, I guess that's the problem I'm

Page 547

1 having. I'm hearing you say on some instances that  
 2 this is an accurate reflection of the AutoTURN  
 3 analysis. It's an accurate depiction. In other  
 4 instances I'm hearing you say we shouldn't pay  
 5 attention too much to this. And this is an example  
 6 where I'd like to explore it a little bit more,  
 7 because your testimony is that this is reflective of  
 8 where the swept path would encroach upon the trail.  
 9 And my question to you is by lining the truck up to  
 10 the far side of the driveway as it is here in making  
 11 that right-hand turn, will that swept path cross  
 12 over more of the trail from that location?  
 13 MR. BROWER: Objection. It  
 14 mischaracterizes the prior testimony.  
 15 MR. KISIELIUS: My question  
 16 mischaracterizes it?  
 17 MR. BROWER: Yes. You said that he  
 18 said "Don't pay any attention to this." He never  
 19 said that.  
 20 THE HEARING EXAMINER: I took that as  
 21 not part of the question.  
 22 MR. BROWER: Okay.  
 23 THE HEARING EXAMINER: Just side-  
 24 commenting.  
 25 BY MR. KISIELIUS:

Page 548

1 Q. The question remains, Mr. Kuznicki, is  
 2 the truck from its location on the far side of the  
 3 driveway, is the swept path of that truck going to  
 4 cross over more of the trail that is not in the  
 5 driveway?  
 6 A. Well, let's press play and find out. I  
 7 mean, we can watch the video again, because if we  
 8 see that the trailer and the truck are completely  
 9 lined up before the -- he begins turning the wheel,  
 10 then there's no difference than if the trailer and  
 11 truck were completely lined up 40 feet from the  
 12 beginning of the turn.  
 13 Q. So you're not able to tell us right now  
 14 that if the truck was in -- starting in the location  
 15 of the cement truck whether that would change the  
 16 swept path and the amount to which it encroaches on  
 17 the trail outside of the drive?  
 18 A. It would displace the swept path to a  
 19 distance equal to the distance between the center  
 20 lines of both tractors.  
 21 Q. And would that result in a swept path  
 22 that is more within the driveway confines and  
 23 encroaches less on the trail that is outside of the  
 24 driveway?  
 25 A. Yes, but in operationally that's unlikely

Page 549

1 to occur because the concrete trucks stop alongside  
 2 the building because that's where the water hoses  
 3 are that they use to clean out their equipment to  
 4 comply with environmental regulations.  
 5 Q. I understand why in this picture that  
 6 might not be as likely to occur, but I just heard  
 7 you say that it would be okay, appropriate to use  
 8 the full driveway if that truck was not there.  
 9 A. It could be, but I -- I'm sorry I didn't  
 10 qualify that and say depending upon the needs of the  
 11 specific businesses.  
 12 Q. Okay. I'm going to ask you a very quick  
 13 question about the blind spot diagram that  
 14 Mr. Brower presented to you earlier in your  
 15 testimony.  
 16 A. Yes.  
 17 Q. And I just want to make sure I'm  
 18 understanding that time to collision. That assumes  
 19 that neither the truck nor the bicycles stop.  
 20 Correct?  
 21 A. It --  
 22 Q. And maintain that speed?  
 23 A. It assumes that the, yes, that the truck  
 24 and the bicyclist remain unaware of each other for  
 25 whatever reason.

Page 550

1 Q. Okay. And so, your model there assumes  
 2 that -- and I heard you testify about the truck  
 3 driver looking in his mirror rather than looking in  
 4 the direction to which he is turning. And is that  
 5 accurate? Would the truck driver be looking at his  
 6 mirror and not also trying to look where he's going?  
 7 A. the cyclist is not --  
 8 Q. I'm sorry. The truck driver.  
 9 A. Yeah. The operator of the truck will be  
 10 looking at his mirror and looking into the driveway  
 11 to ensure that the path is clear and may not see the  
 12 bicyclist approaching the driveway.  
 13 Q. But would the truck driver in that  
 14 instance be exclusively focused on his left mirror  
 15 or would that truck driver be also trying to look in  
 16 the direction in which the truck is heading?  
 17 A. In that case, they may look more down  
 18 into the driveway, but they -- it is unlikely that  
 19 they would glance in the direction of Truck A.  
 20 Q. And then the bicyclist, your model --  
 21 your graphic assumes that when they see the truck  
 22 turning at some point, or that they just don't until  
 23 there's the collision. Is that correct?  
 24 A. Yes. Collisions like that happen  
 25 routinely.

Page 551

1 Q. Okay. did you complete any similar level  
 2 of analysis of the other build alternatives?  
 3 A. We were not asked to that and the  
 4 specifics of certain build alternatives, in some  
 5 cases there were more driveways but fewer movements,  
 6 fewer commercial vehicle movements. But I was not  
 7 asked to conduct that analysis.  
 8 Q. And what about -- I heard you testify a  
 9 little bit about existing conditions. But did you  
 10 do a similar level of analysis from existing  
 11 conditions on the preferred alternative route?  
 12 A. Under existing conditions, the bicyclists  
 13 when -- upon seeing a vehicle stop in front of them.  
 14 If there's insufficient distance to pass on the  
 15 right side, they would have to stop behind that  
 16 vehicle. So we did not expect that a bicyclist  
 17 would come up alongside of a stopped truck at  
 18 20-miles-an-hour riding on the white edge line. So  
 19 we didn't perform that analysis.  
 20 Q. I realize I wasn't clear in my question  
 21 to you. I wasn't referring just to the blind spot.  
 22 I'm referring to your AutoTURN analysis and your  
 23 assessment of potential conflicts between bicyclists  
 24 and trucks entering and exiting driveways. Did you  
 25 do a similar level of analysis of bicyclists and

Page 552

1 those conflicts under the no build alternative on  
 2 the preferred alternative route?  
 3 A. We relied on observation for that.  
 4 Q. Is the answer no? I'm not understanding.  
 5 A. Well, the answer is no, we did not  
 6 perform any mathematical, statistical engineering  
 7 analysis for that existing condition.  
 8 Q. Thank you. Let's talk a little bit about  
 9 design vehicles. So each of those sheets has a  
 10 design vehicle identified with it. How did -- did  
 11 you consider frequency with which a truck would use  
 12 a driveway when determining the design vehicle?  
 13 A. The design vehicles are selected, and I  
 14 wouldn't necessarily call them a design vehicle.  
 15 They're the vehicles selected for analysis is the  
 16 term that I'm using.  
 17 Q. Did you create -- it says "design  
 18 vehicle" on the sheet. Is that incorrect?  
 19 A. That's how AASHTO refers to them.  
 20 Q. Okay.  
 21 A. So there's a little bit of an  
 22 inconsistency here because -- but the -- forgive me  
 23 for pausing to answer your question. You asked me  
 24 if I considered frequency. Our understanding was  
 25 that the businesses indicated that these vehicles

Page 553

1 were in use in their existing operations. And we  
 2 anticipated that the City would not act to limit or  
 3 constrain the existing land use in order to drive  
 4 these businesses out of business. And would,  
 5 therefore, accommodate the vehicles that the  
 6 businesses were currently using.  
 7 Q. So is there a set frequency, a number of  
 8 movements per week or per day or per month that you  
 9 look to in making your judgment about the design  
 10 vehicle for this study?  
 11 A. I relied on Mr. Bishop's interviews with  
 12 the business owners over what vehicles most  
 13 frequently used those driveways.  
 14 Q. Could you please take a look at your  
 15 transcript again and turn to page 33 and 34? And  
 16 please read starting at line 24 of page 33, excuse  
 17 me -- line 23.  
 18 THE HEARING EXAMINER: Which page?  
 19 MR. KISIELIUS: 33 and I'm -- yeah.  
 20 BY MR. KISIELIUS:  
 21 Q. Could you read that out loud, please?  
 22 A. Would you remind me of the line numbers  
 23 again, please?  
 24 Q. 23 on page 33.  
 25 A. 23, page 33. So Mr. Kisielius asked me

Page 554

1 the question "And so it sounds like the -- well, is  
 2 there a set frequency, a number of movements per  
 3 week, per day, per month that you look to in making  
 4 your judgment about whether you should include that  
 5 truck in the AutoTURN analysis?" And I said, "Yes.  
 6 Zero."  
 7 Q. Just keep reading.  
 8 A. He said, "So is there anything above zero  
 9 warrants inclusion?" And I replied, "We didn't have  
 10 specific counts, but if there was a need to move a  
 11 particular good, something in and out of a driveway,  
 12 we wanted to include it."  
 13 Q. Okay.  
 14 THE HEARING EXAMINER: Stop and take a  
 15 break there.  
 16 (Recess taken.)  
 17 THE HEARING EXAMINER: Okay. We're  
 18 back on the record. The witness, Mr. Kuznicki is on  
 19 cross with Respondent, and we're just waiting for  
 20 Mr. Kuznicki to return.  
 21 THE WITNESS: I apologize. Restroom.  
 22 THE HEARING EXAMINER: Your witness,  
 23 Mr. Kisielius.  
 24 BY MR. KISIELIUS:  
 25 Q Mr. Kuznicki, we were talking about design

Page 555

1 vehicles. Have you worked on other studies that  
 2 require identification of a design vehicle?  
 3 A. Yes.  
 4 Q. And how do you select the design vehicle  
 5 in those other instances? Here I'm focused on the  
 6 question that we left with, which is is there a  
 7 frequency that you consider before identifying  
 8 something as a design vehicle?  
 9 A. Generally, we would select a design  
 10 vehicle based on the functional classification of  
 11 the roadway and the expected land use.  
 12 Q. Okay. And how about accommodating for  
 13 vehicles? Do you think about frequency with which  
 14 those vehicles will use the driveway if you want to  
 15 accommodate them in the design?  
 16 A. That may actually be related more to  
 17 policy than to engineering, and could be related to  
 18 the cost of accommodating those vehicles.  
 19 Q. I guess I'm not understanding. Is the  
 20 frequency with which a truck uses a driveway  
 21 relevant to your judgment of whether or not you'd  
 22 identify it either as a design vehicle or something  
 23 that you need to accommodate in the design?  
 24 A. It can be.  
 25 Q. Okay. Does your judgment about what

Page 556

1 design vehicle you identified vary depending upon  
 2 who your client is?  
 3 A. Depends on the direction of the specific  
 4 client and their policies.  
 5 Q. Is that yes?  
 6 A. Well, in the context of regulations from  
 7 the State or the requirements of federal funding  
 8 contracts. So it may or may not be.  
 9 Q. May or may not be. Mr. Kuznicki, would  
 10 you please read page 38, line 15 through 17 out  
 11 loud, please?  
 12 A. You said line 17?  
 13 Q. 15 through 17.  
 14 A. Line 15 you asked, "If you were to select  
 15 a design vehicle for these driveways, would this  
 16 list look different?" And I believe you were  
 17 referring "by this list" to the list of vehicles  
 18 that we selected for the swept path analysis. And  
 19 my response on line 17 was "It depends on who my  
 20 client is." And in that case I wasn't referring to  
 21 different public or public sector clients. I was  
 22 referring to whether I had been retained to do the  
 23 analysis for the City of Seattle, which is the --  
 24 both the proponent and the reviewer of this  
 25 environmental impact analysis or whether I was

Page 557

1 retained to do the analysis for the Ballard  
 2 Coalition, for example.  
 3 Q. So your answer would be different in  
 4 those situations?  
 5 A. Yes, because the Ballard Coalition is  
 6 going to consider the needs of the businesses along  
 7 the corridor explicitly and identifying the vehicles  
 8 that they believe need to be served by the design of  
 9 the corridor.  
 10 Q. Let's take a different example. Today  
 11 you testified to some concerns about signage and  
 12 pavement markings as an effective measure to provide  
 13 safety. Is that a fair statement? You were  
 14 referring to that 2005 Transpo study.  
 15 A. That study identified signing and  
 16 pavement markings that conform to the M-U-T-C-D that  
 17 are believed to provide an effective traffic control  
 18 devices would be probably a better characterization.  
 19 Q. I'm not understanding. Are -- do you  
 20 have concerns, did you testify -- I'll just ask the  
 21 question. Do you think that signage and pavement  
 22 markings and those types of treatments are effective  
 23 ways to improve safety for non-motorized  
 24 transportation?  
 25 A. I believe that some signing and some

Page 558

1 pavement markings show a demonstrated safety benefit  
 2 and we judiciously apply those in the design  
 3 process, yes.  
 4 Q. All right. And in 2011, in your work for  
 5 the City Department of Transportation did you sign  
 6 and stamp the 100 percent design drawings for the  
 7 trail related to the pavement markings and the  
 8 signage on the trail?  
 9 A. I don't specifically recollect stamping  
 10 them, since sometimes we were not asked to stamp  
 11 certain submittals. But I recall that I believe we  
 12 did prepare 100-percent design plans, yes.  
 13 MR. KISIELIUS: Please hand this to  
 14 Mr. Kuznicki.  
 15 BY MR. KISIELIUS:  
 16 Q. And this will reflect -- refresh your  
 17 recollection.  
 18 MR. BROWER: Objection. I mean, we've  
 19 been hit with repeated objections about using design  
 20 plans that aren't related to this document. These  
 21 are design plans from 2011. How is this relevant to  
 22 the adequacy of this EIS?  
 23 MR. KISIELIUS: Two things. First of  
 24 all, Mr. Brower raised this as a relevant issue to  
 25 his knowledge of the Trail. And more importantly,

Page 559

1 however, this goes to the witness's credibility.  
 2 He's raised some questions about the effectiveness  
 3 in his direct, when he's questioned about the  
 4 effectiveness of design treatments such as signage  
 5 and pavement markings. And this line of questioning  
 6 we're going to demonstrate a prior inconsistent  
 7 statement.  
 8 THE HEARING EXAMINER: Understood.  
 9 Overruled.  
 10 BY MR. KISIELIUS:  
 11 Q. Do you recognize those drawings?  
 12 A. Yes, sir.  
 13 Q. Do those bear your engineer stamp?  
 14 A. They bear my stamp, yes.  
 15 Q. And does the part of the fence that you  
 16 signed and stamped that you're looking at show  
 17 driveways and intersections and in particular  
 18 signage and pavement markings?  
 19 A. So signing and pavement marking that  
 20 conform to the requirements of the Manual and  
 21 Uniformed Traffic Control Devices, yes.  
 22 Q. So can you, for the Examiner's benefit,  
 23 remind us what's the significance of the engineer's  
 24 signature and stamp on a plan set?  
 25 A. It signifies that the engineer has

Page 560

1 prepared or supervised the preparation of these  
 2 plans and that they conform to all applicable  
 3 regulations in force at the time of the preparation.  
 4 Q. And are you familiar with the ASCE, the  
 5 American Society of Civil Engineers Code of Ethics  
 6 and what they say about the signing and the stamping  
 7 of plan sets?  
 8 A. I believe that the mission of the ASCE is  
 9 to, well, yes, I am familiar with it.  
 10 Q. Do you abide by those ethical CANS?  
 11 A. Yes, sir.  
 12 Q. Would you agree that when you stamp your  
 13 marking on a safe for public health and welfare in  
 14 conformity with the accepted engineering standards?  
 15 A. To the best of the available tools,  
 16 that's what we do as engineers, yes.  
 17 Q. Okay. And so, in signing and stamping  
 18 are you testifying or are you agreeing that you  
 19 thought that those pavement markings and signs were  
 20 safe for public health and welfare and conformity  
 21 with all engineering standards?  
 22 MR. BROWER: I'm going to object  
 23 again. That's a completely different design.  
 24 MR. KISIELIUS: I'm talking about the  
 25 design plans as an abstract. And if he has the

Page 561

1 concerns he raised today about their available to be  
 2 effective, I'm allowed to ask.  
 3 THE HEARING EXAMINER: As a  
 4 generality? Overruled.  
 5 MR. BROWER: Okay.  
 6 BY MR. KISIELIUS:  
 7 Q. If you had concerns about the  
 8 effectiveness that you expressed today of the  
 9 signage and pavement markings, based on the study  
 10 that predates the plan set that you signed and  
 11 stamped, should you have signed and stamped these  
 12 plans?  
 13 A. I believe that in this case the warning  
 14 signs and regulatory signs that were included in the  
 15 plan set meet the requirements of the M-U-T-C-D,  
 16 which is the standard of care for transportation  
 17 engineering design in the United States.  
 18 Q. And does that mean that they're safe for  
 19 public health and welfare?  
 20 A. Most of these signs have been in use for  
 21 decades and appear to provide a benefit to  
 22 motorists.  
 23 Q. And if the current design were utilized,  
 24 signage and pavement markings that were consistent  
 25 with those standards, would those also be safe for

Page 562

1 public safety health and welfare?  
 2 MR. BROWER: I am going to object  
 3 again, because now we're using 2011 design to  
 4 compare to the current design. In the abstract it's  
 5 fine, but now you're doing exactly what you've said  
 6 we can't do, which is to reach back in time and look  
 7 at the prior design.  
 8 MR. KISIELIUS: I'm not asking whether  
 9 he is approving this one. I'm saying if he were to  
 10 apply the same standard in looking at the design  
 11 treatments that he has been criticizing.  
 12 THE HEARING EXAMINER: Design  
 13 standards which may change over time. They don't  
 14 have to be the same.  
 15 MR. BROWER: In all --  
 16 THE HEARING EXAMINER: It's not about  
 17 the design standards. It's to the credibility of  
 18 the witness.  
 19 MR. BROWER: I'll withdraw that  
 20 objection. Thank you for clarifying.  
 21 THE WITNESS: So what --  
 22 BY MR. KISIELIUS:  
 23 Q. So if the design were to utilize signage  
 24 and pavement markings that were consistent with the  
 25 standard that you referenced, would those be safe

Page 563

1 for public health and welfare in your professional  
 2 judgment?  
 3 A. I recall explaining earlier that this  
 4 design did not cover a significant portion of the  
 5 trail alignment that's been proposed in the 2017  
 6 FEIS. And so --  
 7 Q. Mr. Kuznicki, I'm going to interrupt you.  
 8 I'm not asking about that design. I'm asking you,  
 9 because you just testified that when, in stamping  
 10 this, you determine that they were safe for public  
 11 health and welfare. And I -- because they complied  
 12 with the standard. And I'm asking you if the design  
 13 treatments, the signage and the pavement markings  
 14 complied with those standards, would they be safe  
 15 for health and welfare?  
 16 A. Were we to be asked -- were I to be asked  
 17 to design this today, for the proposed trail  
 18 alignment, I would probably raise objections due to  
 19 the frequency of vehicles entering and exiting some  
 20 of the driveways that were avoided by the 2011  
 21 alignment. These are two completely different  
 22 projects in my estimation if that helps understand  
 23 my answer.  
 24 Q. And what are some of those differences?  
 25 Does this trail go across Shilshole and the

Page 564

1 driveways to which you testified?  
 2 A. It goes across some of them but not all  
 3 of them.  
 4 Q. Okay. And for those some of them, if  
 5 they were to use signage and pavement markings that  
 6 were consistent with the standard, would they be  
 7 safe for public health and welfare?  
 8 A. The practice of engineering, we  
 9 understand and recognize humbly that we can't  
 10 guarantee safety. But we seek to implement traffic  
 11 control devices that exhibit a crash-modification  
 12 factor or some other measure of effectiveness that  
 13 shows that drivers recognize and attempt to adhere  
 14 to them.  
 15 Q. Does this -- you're testifying that  
 16 there's some distinctions. You said "some of them."  
 17 Can you talk -- I'm focused on the specific portion  
 18 along Shilshole. Is the route the same location?  
 19 MR. BROWER: Objection. Now we're  
 20 actually making apples to apples comparison of the  
 21 2011 design to the current design.  
 22  
 23 MR. KISIELIUS: It's --  
 24 MR. BROWER: I get that, you know, if  
 25 you're asking him whether the standards apply,

Page 565

1 that's one thing. But now you're asking him does  
 2 the 2011 -- is the 2011 design exactly the same as  
 3 this design.  
 4 MR. KISIELIUS: He's trying to  
 5 distinguish by saying he's more comfortable stamping  
 6 because it was different in material ways, and it is  
 7 not. And that's what I'm trying to get at.  
 8 MR. BROWER: Well, that's a different  
 9 position than the City's taken all through this  
 10 case.  
 11 MR. KISIELIUS: The location, the  
 12 corridors are what we're talking about here.  
 13 Whether the crossings are the same out the footprint  
 14 crossings.  
 15 MR. BROWER: Are the crossings in the  
 16 exact same place? I think they've been moved,  
 17 haven't they?  
 18 MR. KISIELIUS: Mr. Examiner, I -- we  
 19 could have this colloquy or I'd like to ask the  
 20 witness the question.  
 21 MR. BROWER: Yeah.  
 22 THE HEARING EXAMINER: Well, you are  
 23 starting to go beyond the easily identifiable zone  
 24 that you were in before of going at the witness's  
 25 credibility. And now we're talking about the actual

Page 566

1 plan itself, which was not to be the subject of it.  
 2 I understand the point that you're now making is  
 3 that he bought off on at one point, and you're  
 4 saying this is the same. And he's not answering  
 5 that question. So I -- I don't see that we can go  
 6 too far down that path of talking about the plan.  
 7 But I would ask the witness to answer the question  
 8 that's been directed to him.  
 9 THE WITNESS: Would you say that  
 10 again, please the last part? I --  
 11 THE HEARING EXAMINER: I would ask you  
 12 to answer the question that's been directed to you.  
 13 THE WITNESS: So a lot has transpired  
 14 in the last 42 seconds. Could you remind me of the  
 15 question, please?  
 16 BY MR. KISIELIUS:  
 17 Q. Does the alignment that you're designing  
 18 in 2011 cross the same driveways along Shilshole as  
 19 the current route or the preferred alternative?  
 20 A. The design is completely different. The  
 21 trail is on the other side of the railroad tracks in  
 22 that portion of the alignment. And so, it crosses  
 23 some of the same driveways, but the conditions are  
 24 different. There is a fence involved that's not  
 25 depicted in the FEIS. The design, the entire design

Page 567

1 philosophy is different from what's contained in  
 2 this side path design in the FEIS.  
 3 Q. I understand all that. I was asking --  
 4 I'm trying to ask a very targeted question. I  
 5 understand the location of the footprint is  
 6 different. I understand that. I'm asking if the  
 7 route of the corridor -- the route of the preferred  
 8 alternative is along the same corridor as the one  
 9 that you looked at here along the Shilshole.  
 10 A. No. It's not.  
 11 Q. In what way is it different?  
 12 A. It --  
 13 Q. And if you need to look at the plans that  
 14 I've brought, we can do that.  
 15 A. This is entirely consistent with what I  
 16 stated before which was that the trail was displaced  
 17 from Shilshole between Vernon Place and 17th Avenue  
 18 Northwest.  
 19 Q. And the remainder of the locations, is it  
 20 the same vicinity of Shilshole?  
 21 A. While they may be the same driveways, the  
 22 conditions and business activity at the time were  
 23 different and the FEIS Transportation Discipline  
 24 Study makes a point that designs and studies  
 25 submitted between 2008 and 2011 were not even

Page 568

1 considered by this FEIS because conditions had  
 2 changed along the corridor.  
 3 Q. Study that you were relying on was the  
 4 day that I testified -- the one that you just  
 5 testified to?  
 6 A. This --  
 7 Q. The one that Mr. Brower asked you to look  
 8 at?  
 9 A. Yes. The Transpo study from 2005. To be  
 10 clear, I was not a Transpo employee at the time as  
 11 you know. And I was only made aware of that study  
 12 in the course of testifying for this case.  
 13 Q. Okay. Let's talk about that briefly.  
 14 You had talked about some findings from that study  
 15 that were on page, I believe you said, 9 or 10? Are  
 16 those findings -- page 10. Excuse me. Page 9,  
 17 Bicycle stop compliance. Are those findings --  
 18 THE HEARING EXAMINER: I would like to  
 19 have a reference, please, sir?  
 20 MR. KISIELIUS: Sorry. It's -- in  
 21 that binder it's going to be A-309. And now we  
 22 moved the binder. And I apologize. I don't recall  
 23 the Examiner --  
 24 THE HEARING EXAMINER: Is this an  
 25 exhibit?

Page 569

1 MR. KISIELIUS: It was one Mr. Brower,  
 2 yes.  
 3 MR. BROWER: It's exhibit 11 -- A-11.  
 4 THE HEARING EXAMINER: Thank you. Is  
 5 -- one thing I will ask the parties, if -- I do like  
 6 to look at what the witness is looking at. So what  
 7 I would ask you to do is give me a heads up if I  
 8 need to be looking at -- if you're going to do a  
 9 one-off question and it'll take me -- honestly, it  
 10 takes me a good 30 seconds to get one of the binders  
 11 open then I don't want to do it. But if you could  
 12 kind of just give me a heads up if I should be  
 13 looking at it, as we go, that will be helpful.  
 14 MR. KISIELIUS: I appreciate that. I  
 15 apologize. I would anticipate that this should only  
 16 take a couple seconds.  
 17 THE HEARING EXAMINER: Great.  
 18 THE WITNESS: Hi.  
 19 BY MR. KISIELIUS:  
 20 Q. Are those -- are you -- are we on the  
 21 same page?  
 22 A. So you said page 11. Is that correct?  
 23 A. No. Page 9.  
 24 Q. Page 9. Thank you. This is the page to  
 25 which you testified earlier about compliance and you

Page 570

1 talked about some observations about bicyclists  
 2 compliance with the stop signs. Are those specific  
 3 to locations that were studied in this report?  
 4 A. The results of the study appear to be  
 5 solely related to those locations.  
 6 Q. Okay. And where were those locations?  
 7 Mr. Brower said Seattle. Do you agree? And I refer  
 8 you to page 1.  
 9 A. They were along Bothwell Way Northeast  
 10 and some of the enumerated locations are Northeast  
 11 100 70th Street, Northeast 165th Street, Northeast  
 12 153rd Street, Northeast 151st Street.  
 13 Q. What city are those in?  
 14 A. Well, let's see if they tell us.  
 15 Q. I'm referring to page 1.  
 16 A. Well, I could take a guess, but I'm not  
 17 in the business of guessing, so let me just look at  
 18 see here. They appear to be in the City of Lake  
 19 Forest Park, and I'm referring to page 001 of the  
 20 A-309, Figure 1. So it's the 11 study intersections  
 21 are located wholly within the municipal limits of  
 22 Lake Forest Park.  
 23 Q. Okay. I want to ask you briefly about  
 24 your park testimony about parking. You talked about  
 25 doing some work on parking analyses before. Have

Page 571

1 you done any in the context of an EIS on parking  
 2 analysis specifically?  
 3 A. I've done parking analysis that's  
 4 required by, I guess, required by law for  
 5 development, yes.  
 6 Q. That wasn't my question. Did you do a  
 7 parking analysis associated with an EIS?  
 8 A. I can't recall if the 2011 study was used  
 9 in anything other than a response to a SEPA  
 10 checklist or a response to a challenge to a SEPA  
 11 checklist. You'd have to jog my memory, so...  
 12 Q. You can't recall whether the work you did  
 13 in 2011 was associated with an EIS or not -- the  
 14 parking study that you were referring to earlier?  
 15 A. I could look in here and see if it was.  
 16 I'm sorry. At this point I can't recall  
 17 specifically to where I can say yes or no.  
 18 Q. Okay. Did you -- do you recall whether  
 19 you were looking at different alternatives beyond  
 20 the one that you studied in your parking analysis?  
 21 A. I would have to review the report that I  
 22 prepared in 2011 in order to answer that question.  
 23 MR. KISIELIUS: Okay. Mr. Kuznicki, I  
 24 have no further questions for you.  
 25 THE WITNESS: Thank you, sir.



Page 572

1 MR. COHEN: I do have some questions.  
 2 THE WITNESS: Good afternoon.  
 3 CROSS-EXAMINATION  
 4 BY MR. COHEN:  
 5 Q. Good afternoon, Mr. Kuznicki. We've met  
 6 before, but I'm Matt Cohen of the Cascade Bike Club.  
 7 I want to ask you about the information you used for  
 8 Transpo's AutoTURN analyses. My understanding from  
 9 your testimony earlier is that the locations of the  
 10 driveways were obtained from the CAD data that the  
 11 City of Seattle supplied to you?  
 12 A. We were supplied that CAD data by Vic  
 13 Bishop. And you would have -- I -- we know that it  
 14 came from the City, but we're unsure of how it got  
 15 to us.  
 16 Q. Thank you. Did you find any driveways  
 17 that were not included in that CAD data?  
 18 A. I recall we found two or three  
 19 discrepancies, but I can't recall whether they were  
 20 missing driveways or driveways that were closed. I  
 21 do know that there was one driveway that was shown  
 22 that went into the wall of a building, so I presume  
 23 that it was not open to vehicular use, so...  
 24 Q. Did you run any AutoTURN analyses on  
 25 driveways or driveway configurations that were not

Page 573

1 provided in that CAD data?  
 2 A. In order to answer that question, I'd  
 3 have to check our records.  
 4 Q. What would you have to look at?  
 5 A. We would look at the original CAD  
 6 drawings that were provided to us, and then we would  
 7 compare them with the AutoTURN results that we  
 8 generated.  
 9 Q. Okay. As you sit here today, can you  
 10 recall any instance in which you ran an AutoTURN  
 11 analysis on a driveway that was not depicted in the  
 12 CAD data?  
 13 A. I can't specifically recall, but that  
 14 doesn't mean that there wasn't one.  
 15 Q. Okay. Thank you.  
 16 MR. COHEN: Mr. Brower, could you  
 17 indulge me by putting Exhibit A-6 up on the TV?  
 18 MR. BROWER: A-6. What is Exhibit  
 19 A-6?  
 20 MR. COHEN: I believe it is  
 21 Mr. Kuznicki's diagram of the blind spots facing a  
 22 cyclist --  
 23 MS. FERGUSON: 313.1.  
 24 MR. BROWER: It's a good thing I did  
 25 AB in junior high school. Figure 1, Mr. Cohen?

Page 574

1 MR COHEN: it's a single figure.  
 2 MR. BROWER: Showing the break in the  
 3 pavement?  
 4 MS. FERGUSON: 313. -- it's the blind  
 5 spots.  
 6 MR. BROWER: Oh, the blind spots.  
 7 MS. FERGUSON: I have it as 313.1.  
 8 MR. BROWER: Got it. It's all the  
 9 notebooks.  
 10 MR. COHEN: Thank you very much.  
 11 MR. BROWER: Certainly.  
 12 BY MR. COHEN:  
 13 Q. Mr. Kuznicki, this diagram reflects a  
 14 hypothetical analysis that -- where a hypothetical  
 15 situation that you created?  
 16 A. It reflects a hypothetical situation  
 17 that's based on situations that I've encountered as  
 18 a bicyclist, yes.  
 19 Q. And this diagram depicts a trail on one  
 20 side of the street, correct?  
 21 A. It depicts a two-way cycle path that has  
 22 a five-foot buffer zone between the path and the  
 23 street, yes.  
 24 Q. Five-foot buffer zone as depicted by the  
 25 lighter shade of grey in Exhibit A-6?

Page 575

1 A. That's correct. Yes.  
 2 Q. All right. And what you described is a  
 3 situation in which a collision could arise because  
 4 truck A would begin his left turn and not be able to  
 5 see a cyclist approaching from the west. Is that  
 6 correct?  
 7 A. Yes.  
 8 Q. And you analyzed that problem for  
 9 cyclists traveling at two different speeds?  
 10 A. That's correct.  
 11 Q. Would you agree with me that the very  
 12 same situation could arise if there was no trail and  
 13 if the cyclist was riding on the right edge of your  
 14 hypothetical street in the same configuration of the  
 15 trucks?  
 16 A. I don't agree that that would be the  
 17 result of placing a bicycle facility on this  
 18 roadway, yes.  
 19 Q. Or of having cyclists using the existing  
 20 condition, correct?  
 21 A. Depends on the level of experience of the  
 22 cyclist. Some cyclists may feel comfortable passing  
 23 Truck B, but they would be placing their wheel on  
 24 the right edge of the roadway where there's a lot of  
 25 gravel that's been moved about by vehicles moving in

Page 576

1 and off the parking area. I would think that most  
 2 cyclists would significantly reduce speed if they  
 3 were passing truck B on the right. And I think the  
 4 inexperienced and less confident cyclist would  
 5 probably simply stop behind the truck and wait.  
 6 Q. And that would depend on how long the  
 7 truck sat there?  
 8 A. I believe it depends on the -- yes,  
 9 whether the cyclist had seen the truck moving, the  
 10 duration of time that the truck was sitting in  
 11 place, the experience level of the cyclist, the  
 12 condition of the pavement, the roadway, the debris,  
 13 et cetera.  
 14 Q. Would you further agree with me that the  
 15 problem created by your hypothetical is that the  
 16 facts you've depicted leave very little time for  
 17 either the cyclist or the driver of truck A to react  
 18 when they realize that the cyclist is moving into  
 19 that turn path?  
 20 A. I disagree that it's a problem. I think  
 21 that it's the depiction of a realistic situation.  
 22 Q. Fine. But would you agree that the  
 23 safety risk inherent in that situation is caused or  
 24 exacerbated by the fact that the cyclist and the  
 25 driver of truck A have very little time to react

Page 577

1 because Truck B blocks the vision of both  
 2 participants?  
 3 A. A limited time to react is a general  
 4 contributor to crashes, yes.  
 5 Q. And would the safety problem that you  
 6 identify through that exhibit, be more severe where  
 7 the cyclist is approaching from the west behind  
 8 truck B and trying to pass truck B on the right  
 9 while truck B is stopped in the middle of the road  
 10 worse than the situation of a trail because the  
 11 offset nature of the trail gives the parties a  
 12 little more time to react?  
 13 A. The difference in time is probably -- I  
 14 would have to calculate it. It may be only 20  
 15 percent of the total time available. I think that  
 16 the real issue here is that we're mixing commercial  
 17 vehicle traffic and bicycle traffic when there are  
 18 closely spaced parallel streets that do not present  
 19 this hazard at all whether the bicyclists are on a  
 20 separated side path or in a bike lane.  
 21 Q. I understand your view is that you think  
 22 the Missing Link should be built out at a different  
 23 location. But --  
 24 A. I didn't say that.  
 25 Q. All right. But in the hypothetical

Page 578

1 you've created, wouldn't the risk to the cyclist be  
 2 greater if there was no trail and the cyclist was  
 3 riding on the side of the street approaching truck B  
 4 from behind and awaiting the unknown risk from truck  
 5 A?  
 6 A. It may be less because bicyclists  
 7 operating on the street adjacent to large vehicles  
 8 may slow down. They may have a different level of  
 9 risk tolerance. Whereas a bicyclist operating on a  
 10 separated two-way cycle track assumes that they have  
 11 the right-of-way and that the coast is clear and  
 12 rightfully so, because that's how right-of-way laws  
 13 are generally structured and interpreted. So it may  
 14 be that the level of risk is lower for bicyclists  
 15 using adjacent bike lane, but we can't make that  
 16 determination without a significant study of crashes  
 17 in similar locations.  
 18 Q. Did you review the evidence cited in the  
 19 FEIS of the record of incidents involving 9-1-1  
 20 calls to the Seattle Fire Department?  
 21 A. I don't specifically recall reviewing  
 22 that, but I know that the Transportation Discipline  
 23 Report contains extensive information on crashes in  
 24 the study area.  
 25 Q. Did you analyze it?

Page 579

1 A. I examined it, but found it to be a --  
 2 no, I didn't analyze it specifically depending on  
 3 what the word "analyze" means.  
 4 Q. Did it persuade you that there is already  
 5 a significant incidence of accidents and safety  
 6 issues involving bicycles and motorized traffic in  
 7 the study area?  
 8 A. Seems to me from my cursory review of  
 9 that information, that this particular portion of  
 10 the study area, which was avoided by the design in  
 11 2011, is hazardous to bicyclists.  
 12 Q. But bicyclists, nevertheless, currently  
 13 try to navigate through Ballard on Shilshole Avenue.  
 14 A. I've done that myself.  
 15 Q. Why?  
 16 A. Not being sarcastic -- because it is kind  
 17 of thrilling and I like industrial areas, and I  
 18 enjoy bicycling there, but I am extremely cognizant  
 19 of the hazards that exist. But if a parallel route  
 20 were given to me that were clearly marked and  
 21 provided significant advantage to bicyclist, I would  
 22 probably choose to take that.  
 23 Q. Thank you.  
 24 MR. COHEN: Mr. Brower, could you pull  
 25 up Exhibit A-8?

Page 580

1 MR. KISIELIUS: A-313.3.  
 2 MR. COHEN: Thank you, sir.  
 3 I don't actually need the video  
 4 element of it, but I do need the truck -- yeah,  
 5 that's good enough. Thank you.  
 6 BY MR. MR. COHEN:  
 7 Q. Mr. Kuznicki, this exhibit shows --  
 8 what's the size of the truck entering or preparing  
 9 to enter the driveway there?  
 10 A. I believe it conforms to WB-67.  
 11 Q. WB-67. Thank you. And am I correct in  
 12 thinking that this is the entrance point to Salmon  
 13 Bay Sand and Gravel?  
 14 A. This is one of two entrances, yes.  
 15 Q. Did you listen to Mr. Olstad's testimony  
 16 this morning?  
 17 A. No. I'm sorry. I wasn't able to be  
 18 here.  
 19 Q. So do you have any information about how  
 20 often a truck of that size enters Salmon Bay Sand  
 21 and Gravel?  
 22 A. Well, we know that concrete mixer trucks  
 23 use that entrance extremely frequently, and that  
 24 these trucks enter to deliver palleted materials and  
 25 a few other things. But we were not -- I wasn't

Page 581

1 specifically given information on the frequency  
 2 because my task was to evaluate the turning  
 3 movements.  
 4 Q. And why did you select a WB-67 truck to  
 5 document the turning movements in and out of Salmon  
 6 Bay Sand and Gravel?  
 7 A. Number one, we wanted to illustrate a  
 8 scenario where a fully-loaded truck would be turning  
 9 in to deliver materials and many flatbed trailers  
 10 are 53 feet in length so they would comprise a WB-67  
 11 vehicle. And as far as the exiting movement goes,  
 12 those vehicles have no choice but to use that exit.  
 13 Q. My question is why did you choose a WB-67  
 14 rather than a Ready-Mix truck?  
 15 A. We wanted to show the extent to which a  
 16 WB-67 would affect the operations and potentially be  
 17 a safety hazard to people cycling on the trail.  
 18 Q. Did anyone tell you that a WB-67 ever  
 19 enters that driveway?  
 20 A. I'd like to refer to the list that Vic  
 21 Bishop provided us, if that's possible. Do you have  
 22 the AutoTURN analysis handy? And there's a list  
 23 that shows all the vehicle types, so... Oh it is  
 24 this one. Well, that makes it handy. Okay. Thank  
 25 you. Sorry. I just blanked on -- according to this

Page 582

1 driveway 9, Salmon Bay -- I'm looking at A-310.21,  
 2 page 1. According to this driveway 9, Salmon Bay's  
 3 Sand and Gravel southeast building driveway is WB-67  
 4 semi-trailer truck left turn in. Concrete trucks in  
 5 only both directions.  
 6 Q. And that information was provided to you  
 7 by whom?  
 8 A. We received the information on the  
 9 vehicles that we were being asked to evaluate from  
 10 Vic Bishop.  
 11 Q. Okay. I see that there is a car  
 12 positioned on the south side of the trail on the  
 13 west edge of that driveway that the truck is about  
 14 to pull into. You see what I'm talking about?  
 15 A. Is it the dark colored vehicle that's  
 16 partially over the right line for the driveway to  
 17 the northwest?  
 18 Q. Yes.  
 19 A. Okay. Yes. I see it.  
 20 Q. Did you position that car in that  
 21 location?  
 22 A. No. We offered no restrictions on  
 23 parking in that area. The Salmon Bay Sand and  
 24 Gravel placed pallets -- stacks of pallets and  
 25 crates to the southeast in order to allow the

Page 583

1 double-bottom or the double-trailer bulk materials  
 2 truck to come in. Normally there would be vehicles  
 3 parked there. But we didn't restrict who could park  
 4 in that location.  
 5 Q. So I see that the car appears to intrude  
 6 upon the driveway to the west?  
 7 A. Maybe slightly but this area's not  
 8 conducive to organization especially when it comes  
 9 to parking. It's unpredictable.  
 10 Q. And that the car also constrains the  
 11 approach to the driveway that your truck was  
 12 proposing to turn into?  
 13 A. It constrains it no more than the fixed  
 14 object that appears to be placed to the northeast of  
 15 the vehicle. In some places in here the business  
 16 owners have placed large drums in order to prevent  
 17 vehicles from striking other fixed objects.  
 18 Q. So from your perspective, that car was  
 19 just sitting there and you designed your turn to  
 20 accommodate the presence of that vehicle sitting  
 21 there?  
 22 A. I did not design a turn. The driver made  
 23 the turn based on real-world conditions.  
 24 Q. And would that turn have been easier for  
 25 the truck and the swept path of the truck's turn

Page 584

1 cover less of the trail if the driver did not have  
 2 to maneuver around that car?  
 3 A. Most likely it would have displaced the  
 4 swept path to the northwest by maybe two feet, three  
 5 feet, perhaps. But the actual area covered by the  
 6 swept path would be unlikely to change, because he  
 7 still has to turn left, and he still has to line his  
 8 vehicle up so that the entire trailer is straight  
 9 when he goes into the driveway. Because there are  
 10 some constraints where those trees and the utility  
 11 pole with electrical lines are located.  
 12 Q. Did you run any turn hypotheticals with  
 13 your drone aloft with a cement Ready-Mix truck?  
 14 A. The -- we may have caught some on some of  
 15 the video, but we did not animate those in any way.  
 16 Q. You just decided not to create an exhibit  
 17 out of that situation?  
 18 A. The swept path of the concrete mixer  
 19 trucks doesn't impact the trail in the same way, but  
 20 their volume and the material that they could  
 21 conceivable track onto the trail was of a greater  
 22 concern to us. So it didn't seem like a good source  
 23 of resources to show a swept path analysis for a  
 24 concrete truck when it was only going to take  
 25 one-and-a-half to two times it's width on the trail

Page 585

1 versus a Wb-67, which could take up two-to-three  
 2 times its width and is a longer vehicle. So it's  
 3 crossing of the trail takes longer so it blocks the  
 4 trail for a more significant amount of time.  
 5 MR. COHEN: No further questions.  
 6 THE HEARING EXAMINER: I have a few  
 7 questions.  
 8 EXAMINATION  
 9 BY THE HEARING EXAMINER:  
 10 Q. For Exhibit A-16, this is the illustration  
 11 of the two trucks with the bicycles and the  
 12 viewpoints --  
 13 A. Could we remind me of where that is in  
 14 here?  
 15 MS. FERGUSON: 313.1.  
 16 THE WITNESS: Thank you. Oops, I  
 17 don't have that in here. I have it in here. 313.1.  
 18 BY THE HEARING EXAMINER:  
 19 Q. And I'm not going to refer to anything  
 20 specific on the illustration, so --  
 21 A. Could I ask you to speak up, sir, please?  
 22 Q. Sure.  
 23 A. Thank you.  
 24 Q. I'm not going to refer to anything  
 25 specifically on the drawing, so --

Page 586

1 A. Okay.  
 2 Q. -- you don't necessarily need that open.  
 3 I'm trying to place this in the context of the  
 4 analysis that I need to do and essentially is the  
 5 analysis -- questioning the analysis that the City  
 6 did. What -- I guess that's the question is what do  
 7 I do with this? What is this showing me in the  
 8 context of this appeal?  
 9 A. What is depicting is the challenges that  
 10 people bicycling will have when they have to deal  
 11 with heavy vehicles and the sight distance  
 12 constraints that these vehicles impose.  
 13 Q. Okay.  
 14 A. So as a cyclist, this -- these situations  
 15 can be very uncomfortable for a cyclist. And a  
 16 cyclist with limited experience or cyclists who view  
 17 the trail, the side path as a significantly safer  
 18 facility may be oblivious to the hazards that could  
 19 occur.  
 20 Q. So this is an example of the A-type of  
 21 conflict that can happen between bicyclists and the  
 22 industrial truck traffic that is in the area?  
 23 A. Yes.  
 24 Q. In the context of the proposal?  
 25 A. It is, yeah. It is -- maybe we would

Page 587

1 call it a left-hook crash so to speak.  
 2 Q. Okay. I want to make sure with this is  
 3 if it's more than an example or not. But if it's an  
 4 example, I understand its use. Are you suggesting  
 5 that -- now we had from Ms. Hirschey conflict points  
 6 -- multiple conflict points that were identified.  
 7 And this seems to be a conflict point. In fact, you  
 8 used the same type of explosive illustration of red.  
 9 I don't know -- blood, or whatever that is that's  
 10 happening right at the conflict point. Are you  
 11 suggesting that this level of analysis happened for  
 12 each conflict point? That would be required for an  
 13 EIS or is that beyond what you think would be  
 14 required for an EIS?  
 15 A. Perhaps what I am suggesting,  
 16 Mr. Examiner, is that contrasting the vehicles that  
 17 typically use this facility and these driveways with  
 18 vehicles that might use a parallel route, would be  
 19 something that would help us understand the relative  
 20 safety of different choices. So knowing that trucks  
 21 will be using these facilities, and will be turning  
 22 into these driveways, but that -- those same trucks  
 23 will not be using another parallel facility such as  
 24 Ballard Avenue would help a planner or an engineer  
 25 who were writing an EIS -- provide an adequate

Page 588

1 assessment of the relative safety between two  
 2 potential alternatives.  
 3 Q. And do you see something like this in the  
 4 EIS analysis?  
 5 A. I would say that we could contrast this  
 6 -- we could say that in preparing an EIS attention  
 7 needs to be paid to the vehicle types that will  
 8 provide a safety hazard to bicyclists and attempt to  
 9 mitigate that. So you could mitigate it by  
 10 prohibiting trucks from using this facility, by  
 11 prohibiting trucks from turning. You could change  
 12 the land use of the facility along Shilshole and  
 13 relocate all of the businesses, which is something  
 14 that has been mentioned as potential mitigation in  
 15 other documents. So I can't specifically quote, but  
 16 I know that that is often a mitigation that is  
 17 proposed and eliminate the hazard that way. Or you  
 18 could provide an alternative alignment or an  
 19 alternative design that mitigates some of these  
 20 hazards.  
 21 Q. And that's by ensuring in the analysis  
 22 that the type of vehicles in these types of  
 23 locations are sufficiently identified in the EIS?  
 24 A. Yes. Yes. As a cyclist when I'm on my  
 25 bicycle I can see straight through an SUV. I can

Page 589

1 look at the movie that they're watching on their  
 2 computer screen. I can see right through the  
 3 windshield. But I can't do that with a truck. So  
 4 operating in an environment with cars is vastly  
 5 different from operating in an environment with  
 6 trucks. And I'm primarily concerned about the  
 7 safety of bicyclists and how bicycles perceive the  
 8 safety of a separated two-way cycle track.  
 9 Q. Okay. One thing I want to make sure that  
 10 I understand, we've had a couple witness now,  
 11 yourself and Mr. Bishop, addressing incursion zone,  
 12 warning zone, swept path and I guess I want to make  
 13 sure that if I can pass by you my understanding of  
 14 that at this point so that at least it may meet what  
 15 you expect for those.  
 16 A. Sure. Please.  
 17 Q. It seems to me that the -- is it correct  
 18 that the swept path -- now you did an analysis of  
 19 the swept path. You and Mr. Bishop both did a swept  
 20 path analysis essentially for the area.  
 21 A. It's more accurate to say that Mr. Bishop  
 22 gave us the information and Transpo staff performed  
 23 the swept path analysis using commercially available  
 24 software called AutoTURN, yes.  
 25 Q. Okay. So you did do a swept path

Page 590

1 analysis?  
 2 A. Yes. We did.  
 3 Q. Okay. And is the incursion zone shown on  
 4 the illustrations, is that essentially illustrative  
 5 of where the swept path is going to have an impact  
 6 or where it's located?  
 7 A. It illustrates longitudinally along the  
 8 trail alignment where the vehicles -- any portion of  
 9 the vehicle -- in other words, the swept path --  
 10 Q. The swept path. Right.  
 11 A. -- is not within the lane.  
 12 Q. Okay. So it's -- I guess I'm trying to  
 13 confirm then. It's -- the incursion zone, which has  
 14 been compared to the warning zone, and I'm not sure  
 15 there is a comparison between the two. The  
 16 incursion zone is essentially an illustrative tool  
 17 of where the swept path goes across the curb either  
 18 into the buffer or onto the trail outside of the  
 19 driveway area.  
 20 A. Yes. It's where the vehicle leaves the  
 21 confines of the roadway where bicyclists would  
 22 expect to see them.  
 23 Q. All right. Well, let's move on to  
 24 warning zone now. As I see it, what the warning  
 25 zone is then that the City has identified this is a

Page 591

1 location where you might warn about a potential  
 2 incursion zone coming up or even a driveway or  
 3 something along those lines. But there's not  
 4 necessarily a correlation between the incursion zone  
 5 and the warning zone.  
 6 A. My understanding from what the -- what  
 7 was prepared for the City by their consultants was  
 8 that there was no correlation between the warning  
 9 zone and either the swept path portion that actually  
 10 touches the trail or the incursion zone where the  
 11 swept path is outside of the roadway. What I  
 12 understood from the several depictions of the  
 13 warning zone which seemed to be taken from different  
 14 graphics is that the purpose of the warning zone was  
 15 to alert people on bicycles that they should be  
 16 aware of a driveway.  
 17 And, in essence, it's aptly named because  
 18 when we place a diamond-shaped warning sign on the  
 19 roadway it's a certain distance in front of the  
 20 hazard based on the vehicle's speed. Right? So  
 21 which would be the design speed of the facility, so,  
 22 for example, every warning zone would therefore be  
 23 the same length approaching each driveway because  
 24 the design speed would indicate a certain distance  
 25 ahead of the driveway for which we should warn the

Page 592

1 bicyclists where we can't put up signs, for example.  
 2 As you can see in some of these areas, a  
 3 sign could easily be struck by one or more turning  
 4 trucks coming out of or going into driveways if the  
 5 sign were placed in the buffer zone.  
 6 Q. So the warning zone is essentially a  
 7 design tool?  
 8 A. Yes. It's a -- as they have it depicted,  
 9 it's an area of colored or textured pavement that  
 10 may or may not have a word or symbol associated with  
 11 it on the pavement to tell the person on the bicycle  
 12 or the rollerblades or any trail user that there is  
 13 a driveway up ahead.  
 14 Q. And that may or may not be influenced by  
 15 the equivalent of your incursion zone analysis?  
 16 A. No. It's unlikely that they would be  
 17 concomitant with the swept path.  
 18 Q. And just to confirm, did you see anything  
 19 -- in the EIS was there an analysis of the swept  
 20 path of the -- what you call the incursion zone  
 21 areas and impacts that would be associated?  
 22 A. State the last part of that question  
 23 again, please?  
 24 Q. Was there analysis in the EIS of the  
 25 swept path or what you called the incursion zone?

Page 593

1 A. There was no analysis of the incursion  
 2 zone and I don't recall there being specific  
 3 information about how they were going to handle  
 4 bicycle-user expectations of the swept path area and  
 5 where trucks could potentially be as they made their  
 6 turns.  
 7 Q. Okay. And lastly, you touched on this a  
 8 minute ago when you talked about the warning zone.  
 9 But did you see how the City achieved deciding where  
 10 those would go or size or application for that  
 11 design element?  
 12 A. Did I see -- what was the last part? Did  
 13 I see what?  
 14 Q. For the warning zone, how'd they get  
 15 there with the City and its EIS?  
 16 A. I don't believe that the depiction  
 17 illustrated any specific means of calculating the  
 18 area that would be covered by the warning zone.  
 19 Q. Moving on to your -- there were several  
 20 videos associated with your testimony and I want to  
 21 understand how those were used or not by you. Did  
 22 the videos factor in to your turning movement  
 23 analysis or were they essentially illustrative of  
 24 factors in this area?  
 25 A. We had actually completed our AutoTURN

Page 594

1 swept path analysis at the time that we made the  
 2 video. It was for illustrative purposes only and  
 3 not intended to be precise, but just to provide a  
 4 general depiction of what a real-life turning  
 5 vehicle would look like were it to make some of the  
 6 typical movements that occur.  
 7 Q. Okay. And there was a question asked by  
 8 Mr. Cohen at the end. And the question was about  
 9 whether you could comment on the -- I believe it was  
 10 -- and maybe I'll just rephrase it and you'll tell  
 11 me what the answer is. But I believe the question  
 12 was related to the -- whether you could comment on  
 13 the impacts potential adverse impacts of -- and this  
 14 is back in Exhibit A-6 where you've got your  
 15 potential collision with the bicycle path in place.  
 16 A. Yes.  
 17 Q. Could you -- and he asked you if you  
 18 could comment on the adverse impacts of a scenario  
 19 similar to that with the trucks but where the  
 20 bicycle path was not in place. And I understood  
 21 your answer to be that you couldn't without  
 22 significant study. Is that fair or did I not hear  
 23 that correctly?  
 24 A. I believe that what I said is -- I think  
 25 you are correct that I did say that if I were tasked

Page 595

1 with designing this facility I would want to  
 2 understand the implications of those different  
 3 design choices and that I would want to understand  
 4 the relative crash risk posed by a bicycle lane  
 5 adjacent to the traffic lane versus a two-way cycle  
 6 track in the context of this area. So we know that  
 7 there are certain safety -- there's trade-offs with  
 8 everything in engineering design, right? So there  
 9 are certain benefits to two-way cycle tracks and  
 10 there are certain safety hazards associated with  
 11 them.  
 12 And the same goes to for bicycle lanes  
 13 and so -- what I believe what I also said was that  
 14 my understanding of it is that we would -- if we  
 15 were to examine it, we would want to recognize which  
 16 trade-offs we were willing to accept. And we would  
 17 want to study it in the context of this particular  
 18 scenario to see what bicycle behavior was in the  
 19 field. So I don't -- I'm not aware presently of any  
 20 studies that have looked at contrasting two-way  
 21 cycle tracks versus bicycle lanes in industrial  
 22 areas with significant fraction of commercial  
 23 vehicle traffic. That's not to say that that study  
 24 couldn't be done.  
 25 Q. Without that, I guess my concern with the

Page 596

1 answer I heard with your response to Mr. Cohen in  
 2 saying, well, we need study on that to be able to  
 3 answer it, is that you've given testimony on other  
 4 impacts that I'm not sure if we have that analysis.  
 5 For example, on the impacts that you were showing, I  
 6 don't think you've done an analysis on that. So I  
 7 guess I'm not sure do you need study to know whether  
 8 there's these impacts or not or can you, based on  
 9 your opinion, expert opinion, give that type of  
 10 answer?  
 11 A. Well, I think the overall answer that I  
 12 would give is that again, I don't know that you can  
 13 mitigate the impact of large, heavy vehicles  
 14 operating in a facility that is bounded by parked  
 15 vehicles and gravel areas sometimes on both sides  
 16 without removing the heavy vehicles from the  
 17 equation. If you're concerned about providing the  
 18 safest possible system, this conflict placed -- the  
 19 heavy vehicles are quite a ways above the users on  
 20 bicycles in terms of their ability to cause damage  
 21 and ability to hurt a vulnerable user. And my  
 22 concern is primarily as a cyclist with providing a  
 23 roadway that can be ready by the cyclist, so that  
 24 the cyclist understands and appreciates the risks  
 25 without needing to -- really from just reading the

Page 597

1 context without needing to resort to all kinds of  
 2 signing that might be nonstandard or not used  
 3 elsewhere or not thoroughly tested or not prescribed  
 4 by existing standards.  
 5 THE HEARING EXAMINER: No further  
 6 questions.  
 7 Redirect?  
 8 MR. BROWER: Thank you.  
 9 REDIRECT EXAMINATION  
 10 BY MR. BROWER:  
 11 Q. Mr. Kuznicki, is there a scientific  
 12 technical term for the angle of the camera that  
 13 we're looking at here?  
 14 A. Yeah. I believe I referred to it as an  
 15 oblique angle, but we would -- technically, we would  
 16 call that a parallax effect.  
 17 Q. And that's the effect of making something  
 18 look a little bit off center or off to the side?  
 19 A. Yes. It's very common in photography and  
 20 video, yes.  
 21 Q. Going back to the questions that Counsel  
 22 was asking about the 100-percent design plans that  
 23 you signed back in 2011, those were 100-percent  
 24 design plans?  
 25 A. Am I allowed to comment on these? I

Page 598

1 don't know that Counsel admitted them to the record.  
 2 Q. No. I just want to know if they're 100  
 3 percent or not.  
 4 A. This is the 100 percent review set which  
 5 is not for construction. And while my seal appears  
 6 on there I don't recall actually signing the plans.  
 7 Q. So it's just your seal, but there's no  
 8 sign -- excuse me. No signature through your stamp?  
 9 A. Not on the set that was I was provided,  
 10 no.  
 11 Q. But that is 100 percent at least design  
 12 review set?  
 13 A. Right. It's not -- it's intended for the  
 14 City to review what is the complete set of plans,  
 15 but we wouldn't refer to it as the next step which  
 16 would be a proof set or the final set for  
 17 construction, which would be the advertisement set  
 18 which would bear, not only the engineer stamp but  
 19 also his or her signature.  
 20 Q. Okay. And at 100 percent, can you make  
 21 determinations and conclusions that you can't make  
 22 at 10 percent?  
 23 A. The 100-percent design includes not only  
 24 the geometric design of the roadway, which is its  
 25 essential configuration, but all the appurtenances

Page 599

1 that would be associated with the construction  
 2 including illumination, new curb and gutter, all of  
 3 the design treatments for accommodating users at  
 4 intersections for ADA for example. And it also  
 5 includes all of the signing and pavement markings so  
 6 we can see what specific traffic control devices  
 7 were intended as mitigation for hazards.  
 8 Q. And can you make those same  
 9 determinations at the 10 percent that the FEIS is  
 10 written on?  
 11 MR. KISIELIUS: I'm going to object  
 12 only because -- well, he's talking about an exhibit  
 13 there -- evidence -- excuse me, not evidence -- a  
 14 document that was used during cross-examination. The  
 15 line of questioning is about a topic to which he has  
 16 not testified in terms of the level of design that's  
 17 needed for the EIS, which we did not ask about on  
 18 cross-examination.  
 19 MR. BROWER: That's not my question.  
 20 I'm trying to -- Mr. Kisielius asked him whether he  
 21 was certifying to health, safety and welfare based  
 22 on a stamp. And my point goes to you can make that  
 23 determination at one level of percentage design, but  
 24 you may or may not be able to make that at a  
 25 different percentage of design.

Page 600

1 THE HEARING EXAMINER: Overruled.  
 2 BY MR. BROWER:  
 3 Q. Can you make those same determinations at  
 4 10 percent?  
 5 A. I would question, sir, whether the FEIS  
 6 even included a 10-percent design. It includes a  
 7 depiction of the alignment in Figure 1-3, the  
 8 preferred alternative, but I don't see specific  
 9 information in the FEIS that is similar to what we  
 10 received that the City had prepared in terms of  
 11 actually showing the rough trail alignment and its  
 12 crossings of all the driveways. So if someone only  
 13 had the FEIS at their disposal, you think it would  
 14 be very difficult for them to make a determination  
 15 on whether specific hazards had been mitigated.  
 16 MR. BROWER: Thank you. No further  
 17 questions.  
 18 THE HEARING EXAMINER: Thank you,  
 19 Mr. Kuznicki.  
 20 Do you have any further witnesses?  
 21 MR. BROWER: Yes. We do.  
 22 THE HEARING EXAMINER: Okay. Get  
 23 going, please.  
 24 MR. BROWER: Okay. Thank you. The  
 25 Coalition calls Spencer Cohen.

Page 601

1 THE HEARING EXAMINER: And while we're  
 2 shuffling things, just to remind you, we are going  
 3 to go until 5:30 today. Ms. Johnson will leave us  
 4 at 5, but the recording will continue.  
 5 Will you please state your name for  
 6 the record and spell your last name?  
 7 MR. COHEN: My name is Spencer Cohen.  
 8 Last name is C-o-h-e-n.  
 9 THE HEARING EXAMINER: Do you swear or  
 10 affirm the testimony you provide it today's hearing  
 11 will be the truth?  
 12 MR. COHEN: I do.  
 13 THE HEARING EXAMINER: Thank you.  
 14 SPENCER COHEN,  
 15 a witness, having been first duly sworn,  
 16 was examined and testified as follows:  
 17 DIRECT EXAMINATION  
 18 BY MR. BROWER:  
 19 Q Good afternoon, Mr. Cohen. Thank you for  
 20 joining us. Would you please identify the business  
 21 you work for and state your business address for the  
 22 record?  
 23 A. The business I work for is called  
 24 Community Attributes. And the location of business  
 25 is 1411 4th Avenue, Suite 1401, Seattle, Washington

Page 602

1 91185.  
 2 Q. Mr. Cohen, would you please describe your  
 3 educational background for us after high school?  
 4 A. I have a Bachelor's Degree in mathematics  
 5 and history from the University of Connecticut in  
 6 2001. I then earned a Master's Degree in China  
 7 studies from the Jackson School at the University of  
 8 Washington in 2005. And then I completed my Ph.D.  
 9 in geography from the University of Washington in  
 10 2016.  
 11 Q. Are you an economist?  
 12 A. In my role at Community Attributes, I  
 13 serve as senior economist.  
 14 Q. Would you please describe your work  
 15 background starting in 2005 after you completed your  
 16 Master's Degree?  
 17 A. Beginning in 2005, I did a contract job  
 18 for at the time the Washington State Department of  
 19 Community Trade and Economic Development. I then in  
 20 2006 -- I'm sorry. 2006 through 2008 I served as a  
 21 teaching assistant at the University of Washington  
 22 in the Geography Department. From 2008 until 2011,  
 23 I served as research manager with the Washington  
 24 State Department of Community Trade Economic  
 25 Development, which, in 2009 changed names to the

Page 603

1 Washington State Department of Commerce. And then  
 2 2011 to 2013, I served as senior policy advisor with  
 3 the Washington Economic Development Commission. And  
 4 then from 2013 to the present I served first as  
 5 senior economic analyst and then senior economist  
 6 with Community Attributes.  
 7 Q. Would you please describe your typical  
 8 work with Community Attributes as the senior  
 9 economist?  
 10 A. My role until essentially servicing as  
 11 the chief economist for Community Attributes, so I  
 12 lead the majority of our economics research. A lot  
 13 of our projects deal with economic impact studies  
 14 for local governments as well as for non-profits in  
 15 industry associations. We also do a fair amount of  
 16 work-force analytics including projects for King  
 17 County and for the City of Seattle. And we've done  
 18 some economic forecasting and econometrics work as  
 19 well for government and non-profit clients.  
 20 Q. What is econometrics?  
 21 A. It's the statistics. It's economic  
 22 statistics. Statistical analysis.  
 23 Q. Were you and Community Attributes  
 24 retained by my law firm Veris Law Group to provide  
 25 an expert opinion regarding whether or not locating



Page 604

1 Missing Link in front of maritime and industrial  
 2 businesses, business driveways, loading docks, and  
 3 loading and unloading areas would cause more than a  
 4 moderate risk of an adverse economic impact to these  
 5 businesses?  
 6 A. I was.  
 7 Q. And did you form such an opinion?  
 8 A. I did.  
 9 Q. And what is your opinion? Will it cause  
 10 more than a moderate risk of an adverse economic  
 11 impact to these maritime and industrial businesses?  
 12 A. My opinion, based on the research that  
 13 I've done and the reports that I've reviewed has led  
 14 me to believe that there will be more than a  
 15 moderate adverse impact.  
 16 Q. So let's go back and talk about what  
 17 that's based on. What information and materials did  
 18 you review in forming your opinion? And what I'd  
 19 like to do, slow down, is to have you turn to -- I  
 20 apologize. I wrote down the wrong number.  
 21 THE ASSISTANT: Can I help?  
 22 MR. BROWER: I'm looking for his list  
 23 of information that he reviewed.  
 24 THE ASSISTANT: It's part of his  
 25 deposition?

Page 605

1 MR. BROWER: It is. I'm going there.  
 2 Sorry.  
 3 THE WITNESS: It might -- may I add to  
 4 my prior statement?  
 5 BY MR. KISIELIUS:  
 6 Q. Certainly.  
 7 A. (Indiscernible) of my belief that there  
 8 would be more than moderate impacts, I believe based  
 9 on the presentation of information thus far, but I  
 10 also believe that there's insufficient -- I believe  
 11 that there needs to be more analysis to be done.  
 12 There's thus far been insufficient analysis in my  
 13 opinion to draw that conclusion about the impacts.  
 14 Q. Certainly. Do you -- I'll find the list  
 15 of your information in a minute and we'll come back  
 16 to it. Can you generally describe to us what you  
 17 reviewed in forming your opinion?  
 18 A. I reviewed two draft Economic  
 19 Considerations Reports from January and May of 2016.  
 20 And then I reviewed the Final 2016 Economic  
 21 Considerations Report.  
 22 Q. And so, that Final Economic  
 23 Considerations Report, is that in the draft EIS?  
 24 A. Yes.  
 25 Q. And what else?

Page 606

1 A. I reviewed two Maritime Cluster Studies  
 2 that our firm has produced in 2013 and 2017. I also  
 3 reviewed Puget Sound Regional Council Industrial  
 4 Land Study that our firm also produced and was  
 5 published in 2015. And I also reviewed an  
 6 Industrial Lands Study for City of Seattle that we  
 7 did. And I'm probably forgetting one, but when I  
 8 see the list I'll be able to recollect all of them.  
 9 Q. Did you speak with or interview any  
 10 business or property owners located along the  
 11 preferred route of Missing Link?  
 12 A. Specifically for this project?  
 13 Q. Yes.  
 14 A. No.  
 15 Q. Let's focus on some of the documents you  
 16 relied on in forming your opinion. I'd like you to  
 17 turn to -- let me get Volume 2, Exhibit A-312.3.  
 18 THE ASSISTANT: 13?  
 19 MR. BROWER: 3.213.  
 20 THE ASSISTANT: 13.  
 21 BY MR. BROWER:  
 22 Q. Mr. Cohen, what is that document?  
 23 A. I'm looking at the Washington State  
 24 Maritime Clusters Economic Impact Study from  
 25 November 2013.

Page 607

1 Q. And did your firm Community Attributes  
 2 prepare that document?  
 3 A. We did.  
 4 Q. And what was your role in preparing that  
 5 document?  
 6 A. My role was the leading analyst for this  
 7 document.  
 8 Q. And is it a cluster study?  
 9 A. Yes.  
 10 Q. What is a cluster study?  
 11 A. A cluster study is an analysis of the  
 12 horizontal and vertical relationships of an economic  
 13 activity or industry, including looking at the  
 14 economic benefits of those industries being in close  
 15 proximity to each other, so looking at not just  
 16 supply-chain relationships, but also looking at the  
 17 -- what we call positive externalities that are  
 18 associated or synergies that are associated with  
 19 different businesses being in close proximity to  
 20 each other in a specific industry.  
 21 Q. Is that proximity or closeness important?  
 22 A. Yes.  
 23 Q. Why is that?  
 24 A. In a lot of cases, businesses, in this  
 25 case, maritime really rely upon access to supporting

Page 608	Page 610
<p>1 services as a vital component of their business. So</p> <p>2 having access, for instance for the fishing</p> <p>3 industry, for instance, having access to marinas and</p> <p>4 shipyards as well as supporting services like</p> <p>5 refueling operations, close proximity to where those</p> <p>6 fishing vessels are homeported. It's critical to</p> <p>7 the viability of the -- of that -- of the fishing</p> <p>8 industry being located in, for instance, in Seattle.</p> <p>9 Q. On page 003, which is page Roman Number V</p> <p>10 of the Executive Summary, does it talk about how</p> <p>11 many people are employed in 2015 in Washington's</p> <p>12 commercial fishing and seafood processing subsector?</p> <p>13 A. In 2012?</p> <p>14 Q. Excuse me -- 2012? Yes. But 2012.</p> <p>15 Okay. In 2012, and what does it say? Oh, I'm</p> <p>16 looking at the wrong one. Yes. Sorry. And how</p> <p>17 many people were employed in 2012?</p> <p>18 A. Just -- the question is specifically in</p> <p>19 that subsector or for the entire maritime cluster?</p> <p>20 Q. The entire maritime sector. I was</p> <p>21 looking at the wrong report. I'm sorry.</p> <p>22 A. 57,700 individuals.</p> <p>23 Q. And how much did this sector generate in</p> <p>24 direct impacts to Washington's economy?</p> <p>25 A. It includes the employment figure which</p>	<p>1 externalities or synergies from being in close</p> <p>2 proximity to each other.</p> <p>3 Q. So again, that cluster effect?</p> <p>4 A. That's right. It's a core principal of</p> <p>5 clustering -- cluster economics or cluster theory.</p> <p>6 Q. Did that sector also, in addition to the</p> <p>7 direct impacts, have indirect impacts?</p> <p>8 A. It did.</p> <p>9 Q. And I think those are on page Roman</p> <p>10 Number II. And what were those indirect and induced</p> <p>11 impacts?</p> <p>12 A. Well, we actually reported just a term of</p> <p>13 clarification. We report indirect and induced. So</p> <p>14 we often call it secondary impacts as a result. But</p> <p>15 indirect refers to additional jobs and business</p> <p>16 revenues and wages that are supported through</p> <p>17 business to business transactions down the supply</p> <p>18 chain. And then, induced is supported by the</p> <p>19 spending of -- of income throughout the economies,</p> <p>20 so additional jobs, wages, and business revenue</p> <p>21 supported by maritime workers spending their income</p> <p>22 at Starbucks, for instance, or other services. So</p> <p>23 we report the total impact on -- of indirect,</p> <p>24 induced -- the 90,000 jobs across for indirect and</p> <p>25 induced and the total impact of 148,000 jobs in</p>
Page 609	Page 611
<p>1 was the 57,700 employees, as well as \$15.2 billion</p> <p>2 in gross business income. And going to the next</p> <p>3 page -- I'm sorry. Going to page Roman Number III</p> <p>4 it also supported \$4 billion, over \$4 billion in</p> <p>5 wages.</p> <p>6 Q. Going back to Roman Number I, page 003,</p> <p>7 marked in red, the second full paragraph it says</p> <p>8 that the ship and boat building, maintenance and</p> <p>9 repair, fishing and seafood processing, and marine</p> <p>10 logistics and shipping are the oldest and most</p> <p>11 established sectors in the state. What's that based</p> <p>12 on?</p> <p>13 A. That's based on historical research and</p> <p>14 understanding of the history of Washington State. I</p> <p>15 believe it's familiarity and just based on research</p> <p>16 and interviews as well as online research and other</p> <p>17 sources looking at the long history of Washington</p> <p>18 State's economy.</p> <p>19 Q. In the fourth full paragraph, the last</p> <p>20 sentence says each company in the cluster benefits</p> <p>21 from the "agglomeration" of close-by maritime</p> <p>22 support services. What's agglomeration?</p> <p>23 A. Agglomeration is the concentration of</p> <p>24 businesses in close proximity to each other whereby</p> <p>25 they benefit through what we call positive</p>	<p>1 Washington State.</p> <p>2 Q. And again, that's in 2012?</p> <p>3 A. That's correct.</p> <p>4 Q. Let's turn back, and again, to -- let's</p> <p>5 turn back one to 312.2. And what is this document?</p> <p>6 A. I'm sorry. This is the Washington State</p> <p>7 Maritime Sector Economic Impact Study 2017 update</p> <p>8 that was published in April 2017.</p> <p>9 Q. And is this an update of the 2013 study</p> <p>10 we were just looking at?</p> <p>11 A. It was.</p> <p>12 Q. And did Community Attributes author this?</p> <p>13 A. We did.</p> <p>14 Q. And what was your role on it?</p> <p>15 A. I was the lead --</p> <p>16 THE HEARING EXAMINER: before you</p> <p>17 answer that, I want to see if -- are these going to</p> <p>18 be offered?</p> <p>19 MR. BROWER: Yes, please.</p> <p>20 THE HEARING EXAMINER: Let's mark them</p> <p>21 now so we can refer to them in the record --</p> <p>22 MR. BROWER: Thank you.</p> <p>23 THE HEARING EXAMINER: -- adequately.</p> <p>24 We've got -- first was the Washington State Maritime</p> <p>25 Cluster. That will be A-12? 12. And then the</p>

Page 612	Page 614
<p>1 Washington State Maritime Section Economic Impact                  2 Study will be A-13.                  3 (COALITION'S EXHIBITS A-12 AND A-13 MARKED FOR                  4 IDENTIFICATION.)                  5 MR. BROWER: Thank you. And I would                  6 move to admit both of them.                  7 MS. FERGUSON: I haven't heard any                  8 relevance.                  9 MR. BROWER: Okay.                  10 THE HEARING EXAMINER: I'm sorry?                  11 MS. FERGUSON: I object at this time                  12 until he establishes the relevance.                  13 THE HEARING EXAMINER: Okay. so                  14 standing objection.                  15 MR. BROWER: Thank you.                  16 THE HEARING EXAMINER: Okay. Did you                  17 have any objections, Mr. Cohen?                  18 MR. COHEN: No. But I --                  19 THE HEARING EXAMINER: That, too,                  20 okay.                  21 MR. COHEN: -- prefer to --                  22 MR. BROWER: Join in.                  23 THE HEARING EXAMINER: Okay. There's                  24 two Mr. Cohens here.                  25 BY MR. BROWER:</p>	<p>1 seafood processing operations. So seafood process                  2 manufacturers in Washington State and other                  3 supporting related activities.                  4 MS. FERGUSON: I'm going to go ahead                  5 and object again to relevance. I don't know where                  6 you're going there.                  7 MR. BROWER: Just about to tie it in                  8 right here.                  9 BY MR. BROWER:                  10 Q. Does the next sentence talk about the                  11 Pacific north -- excuse me, the North Pacific                  12 Fishing Fleet?                  13 A. Yes.                  14 Q. And where is that homeported?                  15 A. In Seattle.                  16 Q. And where in Seattle are they homeported?                  17 A. In Ballard in Inner Bay.                  18 Q. Right where this trail is located?                  19 A. Yes.                  20 Q. So these studies cover many of the                  21 maritime and industrial businesses that are at issue                  22 in this case?                  23 A. Yes.                  24 Q. And in the research you did for these                  25 studies, did you look at the employment levels of</p>
Page 613	Page 615
<p>1 Q. Mr. Cohen on the witness stand, would you                  2 turn to page Roman Number I of what's been marked as                  3 Exhibit A-13, which is also 312.2.                  4 A. Is this -- is it Exhibit EI -- E-1? I'm                  5 sorry?                  6 Q. I'm sorry, we're looking at the 2017                  7 study, the Executive Summary.                  8 A. Okay. Is this the second -- I'm sorry.                  9 This is the page 2 or page?                  10 Q. Look at the top.                  11 A. Roman Numeral 1?                  12 Q. Roman Number 1, page 003 --                  13 A. Okay.                  14 Q. -- of the April 2017. About midway down                  15 the page it includes numbers for Washington's                  16 commercial fishing and seafood processing subsector.                  17 How many people were employed in that subsector in                  18 2015?                  19 A. Our estimate in -- for 2015 was 15,900                  20 workers.                  21 Q. And what does that sector include?                  22 A. That sector includes both commercial                  23 fishing, so the fishing vessels themselves which                  24 includes both covered workers as well as sole                  25 proprietors or independent contractors, as well as</p>	<p>1 businesses in the Ballard area of Seattle including                  2 the Pacific northwest -- excuse me, in the North                  3 Pacific Fishing Fleet?                  4 A. I would have to go back and review -- do                  5 you mind if I look at the study briefly --                  6 Q. Please.                  7 A. -- to job my memory? So we do not                  8 directly quantify the economic impacts specific to                  9 Ballard Inner Bay, but we do provide context and                  10 talk about the companies that are resonant in those                  11 areas or illustrative companies in those areas.                  12 Q. And is that the same for the 2013 study?                  13 A. I don't believe that we went into that                  14 much detail in the 2013 study.                  15 Q. What was the information in the 2013                  16 study based on to get those employment and income                  17 generation figures?                  18 THE HEARING EXAMINER: Let's -- if we                  19 can refer to them by exhibit number --                  20 MR. BROWER: Certainly.                  21 THE HEARING EXAMINER: -- just for the                  22 record.                  23 MR. BROWER: That would be A-12.                  24 THE HEARING EXAMINER: Or exhibit                  25 number and page, if you want to do that, that's</p>

Page 616	Page 618
<p>1 fine.</p> <p>2 MR. BROWER: Certainly.</p> <p>3 BY MR. BROWER:</p> <p>4 Q. The Exhibit A-312.3.</p> <p>5 A. 312. The primary source of the data to</p> <p>6 estimate the economic impacts of the maritime</p> <p>7 cluster in Washington State was state and federal</p> <p>8 data sources, so the Quarterly Census of Employment</p> <p>9 and Wages, which is published both by the Washington</p> <p>10 State Employment Security Department and by the U.S.</p> <p>11 Bureau of Labor and Statistics. We also looked at</p> <p>12 non-employer data that's published by the Bureau of</p> <p>13 Economic Analysis. Add to that, we -- to calculate</p> <p>14 the economic impacts, the broader economic impacts,</p> <p>15 so indirect and induced impacts, our primary</p> <p>16 analytic tool was the Washington State Input/Output</p> <p>17 Model.</p> <p>18 Q. And is that -- does that include looking</p> <p>19 at the NAICS codes?</p> <p>20 A. Yes. That was a critical prism through</p> <p>21 which to examine the data.</p> <p>22 Q. Okay. And so, for example, on what's</p> <p>23 been marked as Exhibit A-12, on page number 75 in</p> <p>24 the original document and page 083, which is</p> <p>25 Appendix C that lists many of the NAICS codes?</p>	<p>1 ship building and repairing that would be located in</p> <p>2 Ballard?</p> <p>3 A. It would include those.</p> <p>4 Q. And the same thing for boat building and</p> <p>5 the boat building businesses located in Ballard?</p> <p>6 A. That's correct.</p> <p>7 Q. And did you rely on these documents in</p> <p>8 forming your opinions in this case?</p> <p>9 A. I did.</p> <p>10 MR. BROWER: I'd again move to admit</p> <p>11 them, please.</p> <p>12 MS. FERGUSON: No objection.</p> <p>13 THE HEARING EXAMINER: Okay. A-12 and</p> <p>14 A-13 are admitted.</p> <p>15 MR. BROWER: Thank you.</p> <p>16 (COALITION'S EXHIBITS A-12 AND A-13 ADMITTED.)</p> <p>17 BY MR. BROWER:</p> <p>18 Q. Going back to A-13, if you would turn to</p> <p>19 page 007 in red, which is Roman Numeral V. Do you</p> <p>20 see the section entitled Economic Impacts?</p> <p>21 A. Oh, I'm sorry. I'm still looking for it</p> <p>22 and getting familiar with the nomenclature.</p> <p>23 Q. Yeah.</p> <p>24 A. It's A-13.</p> <p>25 Q. Also known as Exhibit A-312.2 in red down</p>
Page 617	Page 619
<p>1 A. I'm sorry.</p> <p>2 Q. Is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. And what is an NAICS code?</p> <p>5 A. It's an acronym that stands for the North</p> <p>6 American Industry Classification System, and it's</p> <p>7 the -- essentially the -- it's the primary</p> <p>8 nomenclature or means to categorize economic data in</p> <p>9 the U.S. as well as in Canada. We use it. It's a</p> <p>10 -- we use it for the vast majority of our research</p> <p>11 because it's typically how the data is reported.</p> <p>12 Most data's not reported at a company level because</p> <p>13 of confidentiality, but oftentimes employment data,</p> <p>14 wage data, revenue data is reported, or, of course,</p> <p>15 business income data is reported by what we call</p> <p>16 NAISC codes.</p> <p>17 Q. So by sector?</p> <p>18 A. By sector. They're in approximation of</p> <p>19 sector.</p> <p>20 Q. So, for example, looking at Exhibit A-12,</p> <p>21 page 75 in the original document, one of the first</p> <p>22 NAICS codes is for ship building and repairing. Is</p> <p>23 that correct?</p> <p>24 A. That's correct.</p> <p>25 Q. So would that include businesses that do</p>	<p>1 on the left-hand corner.</p> <p>2 A. Is this -- I'm sorry, the 2012 or '13</p> <p>3 study or the --</p> <p>4 Q. The '17.</p> <p>5 A. The '17, I'm sorry.</p> <p>6 MR. KISIELIUS: I'm sorry, Josh, what</p> <p>7 page is it?</p> <p>8 MR. BROWER: Page 7 in red.</p> <p>9 THE WITNESS: Okay. And I'm sorry.</p> <p>10 the question again?</p> <p>11 BY MR. BROWER:</p> <p>12 Q. Do you see the section entitled Economic</p> <p>13 Impacts?</p> <p>14 A. Yes.</p> <p>15 Q. And in 2015, how many direct jobs did</p> <p>16 Washington's maritime sector support?</p> <p>17 A. Our estimate is 69,500 jobs.</p> <p>18 Q. And when you factor in the, I think you</p> <p>19 said, induced or indirect, how many jobs does that</p> <p>20 total?</p> <p>21 A. In combination of indirect and induced,</p> <p>22 we estimated a total of 191,100 jobs across</p> <p>23 Washington State that were in some form supported by</p> <p>24 the maritime sector.</p> <p>25 Q. And how much revenue did that sector</p>

Page 620

1 generate across Washington?  
 2 A. Directly, we estimated that the maritime  
 3 sector directly supported \$17.1 billion. And the  
 4 total economic impact including indirect and induced  
 5 of \$37.8 billion.  
 6 Q. Thank you. Do you have an opinion of the  
 7 relative economic health of Seattle's maritime and  
 8 industrial sector in Ballard?  
 9 A. I would start with my opinion of maritime  
 10 in general in Washington State. And I feel that  
 11 based on our research the maritime industry overall  
 12 has grown. It's relatively resilient over time  
 13 especially because it's largely export oriented.  
 14 That being said, we've learned specific to Ballard  
 15 that from both this project interviews as well as  
 16 from our Industrial Land Study that many of the  
 17 businesses in the region feel under stress. So they  
 18 feel like the -- many of -- what's been communicated  
 19 to us in our Industrial Land Study is that a lot of  
 20 these businesses feel that there is increasing  
 21 pressure on them to relocate or see their business  
 22 activities curtailed as a result of land use  
 23 decisions and zoning decisions.  
 24 Q. And --  
 25 A. -- or perceptions of.

Page 621

1 Q. -- that land -- the Industrial Land  
 2 Study, when -- and did you work on that?  
 3 A. I supported that.  
 4 Q. And when was that done?  
 5 A. That -- the majority of the research was  
 6 in 2014 and it was published in 2015.  
 7 Q. And who was that done for?  
 8 A. The Puget Sound Regional Council.  
 9 Q. Will you turn to Tab A-312.4, please?  
 10 THE HEARING EXAMINER: Will this be  
 11 offered?  
 12 MR. BROWER: Yes.  
 13 THE HEARING EXAMINER: Mark this A-14.  
 14 (COALITION'S EXHIBIT A-14 MARKED FOR IDENTIFICATION)  
 15 BY MR. BROWER:  
 16 Q. Mr. Cohen, is this the Industrial Land  
 17 Study you just referenced?  
 18 A. Yes.  
 19 Q. And you supported this effort?  
 20 A. I did.  
 21 Q. And what do you mean by supported?  
 22 A. I provided some of the economic analysis  
 23 for this project specifically helping to quantify  
 24 the economic value of operations on industrial  
 25 lands.

Page 622

1 Q. And did your work on this report and this  
 2 report itself inform your opinion in this matter?  
 3 A. It helped inform my opinion.  
 4 MR. BROWER: I'd move to admit it,  
 5 please.  
 6 MS. FERGUSON: No objection.  
 7 THE HEARING EXAMINER: Mr. Cohen?  
 8 can't see you over there. I'm sorry.  
 9 MR. COHEN: No objection.  
 10 THE HEARING EXAMINER: Okay. A-14 is  
 11 admitted.  
 12 (COALITION'S EXHIBIT A-14 ADMITTED.)  
 13 BY MR. BROWER:  
 14 Q. I believe during your deposition you were  
 15 asked whether Seattle's maritime and industrial  
 16 cluster is declining in total percentage of -- I'm  
 17 not sure employment or outcome. Do you remember  
 18 that?  
 19 A. I do remember that, yes.  
 20 Q. And do you think it is?  
 21 A. I feel -- is the question specifically  
 22 about overall maritime or is specifically in  
 23 Seattle?  
 24 Q. Well, let's break it down to both. How  
 25 about overall?

Page 623

1 A. I believe overall the maritime sector has  
 2 stayed relatively robust, but I think it depends on  
 3 the subsector or the component of the cluster.  
 4 Q. And what about Seattle's maritime  
 5 industrial sector?  
 6 A. I'd have to go back and look at the data,  
 7 but I believe that there's been -- it's been  
 8 relatively flat and under a lot of stress.  
 9 Q. What are some of those stressors?  
 10 A. Based on research that we did for  
 11 industrial lands, a lot of businesses feel that  
 12 there's been greater encroachment or a movement  
 13 towards businesses or non-industrial uses getting  
 14 closer to industrial uses or their industrial uses.  
 15 So there's greater concerns about the long-term  
 16 viability of industrial operations. And this is a  
 17 concern that we received and we heard from  
 18 industrial users.  
 19 Q. Did you and your staff interview  
 20 industrial businesses?  
 21 A. We did. I did not carry out those  
 22 interviews, but those interviews, the findings were  
 23 -- should be documented in the 2015 PSRC Industrial  
 24 Land Study as well as the 2017 Seattle Industrial  
 25 Land Study.

Page 624

1 Q. Did you find those businesses were  
 2 willing to speak with your staff and your team?  
 3 A. Yes.  
 4 Q. And so I think you mentioned encroaching  
 5 incompatible uses as a stressor. Is that correct?  
 6 A. That's correct.  
 7 Q. And what do those include?  
 8 A. One that was expressed to us was the  
 9 concern that there may be multi-family or  
 10 residential use that would be in close proximity to  
 11 industrial lands -- industrial operations. And this  
 12 is a concern that was expressed to us that when  
 13 those -- when there is multi-family development next  
 14 to industrial lands eventually the fear is that will  
 15 force, because of noise and other considerations  
 16 related to the residency and the role of those  
 17 parcels for residence and for living, that it would  
 18 curtail or so much shape or negatively affect the  
 19 operations of those businesses. Such as, for  
 20 instance, because again, because of noise pollution  
 21 -- or not -- because of noise, forcing them to alter  
 22 their schedule or operations.  
 23 Q. So essentially an incompatible use moves  
 24 in next door and the residents start complaining,  
 25 and then somebody tells the industrial business to

Page 625

1 curtail their operations in some way? Is that what  
 2 happens?  
 3 A. That's correct. Another type of adverse  
 4 impact as well, are -- is the very palpable concern  
 5 among industrial users because of the cluster  
 6 dynamics that are in effect within the maritime  
 7 cluster that it's very fragile. And if so, if one  
 8 or two companies goes away, the risk is that many  
 9 more will go away, and we heard that specifically  
 10 from one ship builder, not directly in Ballard, but  
 11 in the \*Ben Mic Region. He shared with us an  
 12 example where they share a crane with one or two  
 13 other businesses along the waterfront. And if that  
 14 business were to go away, it would adversely impact  
 15 the operations and viability of these other  
 16 businesses.  
 17 Q. Because that goes to undermining the  
 18 agglomeration?  
 19 A. Correct.  
 20 Q. Mr. Cohen, I've been -- I've handed you  
 21 Volume 7, Exhibit 342.12. Do you see that?  
 22 A. Yes. Yes.  
 23 Q. You see this is an email?  
 24 A. I do.  
 25 Q. And it's from, I believe Brock Howell of

Page 626

1 the Cascade Bicycle Club. Do you see that up at the  
 2 top?  
 3 A. I do.  
 4 Q. And it's to Elizabeth Kiker at the  
 5 Cascade Bicycle Club?  
 6 A. Yes.  
 7 Q. And the subject line is Re: Josh  
 8 Brower's Jacket. Do you see that?  
 9 A. I do.  
 10 Q. So would you read the part that I've  
 11 highlighted for you, which is in the first paragraph  
 12 starting with the second sentence?  
 13 A. "Our best bet is to get this, and this is  
 14 underlined, this CD Simpson Development Project, end  
 15 of underline, funded and built. Once it's built,  
 16 the operations of Salmon Bay Sand and Gravel and  
 17 other light industry will likely have to limited  
 18 during evening hours due to noise issues-especially  
 19 if the development is a hotel, apartment, or condo."  
 20 MS. FERGUSON: Objection. Hearsay.  
 21 MR. BROWER: It's a party statement  
 22 against party interest. They're sitting right here.  
 23 MS. FERGUSON: But we haven't shown  
 24 that he has any -- I'm just reading this right now.  
 25 MR. BROWER: Sure.

Page 627

1 MS. FERGUSON: We don't know that he  
 2 has any basis for agreeing with this statement,  
 3 knowing if it's true.  
 4 MR. BROWER: It actually goes exactly  
 5 to what we've just been talking about. It's an  
 6 example of an incompatible use.  
 7 MS. FERGUSON: I think you should be  
 8 asking the party.  
 9 MR. BROWER: That's all I was --  
 10 MS. FERGUSON: You don't need to ask  
 11 this witness.  
 12 MR. BROWER: I'm asking if this was an  
 13 example. He -- first of all he hasn't finished  
 14 reading it. Can we at least finish reading it?  
 15 MS. FERGUSON: No.  
 16 Examiner?  
 17 THE HEARING EXAMINER: Well, we do  
 18 allow hearsay in these hearings, so --  
 19 MR. BROWER: And it is a statement  
 20 against interest by a party who intervened in this  
 21 matter. I believe Mr. Howell was the former policy  
 22 director.  
 23 Is that correct, Mr. Cohen?  
 24 MR. COHEN: I have no idea.  
 25 MR. BROWER: Do you know who Elizabeth

Page 628

1 Kiker is?  
 2 THE HEARING EXAMINER: Well, not's let  
 3 --  
 4 MR. COHEN: I do.  
 5 THE HEARING EXAMINER: -- do cross  
 6 with Counsel.  
 7 MR. BROWER: Okay. Okay. Sorry.  
 8 MR. COHEN: My concern, Your Honor, is  
 9 that this statement appears to be offered for the  
 10 accuracy of a puzzle representation about the effect  
 11 of certain kinds of development on the maritime  
 12 industry. And that, if you're going to ask  
 13 questions about that statement, you need to have its  
 14 author on the stand. This witness is not qualified  
 15 to defend or question the validity of that  
 16 statement. He didn't make it. And --  
 17 THE HEARING EXAMINER: The difficulty  
 18 I'm having, Counsel, is I don't know what it's being  
 19 offered for yet. I'm just not there yet.  
 20 MR. BROWER: And I could --  
 21 THE HEARING EXAMINER: I mean, mainly  
 22 when I'm looking at something is just sort of a  
 23 blank on -- from this side of the bench. So you all  
 24 had a lot more information about who's involved  
 25 here, what they're saying, why they're saying it

Page 629

1 than I do. That's the challenge --  
 2 MR. COHEN: Well, then --  
 3 THE HEARING EXAMINER: -- I'm having  
 4 with trying to rule on this is I -- I do allow  
 5 hearsay in. I'm wondering if this is even something  
 6 we would actually want a witness for or not. Is  
 7 this even -- are we -- honestly with some of this  
 8 economic stuff, we're pretty far away from the  
 9 center of where we need to be on the case. I know  
 10 we're getting there with that, but this is still  
 11 over here for me, and I -- do we really need a  
 12 witness to come and testify?  
 13 MR. COHEN: Then let me just say that  
 14 to the extent that these statements are being  
 15 offered to show causal link between some projected  
 16 kinds of development and adverse impacts on maritime  
 17 industry, I think that you -- Cascade objects on  
 18 grounds that the author or these statements is not  
 19 available to explain them of defend them.  
 20 THE HEARING EXAMINER: All right.  
 21 Well, for now, with the information I've got I will  
 22 overrule the objections simply based on lack of  
 23 information, understanding the arguments and context  
 24 raised by Respondents in that this -- that would  
 25 largely go to the weight of what this is. You know,

Page 630

1 if they could be here, they're not here, and this is  
 2 an email that someone who's not really participating  
 3 is commenting on. That's all going to go to the  
 4 weight of it. So I would allow it because I -- as  
 5 you all are starting to figure out, I like to have a  
 6 broader record. But how much it's going to weigh in  
 7 on this case is to be seen.  
 8 MR. BROWER: Thank, Your Honor --  
 9 Mr. Examiner. Thank you.  
 10 BY MR. BROWER:  
 11 Q. Mr. Cohen, would you finish reading that  
 12 last sentence, please?  
 13 A. "Once their operations are impacted, it's  
 14 only a matter of time before they sell out and give  
 15 up the litigation."  
 16 Q. Is -- do you know where the CD Simpson  
 17 Development Project is located?  
 18 A. I believe it's going to be on the  
 19 waterfronts in -- along Shilshole.  
 20 Q. Next to Salmon Bay Sand and Gravel?  
 21 A. I believe so, yes.  
 22 Q. So is this a type of induced -- excuse  
 23 me. what was the term you used "incompatible use"?  
 24 A. Yes.  
 25 Q. So this is describing a type of

Page 631

1 incompatible use that you have testified creates a  
 2 stressor on existing industrial uses. Is that  
 3 correct?  
 4 A. Based on my understanding of this  
 5 project, yes.  
 6 Q. So if the project next door were to  
 7 change to something that was not industrial, it  
 8 could potentially create those stressors on Salmon  
 9 Bay Sand and Gravel, for example?  
 10 A. It could. If there was, again, not  
 11 extremely -- not have all the details on the  
 12 project, but if it was, for instance, as per  
 13 suggested below, a hotel or apartments, then it  
 14 would potentially or very likely, I think, impact  
 15 industrial operations because of the noise.  
 16 MR. BROWER: I would move to admit  
 17 this, Your Honor -- Mr. Examiner. I apologize.  
 18 It's late in the day.  
 19 MR. COHEN: And I renew my objection  
 20 because I believe it's being offered for precisely  
 21 the purpose that we were speculating about a minute  
 22 ago.  
 23 MS. FERGUSON: I agree with Mr. Cohen.  
 24 MR. BROWER: We're not offering it for  
 25 the voracity of the statement. WE would be happy to

Page 632

1 call Mr. Howell or Mr. Cohen can call Mr. Howell. I  
 2 believe Ms. Kiker moved to the east coast, so it  
 3 would be nearly impossible to get her to testify.  
 4 THE HEARING EXAMINER: So remind --  
 5 state specifically what this is being offered for.  
 6 What am I getting out of this?  
 7 MR. BROWER: It's to show the impact  
 8 that Mr. Cohen's been testifying about in that one  
 9 of the main stressors that Seattle's maritime and  
 10 industrial industries are expressing is the  
 11 encroachment of incompatible uses that move next  
 12 door.  
 13 THE HEARING EXAMINER: So this is a  
 14 speculative incompatible use that someone's  
 15 discussing in an email being used as an illustration  
 16 of that type of thing happening?  
 17 MR. BROWER: Yes.  
 18 MS. FERGUSON: And our objection --  
 19 MR. BROWER: So it really goes to the  
 20 weight.  
 21 MS. FERGUSON: -- to be clear, is the  
 22 email. If you would like to ask Mr. Cohen the  
 23 question to speculate, he's an expert. He may  
 24 speculate. It's the exhibit that we're objecting  
 25 to.

Page 633

1 MR. COHEN: And I concur with that  
 2 concern. Mr. Cohen's expertise has been represented  
 3 to extend to the analysis of the economic impacts of  
 4 various kinds of development in Ballard. He can  
 5 testify from his own expertise about the effect that  
 6 is alleged here without relying on a hearsay  
 7 statement by a witness who's not available.  
 8 THE HEARING EXAMINER: Is -- let me --  
 9 I mean, are there other concerns about this email  
 10 that you're not voicing?  
 11 MR. COHEN: Well, so I have concerns  
 12 about attributing to the Cascade Bicycle Club the  
 13 statements made here. They do not reflect the  
 14 positions that we've taken in this case. And I'm  
 15 concerned that they will be, as Mr. Brower tried to  
 16 do, reported to be admissions by Cascade and  
 17 representations of Cascade's position.  
 18 THE HEARING EXAMINER: So I -- whether  
 19 that happens here or not, that's my concern with  
 20 reading this.  
 21 MR. BROWER: Sure.  
 22 THE HEARING EXAMINER: Take it totally  
 23 out of context, it sounds like you're trying to  
 24 catch them in trying to take out your clients. It  
 25 doesn't seem to really represent this perfect

Page 634

1 example of the land use impact --  
 2 MR. BROWER: Sure.  
 3 THE HEARING EXAMINER: -- on an  
 4 industry. I -- it's really seems to get us into the  
 5 weeds as opposed to what I think we're getting into  
 6 as a legitimate issue.  
 7 MR. BROWER: The reality of this is  
 8 it's an admission by Cascade that they agree with  
 9 Mr. Cohen's perspective, because it's the executive  
 10 director and the policy director of Cascade Bicycle  
 11 Club, both of whom are speaking agents and making an  
 12 admission.  
 13 THE HEARING EXAMINER: And they have  
 14 expertise in this area?  
 15 MR. BROWER: We would have to ask  
 16 them.  
 17 MS. FERGUSON: And I'm going to  
 18 object. I think you could read this to say  
 19 something different. And without that person here,  
 20 we don't know.  
 21 THE HEARING EXAMINER: It's okay. I  
 22 -- we've spent a lot of time on it, so your case is  
 23 not going to fall or go on this email.  
 24 MR. BROWER: Certainly.  
 25 THE HEARING EXAMINER: So I'm going to

Page 635

1 exclude it. It's just got too many fingerprints and  
 2 other things on it to get to the point that I think  
 3 you witness is making clearly.  
 4 MR. BROWER: Good. Thank you.  
 5 BY MR. BROWER:  
 6 Q. So --  
 7 THE HEARING EXAMINER: With that --  
 8 MR. BROWER: Yes. We're done.  
 9 THE HEARING EXAMINER: We will end.  
 10 MR. BROWER: We're done.  
 11 THE HEARING EXAMINER: The last thing  
 12 you all have to do is not going to better from  
 13 there. So we'll --  
 14 MR. BROWER: I'm happy to take a  
 15 break.  
 16 THE HEARING EXAMINER: We will return  
 17 tomorrow at 8:30. And I'll let you know what time  
 18 we're at in the morning.  
 19 Are there any procedural items that we  
 20 need to address that we can clean up now? Were  
 21 there exhibits that were -- that -- did we get A-14  
 22 in -- admitted?  
 23 MR. BROWER: I would move to admit it  
 24 to the extent that we have -- I think it was  
 25 admitted.



1 MS. FERGUSON: I have marked that it  
2 was admitted.  
3 THE HEARING EXAMINER: Okay. Great  
4 I'm missing my right arm. So, all right. Then I  
5 think we're ready to go and we'll see you tomorrow  
6 morning. Thank you very much.  
7 MR. BROWER: Thank you, Mr. Examiner.  
8 MR. COHEN: Thank you.  
9 (Proceedings adjourned.)  
10 --oOo--  
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/s/ Cynthia A. Kennedy, RPR

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