

A P P E A R A N C E S

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A P P E A R A N C E S (Continued)

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HEARING
Volume 12: INDEX

WITNESSES:	PAGE
TYLER CLARY	
Direct Examination by Mr. Potter	2664
Cross-Examination by Mr. Johnson	2678
Redirect Examination by Mr. Potter	2681
Recross Examination by Mr. Johnson	2688
Redirect Examination by Mr. Potter	2690
JOSEPH MOLINA	
Direct Examination by Ms. Reed	2698
Cross-Examination by Mr. Bartz	2749
Cross-Examination by Mr. Kisielius	2760
Redirect Examination by Ms. Reed	2770
Recross-Examination by Mr. Kisielius	2799
BRIAN SCHAEFFER	
Direct Examination by Mr. Odle	2801
Cross-Examination by Mr. Kisielius	2816
Redirect Examination by Mr. Odle	2820
ERIC HOLMES	
Direct Examination by Ms. Reed	2822
Cross-Examination by Mr. Bartz	2859
Cross-Examination by Mr. Derr	2874
Redirect Examination by Ms. Reed	2886
Recross-Examination by Mr. Bartz	2901

INDEX (Continued)

WITNESSES:	PAGE
MATT GRADY	
Direct Examination by Mr. Timmons	2906
Cross-Examination by Mr. Bartz	2919
Cross-Examination by Mr. Derr	2923
Redirect Examination by Mr. Timmons	2925

EXHIBITS

NUMBER	REF'D
Exhibit 0156-000018-TSS.....	2868
Exhibit 0220-000002-TSS.....	2666
Exhibit 0292-000187-TSS.....	2755
Exhibit 1015-000001-POR.....	2863
Exhibit 2505-000002-SPO.....	2805
Exhibit 3005-000001-Van.....	2668
Exhibit 3006-000002-Van.....	2669
Exhibit 3009-000017-Van.....	2824
Exhibit 3018-000001-Van.....	2699
Exhibit 3020-000003-Van.....	2725
Exhibit 3021-000001-Van.....	2728
Exhibit 3042-000042-Van.....	2830
Exhibit 3043-000003-Van.....	2729
Exhibit 3051-000006-Van.....	2845
Exhibit 3055-000053-Van.....	2829

1		
2	Exhibit 3057-000079-Van.....	2845
3	Exhibit 3092-000024-Van.....	2827
4	Exhibit 3096-000055-Van.....	2829
5	Exhibit 3097-000156-Van.....	2825
6	Exhibit 3099-000015-Van.....	2830
7	Exhibit 3124-000071-VAN.....	2670
8	Exhibit 3131-000001-VAN.....	2850
9	Exhibit 4019-000001-CWF.....	2909
10	Exhibit 4020-000001-CWF.....	2911
11	Exhibit 4021-000001-CWF.....	2911
12	Exhibit 4022-000001-CWF.....	2912
13	Exhibit 4023-000001-CWF.....	2917
14	Exhibit 4024-000001-CWF.....	2913
15	Exhibit 4025-000001-CWF.....	2914
16	Exhibit 4028-000005-CWF.....	2909
17	Exhibit 5904-000071-CRK.....	2826
18		
19		
20		
21		
22		
23		
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25		

POTTER / CLARY

1 PROCEEDING

2 JUDGE NOBLE: We are back on the record
3 before the Washington Energy Facility Siting Council
4 Case No. 15-001. It is Thursday morning, the 14th of
5 July, in the Matter of Application No. 2013-01, Tesoro
6 Savage LLC Vancouver Energy Distribution Terminal.

7 It's my understanding that Mr. Potter is
8 presenting the first witness this morning?

9 MR. POTTER: That's correct, Your Honor.

10 JUDGE NOBLE: Please proceed, Mr. Potter.

11 MR. POTTER: I'll call Tyler Clary.

12 TYLER CLARY,

13 having been first duly sworn, testified as follows:

14 JUDGE NOBLE: Please proceed, Mr. Potter.

15 MR. POTTER: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. POTTER:

18 **Q. Please state your name and give us the spelling.**

19 A. Tyler Clary, T-y-l-e-r, C-l-a-r-y.

20 **Q. Mr. Clary, how are you employed?**

21 A. I work for the City of Vancouver.

22 **Q. In what capacity? What's your position?**

23 A. I'm the water engineering program manager.

24 **Q. And are you a civil engineer?**

25 A. Yes. I'm a licensed civil engineer in the State

POTTER / CLARY

1 of Washington.

2 **Q. Could you just describe for the council your**
3 **education and work experience leading up to your current**
4 **position?**

5 A. I have a bachelor's from Washington State
6 University in civil engineering, worked as a facility
7 engineer for approximately seven years for a
8 semi-conductor fabricator, at which time I then moved on
9 to the City of Vancouver where I've been employed for
10 the last 12 years working as a civil engineer. And
11 then -- well, I worked as a civil engineer for
12 approximately seven years and then I worked, I've been
13 the engineering program manager for approximately five,
14 six years.

15 **Q. What are your responsibilities as the**
16 **engineering program manager?**

17 A. I oversee basically all -- anything related to
18 the water system, related to capital developments the
19 City performs as well as any developments that come in.
20 We review -- I review development plans that come in to
21 ensure they meet the standards of the City, and we -- I
22 perform design of projects, project management, projects
23 related to the water system, treatment systems,
24 production systems, distribution systems.

25 **Q. Have you reviewed your prefilled testimony that**

POTTER / CLARY

1 was filed in this proceeding?

2 A. Yes, I have.

3 **Q. Is that testimony true and accurate?**

4 A. Yes, it is.

5 MR. POTTER: If we could bring up the map
6 that's Exhibit 0220.

7 BY MR. POTTER:

8 **Q. While this is coming up, I'll just ask you a**
9 **question.**

10 **In your prefiled testimony in Page 3, you**
11 **referred to what you termed the "areas of concern" or a**
12 **"weak point" in the City water system that would supply**
13 **the terminal site with water.**

14 **Can you explain what you mean by the area of**
15 **concern or the weak point?**

16 A. Yeah. We have a point in our water system, it's
17 actually not on this map. It's further to the east.
18 You can kind of see it's basically right here in this
19 corner. From that point approximately 1,700 feet east,
20 we have one individual 24-inch line that feeds this
21 whole area of the Port with a lot of tenants and a lot
22 water lines -- (Court Reporter interruption.) A lot of
23 tenants, Port tenants, and water users out in this area.
24 So we have one individual pipeline as a water system.
25 We typically like to have multiple feeds for redundancy

POTTER / CLARY

1 purposes. It also helps improve water flow by having
2 multiple feeds to an area.

3 In this particular case, we have one feed for
4 approximately 1700 feet to this whole area of the Port.
5 So that's the weak point that's addressed in the
6 prefiled testimony.

7 **Q. And I think in the prefiled testimony you used**
8 **the terms "dead-end" line and "looping."**

9 **Can you describe or explain what those terms**
10 **mean and how they apply to this area?**

11 A. As a water utility engineer, we refer to
12 dead-end lines as lines that only have one feed so it
13 would be one pipe going in to an area. If you have a
14 secondary feed that comes in, another pipeline coming
15 in, then that would be what's termed as a looped system
16 and it's thought of as a dead-end system.

17 **Q. So which type of system is down here?**

18 A. Well, the whole -- the system as a whole is a
19 dead-end system because we have one feed that feeds the
20 entire area down there.

21 **Q. Has there been any discussions about converting**
22 **this dead-end system to a loop system?**

23 A. Yeah. We've been in discussions with the Port
24 for two, two and a half years trying to get a secondary
25 feed into this area.

POTTER / CLARY

1 **Q. Is there an agreement in place to do that at**
2 **this point?**

3 A. There's currently not an agreement in place
4 that's been approved.

5 **Q. Okay.**

6 MR. POTTER: Exhibit 3005 please. And I put
7 a hard copy of Exhibit 3005.

8 BY MR. POTTER:

9 **Q. This is a letter from you to Sam Adams. Do you**
10 **see that in front of you?**

11 A. Yes.

12 **Q. All right. What was the purpose of this letter?**

13 A. We were contacted by Mr. Adams from BergerABAM
14 about providing information on the availability of water
15 to the project area, and so we went through the process
16 of evaluating the general area of the project and
17 developing this letter that identifies that the City has
18 the ability to supply the demands as shown on here, and
19 that we estimated that there's approximately
20 3500 gallons a minute of fire -- (Court Reporter
21 interruption.) I estimated there's 3,500 gallons a
22 minute available to this general area.

23 **Q. For what purpose?**

24 A. For fire protection, for firefighting purposes.

25 **Q. There's been documents in this proceeding**

POTTER / CLARY

1 stating that this letter certifies the availability of
2 3500 gallon per minute for fire flow.

3 Is this a certification?

4 A. No, this is not a certification. This is an
5 estimation at a very early stage of the project based on
6 minimal information that we had at the time.

7 Q. Okay. And then the next exhibit, it will be
8 3006. I put a hard copy of this in front of you.

9 This exhibit is draft comments in the
10 preapplication process, and midway down addressing
11 Area 400, there are two comments. Do you see those?

12 A. Yes.

13 Q. Okay. It discusses looping the system. Can you
14 tell us what that says?

15 A. It says, "Looping the water mains through the
16 Areas may be required depending on the fire flow needed.
17 All water mains, fire hydrants, and water meters will be
18 required" -- (Court Reporter interruption.) "Looping the
19 water mains through the areas may be required depending
20 on fire flow needed."

21 Q. That's fine. And then the next paragraph down,
22 the first sentence?

23 A. "Further requirements may be necessary depending
24 on the final project configuration and will be
25 determined through the engineering review process."

POTTER / CLARY

1 Q. Okay. The next document that I'd like to refer
2 to, this does not need to be brought up on the screen,
3 but Exhibit 3124 is a report entitled the "Fire
4 Protection Assessment Report."

5 MR. JOHNSON: Objection, Your Honor.

6 JUDGE NOBLE: Yes.

7 MR. POTTER: Can I ask my question?

8 MR. JOHNSON: Well, I'm objecting to any
9 questions related to this exhibit which has not been
10 admitted and is part of the DEIS. It was prepared
11 specifically for the council as part of the DEIS. This
12 witness is not the author of that exhibit, and it falls
13 squarely within your ruling that we exclude these
14 exhibits that are part of the DEIS.

15 JUDGE NOBLE: Response?

16 MR. POTTER: Yes, Your Honor.

17 The fact that this report was an appendix to
18 the DEIS does not mean that it's poisonous or that it
19 cannot be considered. In fact, I believe your
20 indication was that technical reports or part of the
21 DEIS may be admitted into evidence. And, if allowed, I
22 will establish a foundation that this report has been
23 reviewed by Mr. Tyler in his capacity -- excuse me,
24 Mr. Clary in his capacity as the program manager. That
25 is the type of report that he reasonably as an engineer

POTTER / CLARY

1 relies upon in evaluating the water system or a
2 development that's going to connect to the City water
3 system. And it's a reliable report and it should be
4 admitted.

5 JUDGE NOBLE: First of all, according to my
6 list, is this 3006, just to confirm?

7 MR. POTTER: This is 3124.

8 JUDGE NOBLE: Tell me the number again.

9 MR. POTTER: We're talking about 3124.

10 JUDGE NOBLE: Thank you.

11 This was objected to by Tesoro Savage and by
12 the Port. And based upon the testimony -- or the
13 representation that this witness relied on this in
14 forming his professional opinions, I will -- I do not
15 think that this has the problem that was the basis for
16 my ruling about not admitting the entire DEIS, and it's
17 within the parameters that I've set earlier for other
18 technical reports for other expert witnesses and,
19 therefore, it will be --

20 MR. JOHNSON: Your Honor, may I have a
21 moment?

22 JUDGE NOBLE: Of course. I'm sorry.

23 MR. JOHNSON: First of all, we remain a
24 little perplexed by the ruling because it was our
25 understanding that technical reports, for instance, that

POTTER / CLARY

1 were prepared by a witness during the SEPA evaluation
2 process may be admitted, but that the document itself
3 and the appendices thereto that were prepared for EFSEC
4 by independent engineers or other experts would
5 generally not be admissible.

6 And what this does is this will now require
7 that we bring back one or more witnesses in rebuttal to
8 address the issues that are the subject presumably of
9 the testimony of Mr. Clary this morning, certainly the
10 testimony in his prefiled testimony regarding the
11 adequacy for SEPA purposes of the water flow and the
12 related firefighting system.

13 So if you're going to allow it in, then I
14 would request that we get leeway to bring back witnesses
15 to testify who did not testify previously to this
16 document that's part of the DEIS.

17 MR. POTTER: Your Honor.

18 MR. BARTZ: Your Honor, Dave Bartz for the
19 Port of Vancouver on this. Just so the record is clear,
20 this is one of the documents we got from the City a week
21 ago today. It's been long in existence as evidenced by
22 where it came from, and the prefiled testimony has been
23 long in existence. So for those reasons, it falls well
24 outside.

25 It's not even the one like the other ones

POTTER / CLARY

1 that has been allowed in that they offered last week
2 that have been out for about three weeks before they
3 shared them with us. This one has been out even longer.

4 So we're going to need time to really look
5 at this and figure out what to do with it, which is what
6 Mr. Johnson has said, but I wanted the record to reflect
7 that this was one of the documents we got late delivered
8 last Thursday.

9 MR. POTTER: May I respond to that, Your
10 Honor?

11 JUDGE NOBLE: Thank you, Mr. Bartz.

12 Yes, you may respond to it.

13 MR. POTTER: This report was referred to in
14 Mr. Clary's prefiled testimony that was filed in May.
15 It's been part of the DEIS for months. This is not a
16 late discovery on the Port.

17 JUDGE NOBLE: The problem with admitting the
18 DEIS was that this adjudication could not turn into an
19 appeal, basically, of the DEIS. And yet I know that
20 many or most of the expert witnesses also participated
21 in that process, and so there's inevitably some overlap
22 in the documents that they both produced and relied
23 upon.

24 And so I would hope that you weren't
25 confused about that, but to the extent that you were,

POTTER / CLARY

1 Mr. Johnson, yes, you can bring back witnesses to -- for
2 the purposes of admitting exhibits if you feel that they
3 fall within that exception to the general ruling that
4 this is not about the DEIS; exhibits should not be
5 purely critiques of the DEIS. But to the extent they're
6 reports or expert analyses of work that's been done by a
7 witness or relied upon by a witness, I think they can be
8 admitted.

9 And so that's the line I'm drawing, and I'll
10 try to elaborate on that as we go along further as is
11 necessary. But you have extra time or you have asked to
12 be able to bring back witnesses because you made
13 decisions that based upon the ruling that you felt was
14 not clear. So I would allow you to bring those back in
15 all fairness.

16 But this exhibit seems to fall within the
17 exception to my ruling and it is relied upon by the
18 witness, so it's purely a technical report that he used
19 in his work and will be admitted. 3124 will be
20 admitted.

21 MR. POTTER: Thank you, Your Honor.

22 BY MR. POTTER:

23 **Q. Mr. Clary, going back to the fire protection**
24 **assessment report, did you review that report?**

25 A. Yes, I did.

POTTER / CLARY

1 Q. And that report describes the City water system
2 and the volumes of water and pressure of water available
3 at various locations in the project site?

4 A. Yes.

5 Q. Is that the type of information that when you're
6 reviewing a development proposal that you -- not that
7 it's the only information but it's part of the
8 information that you would consider and rely upon in
9 your review?

10 A. That would be a piece of the information that we
11 would look at. We would need additional information
12 beyond what was provided in that in terms of sizing of
13 new pipelines in order to support fire needs as well as
14 other needs for the development. It would definitely be
15 used as a piece.

16 Q. The report indicates that the pressure of water
17 flow at the hydrants that were tested were too low to
18 operate the foam fire suppression systems being
19 proposed, did it not?

20 A. Correct.

21 Q. Are you aware that the proposal for the oil
22 terminal is to use auxiliary fire pumps in three
23 locations to increase fire flow?

24 A. Yes, I saw that in the report. The piece that I
25 was not aware of is exact locations of those pumps in

POTTER / CLARY

1 our system.

2 **Q. So just for the council, can you describe what**
3 **auxiliary fire pumps are and what do they do?**

4 A. Well, in this particular case, they need to
5 achieve what I read as 125 pounds per square inch of
6 pressure at a specific flow rate at three different
7 locations. The City system is not capable of providing
8 125 pounds per square inch without the use of a pump to
9 increase that pressure, so pumps would be installed
10 coming off of the City water system that would draw that
11 water in and increase that pressure up to the required
12 125 PSI in this thick case.

13 **Q. Now, can the draw on water from the City water**
14 **system to operate the fire suppression systems have an**
15 **effect on the City water system?**

16 A. Yes. Dependent on the location of those fire
17 pumps and if it is on an undersized dead-end line, not
18 adequately looped, it could potentially draw the
19 pressure down below state standards. We're required as
20 a water utility to provide the maximum day demand for an
21 area in addition to the fire flow requirements at 20 PSI
22 of pressure, 20 pounds per square inch of pressure. And
23 at this particular time we have not evaluated the
24 specific impacts of the -- we don't know the location of
25 pumps and where they're pulling water off of our system,

POTTER / CLARY

1 so we can't say whether we would be able to maintain
2 20 pounds per square inch for our system.

3 **Q. For the rest of the City or the areas adjacent**
4 **to the terminal site?**

5 A. Yeah, both. Main concern being the areas
6 adjacent to the terminal site and those dead-end
7 pipelines that we have if there was a pump on those
8 dead-end lines. But in addition, other areas within the
9 City system.

10 **Q. In your answer, you said if it's located on a**
11 **dead-end system without a redundant supply of water.**

12 **That's the condition of that system at that site**
13 **today, is it not?**

14 A. It is currently a dead-end supply system.

15 **Q. So I want to be clear in your testimony.**

16 **At this point you haven't determined that this**
17 **system couldn't be permitted or wouldn't be permitted,**
18 **but that you don't have the sufficient information on**
19 **the system -- on the fire suppression system to say that**
20 **it would be approved?**

21 A. That's correct. We do not have the information
22 that is necessary for us to go through the evaluation to
23 determine whether the system could be able to handle the
24 required flows as specified, and we don't know the
25 locations of where those pumps would potentially be and

JOHNSON / CLARY

1 where they would draw off of our system to be able to
2 make that determination. So we just don't -- we don't
3 have the information right now. We've never been
4 provided that or requested to evaluate it.

5 MR. POTTER: I have no further questions.

6 JUDGE NOBLE: Cross-examination,
7 Mr. Johnson.

8
9 CROSS-EXAMINATION

10 BY MR. JOHNSON:

11 Q. Mr. Clary, just a few follow-up questions for
12 you. By the way, I'm Dale Johnson, one of the attorneys
13 for the applicant.

14 So we've established that you haven't evaluated
15 specific impacts on the water system related to the
16 pumps.

17 Is that what you said?

18 A. Correct.

19 Q. And were you present when Dan Schaeffer
20 testified about the water supply issues?

21 A. No, I was not.

22 Q. Did you read his testimony?

23 A. No, I did not.

24 Q. When do you feel that you would have the data
25 necessary to make a determination regarding the impact

JOHNSON / CLARY

1 on the City water system from the pumps?

2 A. I would need to be provided the specific
3 information on what piping improvements there would be
4 with the project and specific locations where those
5 pumps would be drawing water off the City system and at
6 what flow rates specifically at those locations before
7 we could make that determination.

8 Q. Okay. And have you made any -- have you drawn
9 any conclusions about when this drawdown below 20 PSI
10 might occur? And let me just clarify what I'm saying.

11 For instance, is it your assumption that this
12 might occur if only one pump were activated?

13 A. I don't think I could make that assumption. I
14 don't have that information on where the pumps are
15 located.

16 Q. Okay. So you don't --

17 A. I just don't have the information.

18 Q. So you don't know. As you're sitting here
19 today, you just don't know?

20 A. Correct.

21 Q. Just with regard to the 3500 gallon per minute
22 fire flow that you refer to I think back in the 2013
23 letter. Do you recall that testimony?

24 A. Yes.

25 Q. Okay. I just want to be sure that we're on the

JOHNSON / CLARY

1 same page.

2 Is it your understanding that the applicant
3 requires 3500 gallon per minute fire flow for the
4 project?

5 A. No. Typically, at that stage of a project in a
6 preapplication, what's called the preapplication stage,
7 we would typically estimate what is available in the
8 general project area based on what is known at that
9 time.

10 **Q. Okay. And isn't it true, then, that the**
11 **applicant asked for additional hydrant testing to**
12 **determine more accurately what the fire flow is at the**
13 **project site?**

14 A. Yes. Additional information -- additional
15 hydrant flow tests were requested at that time.

16 **Q. And did the City provide that information?**

17 A. Yes, they provided hydrant flow test data.

18 **Q. Do you know what the hydrant flow testing**
19 **indicated regarding the fire flow and PSI at that part**
20 **of the Port?**

21 A. Yes.

22 **Q. Okay. What were the general results?**

23 A. The general results for what I will call the
24 general project area, not for specific sites, were
25 approximately around that 3500 gallons per minute range.

POTTER / CLARY

1 Q. Okay. And do you know what the project is
2 designed -- the project's firefighting capability is
3 designed around in terms of fire flow?

4 A. I don't know the details. I've read some of
5 what says 2500 gallon per minute at one of the areas. I
6 don't know if there's additional fire flows beyond that
7 or whether that's what the maximum would be.

8 Q. Okay. And if I told you that the system is in
9 fact designed to operate at 2500 gallons per minute at
10 20 PSI, is that consistent with your understanding?

11 A. That's consistent with what I've read to date,
12 yes.

13 MR. JOHNSON: Thank you. Nothing further.

14 JUDGE NOBLE: Redirect?

15
16 REDIRECT EXAMINATION

17 BY MR. POTTER:

18 Q. Just with respect to the hydrant flow testing,
19 the fire protection assessment report indicated, did it
20 not, that even with that testing the volumes or
21 pressures were too low as they exist today to operate
22 the foam fire suppression system?

23 A. Say that again, please.

24 Q. Was there an indication in the fire protection
25 assessment report that at the -- in some of the hydrant

CLARY

1 locations, the volume or pressure of water was too low
2 to operate the foam fire suppression systems without the
3 use of auxiliary pumps; isn't that true?

4 A. Yes, that's correct.

5 MR. POTTER: That's all.

6 JUDGE NOBLE: Council questions? To my
7 right?

8 Mr. Shafer.

9 MR. SHAFER: Mr. Clary, thank you for your
10 testimony today. One question.

11 Is the water demand of this project unique
12 to the project? And where I go with that, let's say it
13 was some other development, maybe a commercial
14 development or some other industry that would require
15 similar amounts of water and fire response. Would you
16 anticipate these similar challenges to service that
17 development?

18 THE WITNESS: Yeah. If it was the same
19 volume, the same flow rates as this, it would present
20 the same challenges. I would say in this particular
21 case the challenge is the location in our system and
22 being out near the edge of our system.

23 MR. SHAFER: Okay.

24 THE WITNESS: That makes it a little bit --

25 MR. SHAFER: If you don't mind I'd like to

CLARY

1 pursue, say, a hypothetical situation.

2 Let's say a commercial development came in
3 that would require similar type of water demands. What
4 type of response might the City or your department have
5 to try to service that development?

6 THE WITNESS: Well, we would go through the
7 same process that we went through on this project where
8 we would have a preapplication conference where we would
9 provide an estimated quantity of water available at
10 which time the engineers hired by the development would
11 go through the process of evaluating and determining
12 whether there's the capacity and the availability.

13 And at some point in time, dependent on what
14 that development is, the City may get involved in that
15 conversation and help provide a determination on whether
16 there is capacity of the water system to provide that.
17 It kind of varies from development to development, to be
18 honest with you.

19 MR. SHAFER: If the development is attracted
20 to the City, would you anticipate finding a mutual
21 solution there?

22 THE WITNESS: I would say as a water utility
23 we always look to find a mutual solution. My job is to
24 provide water to customers within my water service
25 boundary, and we do what we can to try and provide water

CLARY

1 to those customers.

2 MR. SHAFER: Thank you.

3 JUDGE NOBLE: Any other questions to my
4 right?

5 Mr. Lynch?

6 MR. LYNCH: Good morning.

7 THE WITNESS: Good morning.

8 MR. LYNCH: Thanks for your testimony.

9 Earlier you said in response to question
10 from counsel about you anticipated a need -- I think I'm
11 paraphrasing this correctly, that you anticipated a need
12 for looping, but then you said additional measures may
13 also be needed.

14 What would those additional measures be?
15 Would looping pretty much solve the issues that the City
16 would have in providing adequate water supply or do you
17 see -- what other measures would be needed?

18 THE WITNESS: Again, I don't think I have
19 enough information to say at this time. I don't know
20 the specifics of where the fire pumps would be drawing
21 off of the system and where that looping would occur.
22 To say that looping is what the answer is, I just -- I
23 don't have the information.

24 MR. LYNCH: Did you specify one particular
25 area of the project where you said was the weak point

CLARY

1 and that that was your area of concern about looping, or
2 do you think it's --

3 THE WITNESS: That's not the only area of
4 concern for looping. That's a major area of concern for
5 reliability and redundancy. If we lose that main, we
6 lose the entire feed to that area of the Port. We have
7 one feed to that area.

8 There are other dead-end lines also within
9 the project areas identified that are also dead-end
10 lines that would need looping. So it's not just the one
11 main coming in that's the concern. There are other
12 areas within the project areas that would require
13 looping as well.

14 MR. LYNCH: And for this one particular weak
15 point that you identified, how long -- can you give me a
16 sense of how long you'd need to extend another line in
17 there to provide the looping?

18 THE WITNESS: Construction-wise or from
19 design to end of construction, is that the question?
20 How long would it take?

21 MR. LYNCH: Not how long it would take, just
22 the distance.

23 THE WITNESS: Oh, it's approximately 1700
24 feet, 1500 feet. Somewhere between 1500 and 2,000 feet,
25 let's say.

CLARY

1 MR. LYNCH: Okay. Thank you.

2 JUDGE NOBLE: To my left?

3 Mr. Rossman?

4 MR. ROSSMAN: Good morning. Thank you for
5 your testimony.

6 Can you talk a little bit about your
7 knowledge of the water system's preparedness to
8 withstand a large earthquake?

9 THE WITNESS: I don't know that I could
10 really -- no, I couldn't do that.

11 MR. ROSSMAN: Okay. Thank you.

12 JUDGE NOBLE: Mr. Siemann?

13 MR. SIEMANN: Good morning. So you
14 mentioned that the system -- well, if I understand
15 correctly, the system that the applicant has described
16 it is designed for 2,500 gallons per minute at 20 PSI;
17 is that accurate?

18 THE WITNESS: It's a design for 2,500
19 gallons per minute at 125 PSI on the discharge end of
20 the pump -- (Court Reporter interruption.) Discharge of
21 the pump.

22 MR. SIEMANN: How does the 20 PSI fit in to
23 that?

24 THE WITNESS: Twenty PSI fits into it that
25 Washington Administrative Code 296 -- 246.292.30, I

CLARY

1 think it is, stipulates that water utilities have to
2 maintain 20 PSI of pressure throughout their
3 distribution system during fire flow conditions at a
4 maximum day demand. That's where the 20 PSI number
5 comes into play is that we as a water utility have to
6 ensure that we can continue to provide 20 pounds per
7 square inch of pressure throughout our entire system
8 during a fire flow condition. So that's where the
9 20 PSI comes from.

10 MR. SIEMANN: And so if the project's water
11 demands did not exceed that, would there be any other
12 concerns from your point of view?

13 THE WITNESS: If it did not go below the
14 20 PSI pressure?

15 MR. SIEMANN: Right. Right.

16 THE WITNESS: If we were provided the
17 information and took it through our computerized water
18 model and it indicated that we had adequate pressure
19 available, then that would not be a problem.

20 MR. SIEMANN: As I understand it, the
21 proposal is to add three diesel pumps, I think they're
22 diesel pumps, to supplement the pressure. Does that
23 change the calculation at all?

24 THE WITNESS: No. Flow, whether it's
25 2,500 PSI that flow at the pump or 2,500 PSI that flow

JOHNSON / CLARY

1 out of hydrants in the area, it's still 2,500 gallons
2 per minute and it's going to draw the pressure down
3 similarly.

4 MR. SIEMANN: One last question. You talked
5 a little bit about the need for redundant water mains.

6 Whose responsibility is it to provide or
7 install or cover the cost of those water mains if they
8 were in fact needed?

9 THE WITNESS: Well, typically any water
10 mains required for a development project are the
11 responsibility of the development to provide. It's not
12 a City responsibility per City code, so it would be
13 typically the responsibility of the developer.

14 MR. SIEMANN: Thank you very much.

15 JUDGE NOBLE: Any other questions to my
16 left? Any questions based upon council questions?

17 Mr. Johnson?

18 RECROSS EXAMINATION

19 BY MR. JOHNSON:

20 Q. Mr. Clary, you talked about looping in different
21 areas including within the project site.

22 Do you know where Area 200 of the proposed
23 terminal is?

24 A. Yes.

25 Q. What's your understanding of what's located at

JOHNSON / CLARY

1 that area?

2 A. In terms of water mains?

3 Q. No, in terms of what feature of the project will
4 be located there.

5 A. It's the rail unloading facility.

6 Q. Are you aware that the current design includes
7 additional looping at that area?

8 A. I saw indication that there would be looping.
9 There was no indication of sizes of the water mains.

10 Q. All right. And are you aware that Mr. Shafer
11 testified that once the pumps are in place there would
12 be tests performed at 150 percent of the design flow to
13 determine the adequacy of the residual pressure?

14 A. No, I was not aware of that.

15 Q. Is that information that would assist you in
16 further assessing whether or not the City could maintain
17 20 PSI as required under the Washington Administrative
18 Code?

19 A. Well, I think we would have to know that in
20 advance of approval. If you're saying that they would
21 test it once it was installed at that pressure, we would
22 need to know that information in advance.

23 Q. Well, let's assume for a moment that there was
24 an impact. Aren't there engineering solutions that the
25 applicant could work with the City on to ensure that

POTTER / CLARY

1 that didn't happen?

2 A. Yes.

3 Q. Okay. Thank you.

4 MR. POTTER: I'm sorry. I just wanted to
5 make sure that Mr. Bartz didn't have anything for this
6 witness.

7 MR. BARTZ: Port's fine, Your Honor. Thank
8 you. No questions.

9 JUDGE NOBLE: Mr. Potter, did you have a
10 question? And after that I'm going to have to have some
11 of your time, and I also want Mr. Clary to stay on the
12 witness stand.

13 REDIRECT EXAMINATION

14 BY MR. POTTER:

15 Q. Okay. I just want to ask a couple questions and
16 see if we're clear on the interrelationship between the
17 2,500 gallon per minute at 125 and the 20 PSI.

18 So the fire protection assessment report
19 indicates that to operate the fire suppression system
20 the system requires 2,000 gallons per minute at 125 PSI
21 in Area 200, and in Areas 300 and 400, 2,500 gallon per
22 minute at 125 PSI.

23 So to achieve those volumes in pressures, the
24 proposal is to use auxiliary pumps; correct?

25 A. Correct.

CLARY

1 Q. Okay. And if the system has to be utilized and
2 draws that amount of water at those pressures, there's
3 the potential to impact the rest of the City water
4 system?

5 A. There's the potential.

6 Q. And the rest of the City water system that has
7 to be maintained at the 20 PSI for fire suppression
8 purposes; is that correct?

9 A. We are required to maintain 20 PSI throughout
10 the entire distribution system.

11 Q. Okay. And it's that impact that today you don't
12 have sufficient information on this proposal to say if
13 that can be maintained or not?

14 A. That is correct. We do not have sufficient
15 information to perform that analysis.

16 MR. POTTER: Thank you.

17 JUDGE NOBLE: Thank you all.

18 Right now I want to revisit the decision
19 about Exhibit 3124. The representation was that this,
20 as I understood it, that this witness had relied upon it
21 in his testimony today?

22 MR. POTTER: That's correct. The
23 information was on the system demands, what volumes and
24 pressures are required.

25 JUDGE NOBLE: Well, it appears to be an

CLARY

1 actual part of the DEIS and extend -- and I understand
2 that the title of it, I've had a chance to look at it a
3 little bit more.

4 But the reason I looked at it a little bit
5 more is that Mr. Clary said he would rely on it, and I
6 don't know whether he misspoke about that, but when in
7 his testimony I didn't hear him say that he had relied
8 upon it for his testimony today. And so I would like to
9 ask him that question so that I can make sure that it
10 was a correct ruling on the admission of 3124, because I
11 am concerned that what it is, is a piece of the DEIS.

12 MR. POTTER: It's an appendix to the DEIS,
13 so yes. But it is the only source of information
14 describing the fire suppression and water demands, so he
15 had to rely on it.

16 JUDGE NOBLE: Let's hear from the witness
17 about that.

18 MR. POTTER: That's fine.

19 JUDGE NOBLE: Do you have a hard copy?

20 MR. POTTER: I do.

21 JUDGE NOBLE: Mr. Clary, I'd like you to
22 take a look at this document that Mr. Potter is going to
23 give you and tell the council whether it is actually a
24 piece of technical information that you relied on in
25 your testimony today.

CLARY

1 THE WITNESS: Yes, this is the entire basis
2 of my testimony was this document.

3 JUDGE NOBLE: All right. Well, that makes
4 me more comfortable. And I do understand the
5 frustration that -- my ruling as I said the first day
6 had to be nuanced because so many witnesses had
7 participated in the DEIS process. As I said, the main
8 concern was that this not turn into an appeal of the
9 DEIS, so I will maintain my ruling that it can be
10 admitted.

11 Mr. Johnson, did you want to say anything
12 more?

13 MR. JOHNSON: Yes, I do want to say more but
14 I'm not sure it's going to be a good use of our time.

15 The problem I have is, again, going forward,
16 I'm not sure -- I'm just not sure the parameters of your
17 ruling, Your Honor. This is clearly a document that is
18 part of the DEIS. Whether it's an appendix or not, it
19 was prepared for EFSEC by an EFSEC consultant, not by
20 this witness, and there are other sources of information
21 available from which this witness or other witnesses
22 could obtain data, for instance, the application itself
23 or other reports that have been prepared by consultants
24 in response to things in the DEIS which you've let in in
25 the past.

CLARY

1 And so if this one doesn't fall within the
2 category of inadmissible parts of the DEIS, I'm not sure
3 what does. And going forward, that's going to be the
4 case, then again, I think we're going to have a problem
5 at the tail end here because there's a potential we'll
6 have to bring back witnesses to start testifying about
7 documents like this.

8 I mean, this document was the primary
9 subject of Mr. Clary's testimony in his prefiled
10 testimony, because at the time that prefiled testimony
11 was prepared, we assumed collectively that the DEIS
12 would be in evidence here. And so, you know, some of
13 his testimony was a critique of this document, and that
14 was part of the SEPA process.

15 Similarly, the applicant critiqued this
16 document and referred to it in prefiled testimony. And
17 in light of your ruling during our case-in-chief, we
18 tried to stay away from that and now we're coming back
19 and dealing with documents that are actually part of the
20 DEIS.

21 This isn't a case where this witness, you
22 know, started by looking at this document and then
23 prepared his own analysis or report. This is a case
24 where we're taking what's in this report at face value
25 and using it as evidence in this proceeding.

CLARY

1 And so that's the quandary, and I'm sorry
2 for the lengthy argument here, but my concern is not
3 only with this document now because it, potentially
4 given the subject matter of today's testimony, it will
5 be presented or used with other witnesses opening the
6 Pandora's box even further in terms of us having to do
7 more work in rebuttal or we're going to run into another
8 one of these in the opponent's case-in-chief and have to
9 go through the same thing. So there it is.

10 JUDGE NOBLE: Thank you. All right. I will
11 reserve a final ruling on this until after I get a
12 chance to read this whole report.

13 And also, I want to point out that several
14 of the proponent's witnesses did refer in a critical way
15 to the draft DEIS, but that was allowed because that was
16 just the start of their work and a basis and framework
17 for the work that they did and testified about. And I
18 understand that we have to pick our way through this
19 process and in some way the ruling on the DEIS was a
20 difficult one for the parties and I understand that.

21 And so I'm rethinking, I'm still rethinking
22 3124 and I will make a final ruling on it after I get a
23 chance to take a look at this Exhibit 3124 once again.

24 I'd ask that this witness continue to be
25 available and I'm not going to excuse him yet. If he

CLARY

1 could be available by phone?

2 MR. POTTER: I'm sure we could do that.

3 JUDGE NOBLE: Sorry, Mr. Potter.

4 MR. POTTER: I don't want to belabor this,
5 Your Honor, but I do want to respond to what Mr. Johnson
6 said.

7 JUDGE NOBLE: Yes, please do.

8 MR. POTTER: Okay. As I understood your
9 ruling on the DEIS, the concern was that this proceeding
10 should not be turned into an appeal on the adequacy of
11 the DEIS. It should be very clear that the admission of
12 3124 is not admitted for that purpose; rather,
13 Mr. Clary, as a professional engineer, needed to review
14 the fire suppression system and its impacts on the City
15 water system.

16 He looked at 3124 for getting technical
17 information on the demands of the fire suppression
18 system, the volumes of water, the pressure at which it
19 needs to operate and how that would be done. The fact
20 that it was not prepared by this witness or any City
21 employee or consultant to the City or consultant to
22 Tesoro, to me, makes this source of information that
23 much more reliable and credible. It's an independent
24 analysis.

25 And so it's being used just for that limited

CLARY

1 purpose of a source of information on technical
2 specifications of a fire protection system. Nothing
3 else.

4 JUDGE NOBLE: Thank you.

5 As I said, I'm going to look at it and
6 finalize the ruling after I've had a chance to do that,
7 which I will do by tomorrow morning.

8 Mr. Clary, thank you for your testimony.
9 You're not quite excused as a witness, but you're done
10 for this morning.

11 THE WITNESS: Thank you.

12 JUDGE NOBLE: Thank you.

13 Mr. Potter, are you examining the next
14 witness?

15 MR. POTTER: Ms. Reed will call the next
16 witness.

17 JUDGE NOBLE: Thank you.

18 MS. REED: Your Honor, the City of Vancouver
19 would like to call Fire Chief Joseph B. Molina to the
20 stand.

21 JOSEPH MOLINA,

22 having been first duly sworn, testified as follows:

23 JUDGE NOBLE: Please proceed, Ms. Reed.

24
25 ///

REED / MOLINA

DIRECT EXAMINATION

1
2 BY MS. REED:

3 **Q. Chief Molina, please state and spell your name**
4 **for the record.**

5 A. Joseph B. Molina, J-o-s-e-p-h, B, M-o-l-i-n-a.

6 **Q. And Chief Molina, where are you employed and**
7 **what is your responsibilities?**

8 A. I'm employed with the City of Vancouver. I'm
9 the fire chief.

10 **Q. Could you please state your educational**
11 **background.**

12 A. I have a bachelor's degree from Western Illinois
13 University with a minor in fire service administration
14 and management. A couple of associates degrees,
15 paramedic management and fire service administration.

16 **Q. And could you please describe your employment**
17 **history.**

18 A. I've been in the fire service going on 24 years,
19 began in 1992 as a firefighter in Texas with the Waco
20 Fire Department. Spent 15 years there, moved through
21 the ranks from firefighter to assistant chief. And then
22 I was hired by Vancouver in 2008 as a deputy fire chief
23 and then as fire chief in 2011.

24 I have a pertinent backgrounded as a hazardous
25 materials technician while I was in Texas. I was in

REED / MOLINA

1 charge of the HAZMAT team for a period of time. I also
2 served as a hazardous materials technician with the FEMA
3 urban search and rescue team -- (Court Reporter
4 interruption.) Also served with the FEMA urban search
5 and rescue team, Texas Task Force 1, as a HAZMAT
6 technician.

7 MS. REED: Your Honor, at this time I'd like
8 to move for the admission of Exhibit 3016 substituted,
9 which is the resume of Chief Molina. I'm not sure that
10 that has been previously admitted because we had to
11 substitute it.

12 JUDGE NOBLE: My information is that 3016
13 has been admitted.

14 MS. REED: Okay. Thank you, Your Honor.

15 Ms. Mastro, could you please display
16 Exhibit 3018.

17 BY MS. REED:

18 **Q. Chief Molina, could you please discuss the**
19 **structure of the Vancouver Fire Department and its**
20 **resources?**

21 A. Sure. The Vancouver Fire Department is a career
22 fire department. It's 150 years old next year, so it's
23 been around a long time. The service area we cover is
24 both the City of Vancouver as well as a fire district
25 that is to our north. It's a little over 90 square

REED / MOLINA

1 miles total and a little over a quarter million people
2 in both of those jurisdictions.

3 We are deployed out of ten fixed locations, fire
4 stations that are spread out through the service area.
5 At each of those stations we have at least one fire
6 engine with three firefighters on it. At two of the
7 same stations we have trucks, two trucks, one truck each
8 with four personnel each. We also have two battalion
9 chiefs that are located to manage the deployment on a
10 daily basis.

11 That total staffing equates to -- well, it
12 equates to 12 fully staffed vehicles with 40 personnel
13 on duty, 38 assigned to fire suppression and 2 assigned
14 to command. Within that, we also have a number of other
15 vehicles that are specialty-type vehicles that aren't
16 manned continuously, but are available should we need
17 them during the day, during an operational period.

18 Some examples of that are rehabilitation unit
19 where we rehab firefighters during emergency scene so
20 that they can be cycled in and out of the danger zone,
21 and then a rehab fluids medical checks and such, so
22 there's a vehicle for that. We have a couple of water
23 tenders, because in our northeastern area there's some
24 hydrant, some water flow problems in the rural area, so
25 we have water tenders to help us with that.

REED / MOLINA

1 We have two brush trucks -- (Court Reporter
2 interruption.) We have two brush trucks as well that
3 assist us with vegetation fires in hard-to-access areas.

4 We have a heavy rescue unit that allows us to
5 deploy regionally for below-grade or above-grade,
6 high-angle-type rescues. We also have a water rescue
7 component as well assigned to that vehicle that allows
8 us to deploy, again, regionally to various neighboring
9 areas where there might be a water rescue.

10 We also have a hazardous materials equipment rig
11 that is -- and a pump tender that goes with it that
12 allows us to deploy to hazardous materials events within
13 one hour.

14 I think that covers most of the vehicles in
15 deployment. Again, it's a 24-hour schedule with 48 off,
16 approximately 188 firefighters assigned to that schedule
17 with 40 on-duty per day.

18 **Q. So Chief Molina, are you saying that you always**
19 **have staffing of at least 40 personnel on duty?**

20 A. Yes, 40 personnel minimum per day.

21 **Q. And do you have any marine response resources?**

22 A. Yes. We do have a fire boat that was acquired
23 in the last few years that has not -- again, it's a
24 vehicle that we have, but it's not staffed full time.

25 **Q. And what sorts of operations could that vessel**

REED / MOLINA

1 be used for and, for example, could it be used for -- is
2 it large enough to do evacuations? Would it be used
3 directly for firefighting?

4 A. It's a multi-purpose boat that allows us -- it's
5 semi-amphibious, so it can actually -- it's low draft,
6 so it can approach beaches in an amphibious manner and
7 do evacuations of folks. It can deploy people.

8 We've used it to deploy firefighters to
9 Government Island. It has fire pump capabilities, so it
10 can draft water out of the Columbia River and apply it
11 directly. It also has been used to rescue folks that
12 are having a medical problem on a marine vessel. So
13 it's a pretty diverse mission vehicle.

14 **Q. Okay. And has the applicant, Tesoro, ever**
15 **invited the Vancouver Fire Department to participate in**
16 **training?**

17 A. Yes.

18 **Q. And could you describe the training that you**
19 **were invited to participate in?**

20 A. I believe it was an industrial firefighting out
21 of Texas A&M, which I'm familiar with since I worked out
22 of there on my search and rescue team. So it's a pretty
23 elaborate training facility they have down there, and
24 Tesoro offered some training for us along those lines of
25 industrial firefighting.

REED / MOLINA

1 We considered it, but we -- one thing about, in
2 our world of minimum staffing of 40, whenever I send a
3 firefighter for training, I've got to cover their cost
4 and then I also have to cover the cost of backfilling
5 that position because we are minimum staffed. So a lot
6 of times we are offered training from Tesoro, from BNSF
7 as well, that we have to factor in.

8 While the training itself is covered, it's often
9 the tangential costs to that in terms of staffing,
10 overtime for backfill, things of that nature that we
11 have to consider in the overall context of the budget.
12 And then we have to make some decisions on a priority
13 basis.

14 And currently, we've been looking at the rail
15 problem we've got with the HHFTs currently is here now,
16 and we've been really trying to begin the planning
17 process of that and training for that because we're
18 already behind the curve on just the current trains that
19 are coming through the terminal.

20 And Tesoro, while we appreciated the offer, two
21 things: One, it was not the priority that we had --
22 that we were working with in terms of the rail first
23 issue. And then the uncertainty of the project itself
24 and whether it would come to fruition led us to decline
25 that training.

REED / MOLINA

1 Q. Okay.

2 A. I'm trying to slow down.

3 Q. So would you say in general that training for
4 high frequency events typically takes priority over
5 training for low frequency events?

6 A. So when you say "high frequency events," for us,
7 just to give you a description of a day in Vancouver,
8 out of those 10 stations with the 12 units, and we do
9 have a couple of current newer-type rescue units we're
10 using that are on a 10-hour schedule, so they're
11 deployed primarily for medical events on a ten-hour
12 schedule. So they're a little different than the 24/48.
13 They're mostly surge capacity units --

14 (Court Reporter interruption.)

15 -- surge capacity units, peak demand units.

16 But given that we run typically in the
17 neighborhood of 70 calls a day in the service area,
18 probably 75 percent of those are medical calls, we call
19 a medical call, an emergency medical event, citizen
20 having some type of a medical problem.

21 And those are our high frequency events if I was
22 to use that as an example of what Ms. Reed asked me. So
23 those events, we go to a lot of them, as I just said.
24 And we train for those because there's required training
25 to keep your certification up as well as the fact that

REED / MOLINA

1 it's something that we need to keep our skill set up and
2 we're deploying it often.

3 I will say that because it's a high frequency
4 event, the training for that, we often train for the low
5 frequency part of the high frequency event, the cardiac
6 arrests, things like that, the things that are really
7 time-life critical but aren't a typical event. They do
8 occur, but they don't happen all the time. So we're
9 often on events that are medical calls, and the training
10 really focuses on those critical events within that
11 category of high frequency.

12 The other events, structure fires, all other
13 types of calls, motor vehicle collisions and things of
14 that nature we train for, particularly extrication. And
15 then the structure fires is our bread and butter. You
16 could term those relatively low frequency because
17 there's probably 300 a year we have in our area compared
18 to medical events, but they happen often enough that we
19 need to make sure we keep up the training that's
20 required by law and also for us to make sure we function
21 safely.

22 And then if I'm looking at what would probably
23 be called low frequency, those are the specialty units
24 that I mentioned, the hazardous materials, technical
25 rescue and marine-type events that don't happen very

REED / MOLINA

1 often, but the training for that is such that you have
2 to maintain a certain level of proficiency to function
3 safely and effectively at those scenes.

4 So I don't know that I would say we prioritize
5 them different, but they are handled differently because
6 of the frequency on which we actively participate in
7 those.

8 **Q. Could you explain in a little more depth how the**
9 **HAZMAT team is staffed and how that functions?**

10 A. We have -- well, the entire department is
11 trained to a hazardous materials operations level, and
12 then above that we have approximately 24 technician
13 level responders that are trained to that level. We do
14 not have the ability to minimum staff those folks, so
15 they are hit and miss.

16 On any given day we could look at the schedule
17 and there's approximately assigned eight per shift, so
18 out of those eight we could have all eight or we could
19 have none. So it's just random based on vacations and
20 sick call, things of that nature, comp time. So up to
21 eight could be there on any given day, but we don't
22 minimum staff for those.

23 The way the City council has set the service
24 level for our hazardous materials team response is
25 through a -- it's one hour, and primarily that's through

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1 a call back. So to give you an idea of how it would
2 flow, it would be any company might have a technician,
3 but we're all operations level so initial response would
4 be primarily an operations level response.

5 Basically set up the perimeter and begin to
6 identify the product. Depending on the size of the
7 event, they can make a phone call consult to a
8 technician either on duty or off duty to get that
9 expertise to say what -- should we activate the team.
10 If the team is activated, then it's paged out with a
11 performance of -- expectation of one hour to get the
12 full team, fully team staffed out to the event itself.

13 **Q. Could you take a little time to explain what you**
14 **mean by training to operations level versus technician**
15 **level versus, say, command, incident command level?**

16 A. Yes. Most fire departments are trained at
17 operations level; it's built into the initial recruit
18 academy. And it's really just enough training to make
19 sure that you don't stumble into an incident and not
20 recognize it for what it is. So it's really basic.

21 It's training you to look at rail events,
22 trucking events, any type of event where there's --
23 typically where there's either transportation involved
24 or a fixed facility. They teach you how to use the
25 Emergency Response Guidebook, which is a guideline that

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1 all -- well, police even have; all emergency first
2 responders use because of the UN numbers that are
3 available typically on -- for sure on trucks and other
4 types of placards.

5 So it allows you to just realize that this could
6 be a hazardous materials incident, don't rush in, stand
7 back, set up a perimeter, try to identify the product
8 through using the ERG. And then have enough knowledge
9 to recognize that this is something that's going to need
10 a HAZMAT team or some type of notification to activate a
11 technician level. So it's really basic, keep people
12 out, isolate, deny entry.

13 And the technician level is the more advanced
14 level where you actually get taught, now that you know
15 you have an incident, whether it be a leak or rupture,
16 things of that nature, what steps should you take to
17 begin confining it and then, if possible, stopping it,
18 stopping the leak, plugging it. So you learn to plug
19 and patch. And you have to wear a lot of different
20 types of equipment, totally encapsulating suits, things
21 of that nature.

22 So it's a level above. It's the one you see
23 where everybody is dressed in basically the moon suit
24 and they're walking and they get decontaminated when
25 they come out. So it's a higher level of involvement in

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1 an incident where operations is defensive. Technician
2 is typically an offensive where you're actually entering
3 into the hot zone and taking the actions to mitigate the
4 problem.

5 **Q. Are there levels above that?**

6 A. Not in our department, no. I don't know that
7 there is any level above that, other than -- I mean
8 there's weapons of mass destruction-type specialties
9 where you can get into looking at nuclear, chemical,
10 biological, radiological, so there's different threats
11 you can train up to besides just regular hazardous
12 materials.

13 **Q. Could you talk about the importance and the cost**
14 **of readiness?**

15 A. That's my favorite topic. Yes. I think that's
16 a part of the response that's often not taken into
17 account. As I've tried to explain on many, many
18 occasions, it's not the call that's the cost. It's the
19 ability to go to the call, and that's what we call
20 readiness.

21 It's the -- and I'm going to get on my pedestal
22 here and preach a little bit, but it's the effort it
23 takes to recruit, train, equip, deploy trained
24 responders, in our case firefighters, that are at all
25 those stations on a daily basis ready to go to the call.

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1 And that's what the readiness cost is.

2 It's not even the call; it's the readiness to go
3 to the call. And it's like a bank account, if you will,
4 of readiness. And what occurs during a 24-hour period
5 is withdrawals are made from that account in terms of
6 calls. So as citizens call 911, having an emergency, a
7 medical emergency, they're taking away from that
8 readiness by removing a set amount of units and folks
9 for medical calls, typically three on an engine or two
10 on a rescue. But that's a withdrawal from that account
11 at any given time.

12 On a typical call of that nature, the average
13 time can be 20 to 30 minutes, so it's a relatively --
14 it's a withdrawal, but it's also put back into the
15 account pretty quick. And those single-type events
16 occur throughout the 24-hour period. Sometimes they're
17 occurring concurrently, simultaneously, if you will;
18 sometimes one after the other. Sometimes they're
19 occurring in a geographical area at the same time or
20 sometimes they're occurring across a geographic area at
21 different locations.

22 So those single events, typically our readiness
23 can absorb those calls as we receive them, send a unit,
24 get a unit back in service, send another unit, send two
25 units. So we're staffed where we can deal with that

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1 typical. Our readiness is such that we can deal with
2 those types of calls, single calls.

3 Occasionally, the 300 times, we get the --
4 either the motor vehicle collision, not 300 times, but
5 that takes two men. So, but I'll talk about a structure
6 fire where we actually send -- residential
7 2,000-square-foot house. We send three engines, a truck
8 and a battalion chief.

9 So that's a significant withdrawal from that
10 readiness account. It doesn't deplete it, but it
11 definitely takes a big chunk of that ability to respond
12 out of the system.

13 And a structure fire, a fire of that nature is a
14 longer duration event than 20 to 30 minutes. It's
15 typically two or three hours on just a residential fire.

16 So the way the City of Vancouver has chosen to
17 set up the fire department, set up our readiness, our
18 readiness account is capable of taking those single
19 hits, those single unit responses as well as a
20 single-family dwelling fire. If we have a fire going
21 and we have a regular call volume, we're pretty well
22 engaged from a readiness standpoint.

23 If a commercial fire -- if another fire happened
24 at the same time, then the account would pretty well
25 begin to bottom out and we would rely on automatic aid,

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1 mutual aid to refill that readiness account. We would
2 borrow from other jurisdictions to help us put readiness
3 back in that account.

4 If we have a commercial fire along with our
5 typical single-unit calls, that definitely puts us in a
6 call-back situation. We always start with mutual and
7 automatic aid to refill that account, but if we know
8 we're going to be engaged in a longer duration event,
9 like a commercial fire, we go ahead and begin a
10 call-back, which is where we call off-duty personnel to
11 come in, staff, reserve units so we can get some money
12 back into that readiness account. Because we've got to
13 have that because while we're doing with these other
14 emergencies, we still have our day-to-day medical
15 emergencies.

16 So that's what we call readiness. And I like
17 using the bank analogy because it really is an account
18 that you keep full and you wait for the call to come and
19 as they come, you just have to have enough working money
20 in that account to be able to serve all the needs of the
21 various customers and the different types of calls. But
22 again, those serious calls, we have to deploy more
23 resources than for a single call, and that's when it
24 really starts to become just how best can we manage or
25 readiness. And we do that, like I said just to

REED / MOLINA

1 reemphasize, the mutual aid, automatic aid as well as
2 call-back.

3 **Q. In addition to call-back and mutual aid, do you**
4 **use mandatory overtime?**

5 A. I mean, we've had to. Last summer was a case
6 where we had to. Typically that occurs usually when
7 we -- probably the best was last year's summer when we
8 had, I'll call it a drought, for lack of a better term,
9 but extremely dry and hot conditions, where we do staff
10 up it, so we put extra readiness in the bank when we
11 know we're going down a road of high heat and high call
12 volume.

13 Typically, summers are like that. Last summer
14 was like that, and then last summer especially going
15 into the 4th of July we were adding additional resources
16 in a preplanned way, and there was times there where we
17 had to mandatory some folks to work. A factor --
18 probably a couple -- one was we had 18 vacancies at the
19 time going into summer, which allows for more overtime,
20 and at some point even working overtime, and you do have
21 to work overtime, and at some point, so many calls we
22 were having so hot of conditions, folks just had to --
23 folks were turning down the overtime to recover so they
24 could work their normal shift. So we had to balance the
25 mandatory overtime with the crew safety.

REED / MOLINA

1 **Q. Couldn't you just go out and hire more people**
2 **and put them on staff as firefighters?**

3 A. I'd love to. Well, just to give you an idea, it
4 takes probably six to eight months from recruitment to
5 actually getting them through the academy and on the
6 street and then some more time while they're on the
7 street getting checked off, if you will, for the skills
8 that they need. So it's not something we could just
9 pull the trigger on and have instant staffing. There's
10 a lot of planning that goes into it.

11 **Q. And how would responding to a fire in an**
12 **industrial facility similar to the one proposed by the**
13 **applicant in this matter, how would that affect your**
14 **readiness account?**

15 A. Well, it would fall into a commercial alarm, so
16 it would probably start with a first alarm which would
17 be the three engines and a truck. If it fell in the
18 commercial, it would add another -- a few more engines
19 and trucks to that. So we have two trucks and six
20 engines going -- five engines going.

21 So it's nearly one-half of the readiness. It's
22 all of the truck readiness and it's at least a half of
23 the engine readiness in the system that would be sent to
24 a fire in that -- of that type of facility.

25 **Q. Would that make it difficult for you to meet the**

REED / MOLINA

1 other sort of routine demands that you were talking
2 about with respect to your service area?

3 A. Yeah, it does. I think I -- as I said earlier,
4 we're pretty well a normal call volume, add one
5 residential fire at the same time department. As soon
6 as we get into multi-family residential, i.e. apartment
7 or commercial, and probably the difference would be
8 duration, because we know multi-family residential
9 apartment, while it's -- if we can contain it to at
10 least one or two units, we can usually get it under
11 control fairly rapidly. If we're looking at a facility
12 such as we're talking about, it could possibly be a
13 longer duration event.

14 So as I said, the readiness account can take
15 some short duration events easily, and it can take some
16 large-scale short duration events. Like structure
17 fires, like house fires. But large-scale, large
18 duration events would deplete us to the point where we
19 would be -- we have steps we would take as we sent those
20 units and they found a working situation, it would
21 depend on what they saw and what they found if whether
22 they would ask for more units. If they did, it would
23 automatically trigger automatic aid and mutual aid, and
24 most likely a call-back. And call-back typically takes
25 an hour to get enough folks to get an engine out the

REED / MOLINA

1 door.

2 So say a large-scale, large duration --
3 potential large duration event would impede our ability
4 to respond to our normal calls in terms of response
5 time. We would reset the ten.

6 So what happens is if everything is on the west
7 side, this system would recognize -- it's trained to
8 recognize this event is a commercial fire, it has an
9 average duration of X, and so what it does is it
10 actually begins to decide what other stations should --
11 which stations should be covered. Out of the ten that
12 are -- say five are empty and five are full and the west
13 side is empty and the east side is intact, it would
14 redistribute the readiness to every other type station
15 situation where we would have even coverage, like every
16 other station might be vacate. So that would wind up,
17 as an outcome, it would wind up with longer response
18 times to events potentially.

19 **Q. And you've mentioned mutual aid. Could you talk**
20 **a little bit about the benefits and the limitations of**
21 **mutual aid?**

22 A. Yeah. Mutual aid and automatic aid are tools
23 that we use -- all first responder agencies, but I'll
24 speak to fire -- tools that we use in fire department,
25 so that no one agency has to be -- so every agency

REED / MOLINA

1 doesn't have to be everything, particularly with
2 specialty-type equipment. But even on a regular
3 day-to-day basis we all can't staff for everything, for
4 every contingency.

5 And so what it is, is agreements we put in place
6 that allow us to share resources mutually, deploy them
7 automatically so that we're not having to ask for them
8 in some cases. But in some cases, it is a mutual
9 agreement where we have to ask. And then we review them
10 periodically to make sure they are in fact reciprocal.

11 So the idea is not to rely on your neighbor to
12 do your heavy lifting, but to take care of your area,
13 for them to take care of their area to the best they can
14 given their ability to pay in the community, but to
15 share resources when those events occur.

16 Mostly short duration. A lot of times, in this
17 case as an example, if five of our engines were out and
18 two of our trucks, Portland allows one of their trucks
19 to be available to come across if we have another event
20 where we need a truck. We also have neighboring
21 jurisdictions that have fire engines as well. And so
22 the system looks at those engines as well and begins to
23 use them to move them into our area to assist with our
24 calls.

25 Obviously that removes readiness from the

REED / MOLINA

1 neighboring jurisdictions. So while we do that, we
2 don't want to take advantage or rely on it, so we would
3 be calling back while that mutual aid is in place and
4 then getting our folks on reserves deploying and then
5 releasing that mutual automatic aid back to the original
6 jurisdiction. Because their primary focus is serving
7 the citizens in their area.

8 So it's kind of like a shock absorber, allows us
9 to get hit with something pretty big, rely on assistance
10 while we get deployed, look at the effect of it,
11 recognize how long it's going to be, and then make a
12 decision to call back and release them back to their
13 jurisdictions so we can handle it with ours.

14 **Q. And so the longer an event lasts, would that**
15 **make it harder to rely on mutual aid?**

16 A. Yes. I mean, we give a lot more aid than we
17 get, and one of our concerns, once we get there, I'll
18 speak to as a -- a lot of times it's an apartment fire
19 in a neighboring jurisdiction. We'll respond to the
20 event with them. If we respond to the event with them,
21 we're there as long as there's what we call immediately
22 dangerous to life and health conditions, so active fire.
23 But as soon as the fire is under control, we withdraw.

24 They still have the event. They still have to
25 overhaul it and clean it up, but we can't -- we'll help

REED / MOLINA

1 with the emergency, but we remove ourselves from that as
2 soon as possible to get back into our service area to
3 make sure we've got readiness. That's an event we're
4 sent to.

5 If we are moved into an area for coverage, we'll
6 monitor that to see, because now we've left our area
7 uncovered to cover their area, and so we'll monitor what
8 the event they're working on if we're not at the event,
9 and our dispatch system has timers set up to let our
10 battalion chiefs know that this has been going, you've
11 been without this unit for X amount of time. And so
12 oftentimes they can settle at the command level where
13 they talk and say, yeah, we're about wrapped up here.
14 You can go ahead and go back home, things of that
15 nature.

16 So yeah, I mean it's something we have to
17 monitor because often we're giving or receiving from
18 Portland, that's who usually helps us out.

19 The other factor is not everybody is the same.
20 We're the largest fire department in southwest
21 Washington with a unique feature of the state line there
22 and a major fire department across that can assist us
23 with -- oddly enough they assist us on fire events, but
24 because of the mutual aid agreement doesn't allow them
25 to assist us on hazardous materials events. And the

REED / MOLINA

1 reason for that I think is a legal one, mostly on tort
2 liability, so there's some legalities where they don't
3 assist us on HAZMAT, but they assist us on fire.

4 But the other jurisdictions that surround us,
5 many of them are relying on volunteers and such to staff
6 their units. And so there is an engine coming in from a
7 northern rural department isn't really the same --
8 doesn't have the same training, experience and
9 capabilities, and I don't mean that critically, just
10 stating, as a Vancouver engine does.

11 So we recognize that. When we receive mutual
12 aid from folks, we appreciate the effort and we bring
13 them in. We're aware because we have a working
14 relationship with them, what we can assign duties to
15 them, but it's not the same as a call-back company, if
16 you will, of our folks that come in. They're a known
17 quantity in terms of skill sets.

18 **Q. Could you describe gap analysis?**

19 A. Sure. It's pretty much what we do all the time.
20 Is really look at risk, the probability of an event,
21 what's the worst-case scenario, what's the typical
22 scenario, and then what resources do we have in place
23 and what can those resources do and what deployment
24 model can achieve a given level of response and
25 mitigation.

REED / MOLINA

1 So as I said earlier, we've got a department
2 that we recognize our biggest risk, our probable event
3 is a medical call. Our worst risk is probably a
4 commercial fire or a multi-family residential. So we've
5 kind of built our deployment model and our readiness
6 around those types of events.

7 And so we have the 10 stations, the 12 units,
8 the specialties, the way we staff, the way we minimum
9 staff, the things we don't staff are all based on the
10 probability of an event. The HAZMAT team having an
11 hour, needing an hour to get set up and at an event is a
12 choice we've made based on the probability of an event
13 in our current environment.

14 And so while it might seem like a long time, the
15 cost of staffing a HAZMAT team or a marine team or tech
16 rescue team independently of our other units so that
17 they can get to an event, a low frequency event quicker
18 just didn't make sense for us to do that given the
19 likelihood of that event. So the model we've chosen is
20 one where we get on scene in one hour.

21 We get people there within eight minutes, don't
22 get me wrong, the operations folks and other folks for
23 other events. But to get the specialty teams in their
24 equipment at the scene is an hour-long process. And
25 that was done intentionally based on our risk.

REED / MOLINA

1 What's changed, and I referred to earlier, is
2 the unit trains that we're now encountering. This is
3 a -- I'll call it a new risk based on the fact that it's
4 a mile and a half, mile and a quarter train of crude
5 oil, and we hasn't experienced those before.

6 So the readiness model and deployment model is
7 based on typical risk. And the HAZMAT team is staffed
8 to deploy for that typical risk.

9 So what we've been doing is recognizing that
10 this new risk is in the community, it travels along the
11 rail line, and as I alluded to earlier, we've been
12 playing catchup preplanning the rail line, looking at
13 crossings, looking at our HAZMAT team, what can we do
14 to -- what would be the cost of actually beginning to
15 minimum staff the HAZMAT team, maybe not staffing it
16 fully but at least having a minimum number of people
17 available each day that could deploy faster than an
18 hour.

19 So those are the types of assessments we're
20 currently undergoing, because, any time your risk model
21 changes, you have to begin looking at your available
22 resources, your deployment model and what you should be
23 taking into account to begin to mitigate or be able to
24 respond to that event. And again, we recognize
25 worst-case, we've seen those worst cases. It's very

REED / MOLINA

1 difficult for a department our size and a community our
2 size to be able to afford a deployment and staffing
3 model that can deploy effectively to a worst-case of
4 pretty much anything.

5 So we always look at the worst-case because we
6 know to what know that is and we want to have a plan for
7 it, because it's going to take more resources than we
8 have. But we need to be able to handle a probable
9 event, and for us our probable event is a
10 2,000-square-foot residential. That's our most probable
11 fire event that we're going to have. Less frequently,
12 multi-family, less frequent than that is commercial and
13 so we staff to be able to mitigate those currently.

14 **Q. So if this proposed facility were constructed,**
15 **it sounds like that would affect the risk profile for**
16 **Vancouver that you were talking about?**

17 A. Well, yes. I mean, any time we introduce
18 something new, I'll call it a new facility, that handles
19 a product that is what's called a volatile that would be
20 an additional risk. The trains traveling through is an
21 additional risk. The terminal, Tesoro terminal that's
22 proposed would make Vancouver a destination for those
23 trains. We recognize we're dealing with the trains
24 whether or not the terminal comes to fruition, but the
25 addition of that facility is going to increase the risk

REED / MOLINA

1 profile for the Port area in particular, but for
2 Vancouver.

3 **Q. What if the volume of oil trains were to, say,**
4 **double? Would that affect Vancouver's risk profile?**

5 A. Part of risk assessment is probability of an
6 event and any time you increase the number of, I'll call
7 it train events, the number of railcars coming up and
8 down, statistically it increases the probability of the
9 event. So I would say, yes, more trains increases the
10 likelihood of either an accident at an at-grade crossing
11 or derailment of some type.

12 **Q. To your knowledge, has the applicant provided**
13 **the Vancouver Fire Department with any sort of analysis**
14 **of the demands that the additional risk caused by their**
15 **facility would place upon the Vancouver Fire Department?**
16 **In other words, have they identified to you what**
17 **resources might be needed to address that additional**
18 **risk?**

19 A. No, but if you're asking about a gap analysis?

20 **Q. Yes.**

21 A. Yeah. I went through the DEIS sections related
22 to the areas that we were discussing, and I didn't see a
23 gap analysis. We wanted one done --

24 MR. BARTZ: Excuse me, Your Honor.

25 Objection. We're talking about a -- perhaps a failure

REED / MOLINA

1 of the DEIS opposed by this witness and that isn't what
2 we're supposed to be talking about.

3 MS. REED: Your Honor, the question that was
4 asked was whether or not the applicant had provided an
5 analysis of what resources would be needed to address
6 the additional risk of the facility, and the witness's
7 response to that was informed by his review of the EIS,
8 but I don't believe that his testimony was directed at a
9 critique of the EIS.

10 MR. BARTZ: Your Honor, if the answer to the
11 answer was that, that would be fine.

12 THE WITNESS: No.

13 JUDGE NOBLE: Okay. The objection is
14 sustained, but the actual answer to the question has
15 been provided. And so I'm sustaining the objection just
16 so that you'll understand that the witness shouldn't be
17 critiquing a draft DEIS in his testimony. But the
18 answer to the question was no.

19 MS. REED: Okay. We will move on.

20 Ms. Mastro, could you please display
21 Exhibit 3020?

22 BY MS. REED:

23 Q. Let's move on to some discussion of
24 location-specific issues within Vancouver. Could you
25 describe Exhibit 3020 that is being projected?

REED / MOLINA

1 A. That's a map of the western corridor of the City
2 of Vancouver and the red approximately shows a half mile
3 either side of the rail and identifies critical
4 facilities that are within that area.

5 **Q. Okay.**

6 MS. REED: And could you please go down to
7 the next page on that exhibit?

8 BY MS. REED:

9 **Q. Could you describe this page, Page 2?**

10 A. It's a continuation of the rail corridor going
11 east doing the same thing, showing the half mile in
12 critical facilities up to the eastern boundary of the
13 City.

14 **Q. And why does this show a half mile around the**
15 **rail line and the proposed facility?**

16 A. So as I alluded to earlier, we've been
17 preplanning the rail line now that we have the unit
18 trains traversing, and we're playing catchup. So what
19 we've been doing, I've had my planning -- well, we don't
20 have planning staff but I've had to create some planning
21 staff in the interim because we have to get the plans
22 done. And I've assigned this work to several folks
23 where they are actually mapping the rail corridor that
24 traverses the City.

25 They're looking at what a half mile on either

REED / MOLINA

1 side looks like because that's what the Emergency
2 Response Guidebook that I referred to earlier suggests
3 in terms of an evacuation of a derailment and fire. And
4 within that we're looking at what critical facilities
5 are encompassed in that area or adjacent to it, what are
6 the transportation impacts along Highway 14 as well as
7 the neighborhoods.

8 We have 27 at-grade crossings located along that
9 corridor; 22 of those are private and 5 are public and
10 the majority of those private ones aren't guarded,
11 aren't protected crossings. So we look at those as
12 likely places where there could be a collision of some
13 type, and possibly a derailment. And within that we
14 look at what population is involved in each of those
15 segments, what is the access if a train is derailed and
16 blocking, how many people are cut off.

17 For many folks there's no way to -- we had an
18 incident years ago where 450 people were basically cut
19 off from services because there was an accident with a
20 train and a vehicle, not a derailment, but it blocked
21 access. So we look at all of that because we just have
22 to be ready to go.

23 We look at where we need to be staged,
24 coordinating with dispatch making sure we have markers
25 identified so if a derailment occurs or incident occurs,

REED / MOLINA

1 somebody can report it pretty accurately using a number
2 which translates to dispatch sending it to us and we
3 have it in our map in the units. It allows us to go
4 this is the location, and we know if there's an incident
5 here, we want to send all of our units to a staging area
6 here. The best place for a command post is here. We
7 want to use this -- potentially this route for
8 evacuating folks away from the area land side or
9 recognizing that some folks might not be able to be
10 evacuated because it's blocked and at least knowing
11 where we might need to get the boat available to
12 actually evacuate from the water side.

13 So it's part of a planning effort that we're
14 heavily engaged in right now trying to, again, be
15 prepared for the risk that's now in the community -- the
16 new risk that's in the community.

17 MS. REED: Could you please display
18 Exhibit 3021?

19 BY MS. REED:

20 **Q. And you were talking about looking at evacuation**
21 **areas in neighborhoods that might be affected. Could**
22 **you describe this exhibit in that contents?**

23 A. I think that is actually the example that I used
24 earlier where we had a train collide with a vehicle, and
25 for several hours the 450 folks I mentioned, up to 450,

REED / MOLINA

1 I don't know that they were all present, but up to 450
2 were potentially affected while we could not get access
3 to that area with either police, fire or EMS.

4 **Q. How long was that access blocked?**

5 A. If I recall, it was within two or three hours, I
6 believe. I have the details somewhere here.

7 **Q. Okay. That's fine.**

8 MS. REED: Could you please display
9 Exhibit 3043?

10 JUDGE NOBLE: Ms. Reed, while we're waiting
11 for that, CAN I ask you if you could give us an estimate
12 about the remainder of your question time?

13 MS. REED: I would say we probably have
14 another 20 to 30 minutes.

15 JUDGE NOBLE: All right. I have to keep in
16 mind the needs of the court reporter particularly. It
17 is 20 minutes to 11:00 and so why don't you go ahead and
18 ask your next question and then we'll take a break after
19 that?

20 MS. REED: Okay. Sure.

21 BY MS. REED:

22 **Q. Do you recognize this document, Chief Molina?**

23 A. Yes.

24 **Q. And was that prepared under your direction?**

25 A. Yes.

REED / MOLINA

1 Q. And what does it show?

2 A. It shows the number of rail incidents in that
3 corridor from 2008 to present, I believe.

4 Q. And by "that corridor," are you talking about
5 the BNSF rail line that goes along the river through
6 Vancouver?

7 A. Yes, through that area that the previous
8 exhibits identify.

9 Q. Okay.

10 MS. REED: Thank you. We can take a break
11 now.

12 JUDGE NOBLE: We will be in recess until
13 10:55.

14 (Recess taken from 10:43 a.m. to 11:01 a.m.)

15 JUDGE NOBLE: I have to say I realize that
16 there is no tomorrow.

17 MR. JOHNSON: Is that a ruling, Your Honor?
18 (Laughter.)

19 JUDGE NOBLE: So I am prepared to rule on
20 3124 now.

21 It is the findings regarding fire
22 protection, it's an engineering assessment for the
23 project proposed.

24 First, I have to say that it appears that it
25 was timely provided to the proponent side so I didn't

REED / MOLINA

1 see that as a problem. And it's an appendix to the
2 draft DEIS, therefore it's a source; it's not the DEIS
3 itself. And it's essentially a factual document.

4 It begins a description of the proposed
5 facility, it contains maps and diagrams of the water
6 system and fire suppression hydraulics and such things.
7 This is factual information that is similar to
8 Mr. Clary's testimony, and Mr. Clary based his opinion
9 on the facts contained in Exhibit 3124, with the
10 exception of Chapter 9, which is the conclusion section
11 of that appendix.

12 And so since Exhibit 3124 is essentially a
13 factual document, factual in nature, except for those
14 conclusions in Chapter 9, I am going to admit 3124 with
15 the exception of Chapter 9, the conclusions, which are
16 for the council to make based upon the evidence that's
17 been presented. So 3124 will be admitted and Chapter 9
18 will be redacted.

19 MS. REED: Thank you, Your Honor.

20 JUDGE NOBLE: That's the ruling.

21 MR. JOHNSON: Your Honor, briefly can I ask
22 a question?

23 JUDGE NOBLE: Sure.

24 MR. JOHNSON: Again, it's just to clarify,
25 because you've concluded it is a factual document, but

REED / MOLINA

1 because the accuracy of the facts we would submit is in
2 doubt, we would then need the opportunity to potentially
3 bring back witnesses to present our position with regard
4 to those facts. I mean, our concern is that it is taken
5 at face value as accurate, and we obviously would
6 potentially dispute that.

7 JUDGE NOBLE: First of all, yes, you may
8 bring back witnesses in rebuttal to dispute whatever is
9 in Exhibit 3124 that you disagree with or that your
10 witnesses disagree with. And like all exhibits, it's
11 quite possible that you disagree with any part of them
12 and you have the opportunity to dispute them with
13 witnesses and argument later on after the opponent's
14 case is completed.

15 MR. JOHNSON: Thank you.

16 JUDGE NOBLE: Thanks.

17 You may proceed, Ms. Reed.

18 MS. REED: Thank you, Your Honor.

19 BY MS. REED:

20 **Q. Chief Molina, could you please briefly describe**
21 **the hazardous characteristics of Bakken crude oil?**

22 A. So I'm not an expert, but I will tell you what I
23 have learned about the product. As I said, it's the
24 unit trains coming into the service area have caused us
25 to spin up both planning as well as product knowledge,

REED / MOLINA

1 and so I've had staff that's looked at it.

2 From my view, it's what's called volatile and I
3 think that's a term that describes its ability to ignite
4 readily. I think its vapors are going to be heavier
5 than air, so they will flow along the contours of the
6 geography. It typically will float in water, but
7 potentially parts of it will sink.

8 So I think for us it was really the ratio of
9 derailments and product release and the number of times
10 that product actually ignites. For us it seemed to be,
11 and I think for everybody, it seemed to occur more often
12 than regular oil. And so that's why we've -- well,
13 that's why I think I've seen nationally incidents that
14 have occurred that resulted in --

15 MR. KISIELIUS: Your Honor, I'm going to
16 object here. I think the witness has testified he's not
17 an expert on this, he hasn't established a foundation to
18 talk about the likelihood of ignition of this oil as
19 compared to other oils. And while some of the earlier
20 statements fall within the range of what he's reviewed,
21 I don't think he has the expertise to be testifying
22 about the likelihood of Bakken crude as compared to
23 other crude oils to lead to an incident like the one
24 that --

25 MS. REED: Your Honor, I would disagree.

REED / MOLINA

1 The witness has stated that he has people on staff who
2 has looked at these issues in more detail and that he is
3 basing his testimony on the information that they have
4 provided to him, which is within his expertise.

5 MR. KISIELIUS: Your Honor, his own
6 testimony says he is not an expert on this topic.

7 JUDGE NOBLE: So, I would like a little more
8 foundation to be laid about what he's basing his
9 opinions on. And I think the objection goes more to the
10 weight of his opinions and what his expertise, the
11 extent of his expertise in those areas.

12 So please ask a few more questions about the
13 basis for these opinions. And then I also will
14 interrupt if I think that it is going beyond that
15 expertise.

16 MS. REED: Okay.

17 BY MS. REED:

18 Q. Chief Molina, are you trained with respect to a
19 HAZMAT response?

20 A. Yes.

21 Q. What level of training do you have?

22 A. Well, I've previously served as a hazardous
23 materials technician.

24 Q. And you previously described in your testimony
25 what that level of training involves.

REED / MOLINA

1 Would that mean that you would have familiarity
2 with the volatility of various hazardous materials?

3 A. General characteristics. We are trained, as I
4 said, using the Emergency Response Guidebook as a
5 responder to utilize that book to establish guidelines
6 on how to respond. I would say most of my expertise,
7 while I'm not a chemist by trade, I am capable of
8 looking at risk of a product and the characteristics of
9 that product and coming up with a response plan on how
10 to respond to a release and potential ignition of that
11 product.

12 **Q. Are there other people on staff that report to**
13 **you that spend time analyzing the risk of things like**
14 **volatile hazardous chemicals?**

15 A. Yes. We do have staff that's been assigned to
16 research the characteristics of this product as part of
17 the planning for release and possible ignition secondary
18 to a derailment.

19 **Q. And those employees report to you?**

20 A. Correct.

21 **Q. And have they briefed you on this subject**
22 **matter?**

23 A. Correct.

24 MS. REED: Your Honor, do you believe that's
25 sufficient foundation?

REED / MOLINA

1 JUDGE NOBLE: I think that's sufficient
2 foundation for him to testify as to his planning
3 activities and the basis for his conclusions about how
4 the nature of this product affects his planning
5 activities.

6 MS. REED: Okay.

7 BY MS. REED:

8 **Q. Chief Molina, you testified that the vapors of**
9 **Bakken crude tend to sink and follow the contours of the**
10 **land.**

11 **Could you explain in a little more detail how**
12 **this might contribute to a risk at a potential release**
13 **site?**

14 A. Yes. If there was a release, part of our
15 planning is actually looking at the topography along
16 those two exhibits, so it's not just the linear
17 distance. It's actually looking at the height and the
18 valleys that are in that area. A release that's not
19 ignited vapors would leave the source of the release,
20 travel, as I've indicated, along the ground, along the
21 topography looking for low spots.

22 The risk with that is a potential ignition
23 source. So what ignition sources are available? Could
24 the vapors get into a stormwater area? Underground
25 sewer? Things of that nature.

REED / MOLINA

1 When there's not an ignition, the first thing we
2 look for is ignition sources to make sure that they're
3 not available to provide those vapors the ability to
4 ignite. The closer they are to the source, the more the
5 concentration and so they're what we call they're too
6 rich for ignition.

7 But as they travel away from the release
8 following the topography they begin to lean out and then
9 there's a range there where there's actually the right
10 amount of fuel -- I'll call it vapor fuel and oxygen to
11 be able to be ignited. And then obviously, as it goes
12 further away at a distance, it becomes very lean and not
13 ignitable.

14 But it's that range where the mixture is correct
15 for ignition, and it's all dependent on the topography.
16 So we try to account for likely areas where this
17 product, a vapor could collect or enter an area where we
18 might have risk of ignition.

19 **Q. And if a vapor were to travel some distance from**
20 **a release to that area where it is ignitable and there**
21 **were an ignition source, what sort of fire would result**
22 **and what sort of hazard would that pose?**

23 A. So it would ignite in that area where the
24 ignition source was and where the mixture was proper for
25 ignition, so it would ignite there and burn back toward

REED / MOLINA

1 the source in a rapid manner. For us, that's a
2 really -- a worst-case because we don't have a fire and
3 then we have one and it starts away and works toward the
4 source. So it can be quite an event.

5 **Q. With that sort of background, could you talk**
6 **about what would be a likely scenario if an incident**
7 **similar to what happened in Molina [sic] had happened in**
8 **downtown Vancouver? And could you talk about some of**
9 **the challenges that would be posed with respect to**
10 **planning and responding to such an event?**

11 A. Are you referring to Mosier?

12 **Q. I'm sorry, Mosier.**

13 A. I don't have an event named after me yet.

14 **Q. No, sorry. (Laughter.)**

15 A. Knock on wood.

16 That would be in downtown Vancouver?

17 **Q. Yeah.**

18 A. That's an interesting event because it falls in
19 that range of what a probable event looks like, so it's
20 a good one to -- in fact it's the one that we've been
21 using since it occurred to work at our modeling and
22 planning that we've been working on.

23 Well, I believe that car -- that derailment had,
24 I want to say multiple cars that were derailed, and I
25 believe six were actually opened up and subject to fire.

REED / MOLINA

1 When we see that type of an event -- so that
2 happened in Mosier, which is a fairly small town with I
3 believe 400 population. The downtown area has
4 significantly more folks than at present, if it happens
5 during business times.

6 So an event like that, derailment and ensuing
7 fire, large fire, fireballs potentially, we would
8 respond. Our initial response would concentrate on life
9 safety, which would be making sure folks are out of the
10 immediate area.

11 Secondary to that would be looking at beginning
12 fire control procedures, potentially, mostly on
13 exposures, which is not the actual fire itself but the
14 effect of the fire on adjacent structures, buildings,
15 things of that nature. These types of events, you have
16 a very short window to make what I would term an
17 offensive attack. And with this type of event, that
18 would require a lot of water as well as foam. And it's
19 very difficult for any department currently to be able
20 to bring the quantity of water and foam, water to bear
21 and foam to arrive to the scene, because foam is fairly
22 well precious commodity and scattered throughout the
23 region, so you have to actually get the -- have the
24 logistical ability to acquire that foam.

25 So it's very difficult to actually make an

REED / MOLINA

1 attack on the fire itself in a very short timeframe to
2 keep it from spreading to other cars. And we would
3 focus on life safety and removing folks out of the area
4 as well as protecting the exposures that are adjacent to
5 it. That's assuming it was already ignited like Mosier
6 was.

7 Then we would probably set up fixed monitors of
8 water to those exposures, and we would withdraw our
9 personnel to a safe distance and monitor that until --
10 and establish command, unified command. We would be
11 getting in contact with DOE, the railroad, all of the
12 stakeholders that have a stake in that event of this
13 type, and relying on them to begin to get the resources
14 needed while we hopefully keep the fire from spreading.
15 That would be our goal, make sure no folks or people are
16 involved in the area, and then we would wait for other
17 resources to arrive and begin.

18 Typically the events, they peak, so the fuel
19 burns and gets to a peak and then it begins to decay.
20 And so typically, once it begins to decay and gets to a
21 point where now we've got the foam on scene, we've got
22 the water sources available, and we can begin a
23 coordinated attack with the railroad to make sure that
24 we extinguish the fire and allow it cool. Maintain the
25 foam blanket because foam is a tricky thing. It sounds

REED / MOLINA

1 easy, but it really takes quite a lot of water to keep
2 the right amount of concentrate on the product and then
3 it's subject to weather, so any wind could blow it off.

4 So you have to have the ability to maintain that
5 foam, so once you start with the foam, you have to
6 maintain the foam blanket. And that typically would
7 occur, because it's so difficult to get it early on, it
8 typically occurs on the backside of that event, much
9 like Mosier. I think Mosier took 12 or 14 hours before
10 they actually got it under control.

11 **Q. And why would you need to maintain the foam**
12 **blanket once the fire was extinguished?**

13 A. Mostly the heat. So we've put out the -- we've
14 smothered the fire, cut off the oxygen, but as soon as
15 the foam decays to a point the vapors are -- it's still
16 hot. The vapors continue to off-gas from the product
17 and, again, we're back to that worst-case, for my mind,
18 where we've extinguished it, put out the fire, we can't
19 maintain the foam blanket, the vapors off-gas, we go
20 back to that cycle of it's too rich, and then it gets
21 into the flammable range and then it ignites back to the
22 product again.

23 So it's like a secondary fire, secondary
24 ignition. And so if it hasn't ignited, we want to keep
25 it from igniting. If it's already ignited, it's

REED / MOLINA

1 burning.

2 A lot of times that's a steady state, assuming
3 we've got the resources to keep it from spreading to
4 structures, it's actually burning the fuel down so it's
5 a natural decaying. And then we want to be able to
6 interfere with that in a manner that allows us to not
7 allow a secondary ignition. So it takes a lot of foam
8 and water.

9 **Q. And with respect to the BNSF rail line that runs**
10 **along the river, are there any sort of topographic**
11 **challenges with respect to a fire on that line?**

12 A. Yes. The rail line's sometimes elevated,
13 sometimes it's not. So there's that challenge depending
14 on where on the track.

15 So, yeah, topography can be, I won't call it
16 extreme but it's varied. So a lot of it is literally
17 planning that corridor and looking at those segments and
18 seeing what the topography is specifically to each one
19 of those segments and what are the risks of vapor or
20 fluid getting into -- for us, it's getting into the
21 storm sewer area, which is very difficult to contain
22 once it's ignited. And obviously we have a concern with
23 the environment, with the river being so close.

24 So yeah, there's some topographical challenges
25 within that corridor that we are aware of and we proceed

REED / MOLINA

1 to address.

2 Probably one of the big things is a fire -- when
3 I looked at Mosier, one thing I noticed was it was
4 relatively green still, so it wasn't dry. Any time you
5 have an adjacent elevation, I'll call it, like a hill, a
6 grade, a lot of times, I don't know if people realize
7 fire actually burns faster uphill than it does downhill
8 and that's why wild land fires can be so tragic when we
9 lose firefighters. You just can't outrun it when you
10 are faced with a grade like that.

11 So what happens is the heat of the fire begins
12 to preheat the fuels at the higher elevation and that's
13 what causes the fire to actually begin to move quicker
14 uphill. And so in those areas where we have adjacent
15 grades, potentially houses nearby, those are problematic
16 for us in terms of a fire that could jump into the grade
17 and traverse up a hill into a residential neighborhood.

18 **Q. So if you had, say, a railroad track near a**
19 **slope and on top of that slope was a house, would you --**
20 **you would be concerned about the possible ignition of**
21 **that house then?**

22 A. Correct.

23 **Q. And with respect to the vapors that sink into**
24 **areas like sanitary or storm sewers, would ignition of**
25 **those vapors cause consequences for public services to**

REED / MOLINA

1 the citizens of Vancouver?

2 A. Yes. Any time we get into those types of
3 environments it's going to affect -- Public Works is
4 part of our command group and they would assess what the
5 actual impact was if we had a fire or product released
6 into it and/or vapors.

7 **Q. And could it cause facilities such as sewage**
8 **treatment plants to have to shut down temporarily?**

9 A. I would imagine that would be part of the
10 mitigation that the public works folks would assess and
11 consider.

12 **Q. With respect to evacuation of the area, could**
13 **you describe how you work with other agencies and**
14 **particularly the police in the command structure in**
15 **order to ensure that people are safely removed from the**
16 **risk area?**

17 A. Sure. As I said earlier, we're resourced to the
18 point where we would be concentrating on the fire. That
19 doesn't mean we wouldn't be assisting with immediate
20 evacuation of the area adjacent to the derailment and
21 fire, but police is the primary -- the primary responder
22 that we would assign evacuation of particularly
23 residential areas, so police would begin the evacuation
24 process.

25 We would also notify our dispatch system that

REED / MOLINA

1 has the ability to make some targeted notification for
2 folks. And then also activating the emergency
3 management. Because once you evacuate folks from their
4 particularly houses, now you basically own them, so you
5 have to give them a place to go to. You've got to
6 provide for their medical needs, their well-being in
7 terms of food, shelter and those types of things, so
8 emergency management has the primary lead on sheltering
9 evacuees.

10 We have shelters that are pre-planned that we're
11 able to send folks to. We probably would also utilize
12 C-Tran, our bus service, for that movement. So it would
13 be coordinated between police, what areas -- again, from
14 the planning map we've got we could identify what's the
15 general amount of people we could expect to be
16 evacuated.

17 Some of that is going to be time-of-day
18 dependent. Night, probably full population. During the
19 day, less. Where would we want them to go? How do we
20 get them there? What do we tell them to take? What's
21 the expected duration of the evacuation going to be?

22 And so the folks can do a lot of their own
23 preparation to leave. Take their pets and things of
24 that nature.

25 So, but there's a plan for that and once we get

REED / MOLINA

1 everybody to that location we basically make sure
2 they're healthy and they've got well-being information.
3 Because everybody is worried about their residence;
4 everybody wants to know what's going on at home. And
5 then we would continue the event until it was mitigated,
6 and then release them back to their area.

7 **Q. One of the applicants' expert witnesses, Eric**
8 **Haugstad, testified that planning and preparedness for**
9 **disasters at fixed facilities, such as the terminal, is**
10 **less -- is easier, less difficult and has greater**
11 **certainty than planning for disasters in, you know,**
12 **transportation like rail transportation or marine vessel**
13 **transportation.**

14 **Do you agree with that?**

15 **A. Yes. I think any time products are traveling,**
16 **transportation, whether it be rail, ship, motor vehicle,**
17 **from our training, that's what we can expect to see**
18 **releases more commonly. Fixed facilities within**
19 **themselves transport product. So while they're a fixed**
20 **facility and they can do some fixed fire protection**
21 **mitigation, when the train is -- they're offloading of**
22 **the product from the train to the tanks so there's some**
23 **movement of the product.**

24 **So I would characterize that as while it's not**
25 **transportation as typically thought of in terms of**

REED / MOLINA

1 trains, pipelines, ships and trucks, it is moving
2 product within the fixed facility both from the train to
3 the tank and then from the tank to the ship. So those
4 are the parts that would be of concern -- a high
5 likelihood that we would focus on in the facility along
6 with the storage tank. But as I said, it's a static
7 status versus a moving product.

8 Q. So would you agree, then, that -- that fire
9 suppression devices located in areas that are static
10 rather than mobile are -- that there would -- let me
11 rephrase that.

12 Would you agree that fire suppression and
13 planning would be incomplete if at a fixed facility it
14 focused exclusively on the areas that are staffing and
15 not the areas where the product is moving from one area
16 to another?

17 A. I would hope we were looking at it holistically
18 at the facility from a fire protection/fire suppression
19 perspective.

20 Q. Okay. With respect to the proposed oil terminal
21 facility, have you reviewed the applicant's proposal
22 with respect to fire training and fire suppression?

23 A. Yes.

24 Q. And at one -- actually, in several places in the
25 application, the applicant states that the employees at

REED / MOLINA

1 the terminal will have only incipient training. Could
2 you please explain that that means?

3 A. So given the size of this facility, it appears
4 that they will have an onsite group of folks that have
5 been trained to keep a fire small, I'll call it, so an
6 event release of a small magnitude, so that the effort
7 is to, if it's small, keep it small. So they would
8 have, I would imagine, training to activate systems that
9 aren't automatic, things of that nature, while they're
10 notifying the fire -- while they're calling 911 to get
11 the fire department going.

12 So it's an effort to contain small to small
13 while 911 is called and firefighting forces are coming.
14 So I think it's probably the next step would have been,
15 which is more typical, I think, at large -- at
16 refineries is industrial firefighting capacity versus
17 what I believe they're describing here.

18 **Q. So assuming the facility will have employees**
19 **that are trained only to the incipient level, does that**
20 **mean that in the event of a large fire, they would have**
21 **to rely on first responders from outside the facility?**

22 A. Yes.

23 MS. REED: No further questions.

24 JUDGE NOBLE: Cross-examination?

25 MR. BARTZ: Thank you, Your Honor.

BARTZ / MOLINA

CROSS-EXAMINATION

1
2 BY MR. BARTZ:

3 Q. Good morning, Chief Molina.

4 A. Good morning.

5 Q. My name is Dave Bartz. I represent the Port of
6 Vancouver. I've just got a few questions about your
7 testimony.

8 You mentioned at Page 7 of your direct and in
9 your testimony also this morning that you routinely
10 perform a gap analysis, an evaluation of your
11 capabilities; is that correct?

12 A. Routinely in terms of we've done a standard of
13 cover, and we review it annually.

14 Q. And have you provided any of that information to
15 any of the representatives of the applicant?

16 A. I do not believe they've asked for it, so I
17 don't think so. I mean, it's public and it's on the
18 website.

19 Q. And you've been asked for any information about
20 Vancouver Fire Department capacity or capabilities by
21 any of the representatives of the applicant?

22 A. I personally have not. I can't speak
23 specifically to my staff may have been asked.

24 Q. So you've never been asked by any senior
25 representatives of the applicant for information about

BARTZ / MOLINA

1 the fire department's capacities?

2 A. I have not personally been asked, but my staff
3 has.

4 **Q. Are you aware of your staff being asked?**

5 A. By the applicant?

6 **Q. Yes.**

7 A. I'm not aware of them specifically asking for
8 our capability. I know there's been a discussion on
9 training.

10 **Q. When I say "applicant" I'll say anyone**
11 **representing the applicant so a hired consultant or a**
12 **low level employee or senior manager, anybody like that**
13 **that represented the applicant.**

14 **Are you aware of any requests for information**
15 **about the fire department and its capacity or**
16 **capabilities?**

17 A. I'm not aware. Again, I can't speak for the low
18 level -- question to a lower member of my staff. I've
19 not been briefed that there's such a request.

20 **Q. And have you had any direction from anyone that**
21 **you think of as a superior of yours to not respond to**
22 **those requests?**

23 A. No.

24 **Q. So if you were asked by Vancouver Energy for**
25 **that information, would you provide it?**

BARTZ / MOLINA

1 A. Well, yeah. I'm a public agency subject to
2 public disclosure.

3 **Q. Have you provided any of that information about**
4 **Vancouver Fire Department's capacities or capabilities**
5 **to EFSEC?**

6 A. Yes. I believe we have done that with EFSEC
7 staff.

8 **Q. At Page 9 of your prefiled testimony, you talked**
9 **about wanting to get more foam and marine training. Do**
10 **you see that? I'll let you get to that; it's Page 9.**
11 **Do you see that there?**

12 A. Yes.

13 **Q. Have you made any evaluation of the Vancouver**
14 **Fire Department's continued participation in the Marine**
15 **[sic] Fire & Safety Association as a result of the oil**
16 **train project?**

17 A. Let me --

18 **Q. Evaluation in your participation of the MFSA?**

19 A. I have.

20 **Q. Has it been as to an eye towards perhaps**
21 **removing yourselves from MFSA?**

22 A. No, not removing. It was really a discussion
23 with MFSA, because we're a member of FPAAC. The
24 Vancouver Fire Department is a member of the Fire
25 Protection Consortium aspect of MFSA. We've been a

BARTZ / MOLINA

1 member for quite a while. The plan itself is, I want to
2 say close to 25 years old. So we've been an active
3 member of MFSA and participated in tabletops and
4 exercises.

5 What we wanted to do is have a discussion with
6 the executive director about while the oil side is well
7 funded because it's mandated, the fire protection side
8 isn't mandated. It's a pretty common theme throughout
9 most of this discussion is everybody is concerned about
10 oil spills and that gets funded because of the ecology
11 needs. But the firefighting portion of it typically is
12 left for the local communities to wind up with the cost
13 of that.

14 And so we engaged in a pretty thorough
15 discussion with MFSA about wanting to update the plan to
16 get a risk assessment done, because it's been so long
17 since we've looked at the ship traffic that's on the
18 river to include potentially oil, but we just haven't
19 done a risk assessment of the water area, both the
20 Willamette and the Columbia.

21 So we were really pushing to have that
22 assessment done, have it funded and done so we could
23 validate what the risk was, we could get a review,
24 thorough review of all of the training and equipment
25 that had been purchased and accommodated, and really

BARTZ / MOLINA

1 look at, as I said earlier, it's a combination of what
2 training do we have, what equipment do we have, how many
3 people and where are they located, what is the risk, are
4 we deployed appropriately for what we think is the most
5 probable incident. If we're not, then what would it
6 take to get us to that point.

7 So yeah, that was a good discussion that ended
8 well. I think we're on the road to getting that
9 assessment done.

10 **Q. Are there plans for that assessment?**

11 A. We've pushed for a Port security grant that
12 we've just recently had -- MFSA received, so we're in
13 the early stages of breaking out that grant and
14 determining what portion of it is going to go toward the
15 planning.

16 **Q. I'm glad you brought up FPAAC. I've got a**
17 **couple questions about that. But I want to go back to**
18 **my original question which is -- (Court Reporter**
19 **interruption.) I want to go back to my original**
20 **questions. Glad you brought up FPAAC.**

21 **But my original question was, have you evaluated**
22 **withdrawing from the MFSA? And I heard you say no; is**
23 **that correct?**

24 A. I wouldn't say -- I thought about it, but
25 frankly, that wouldn't get us to where we needed to go

BARTZ / MOLINA

1 big picture in terms of Vancouver specific and the
2 ability for us -- again, we don't have a lot of planning
3 staff, so we have to look at everything we're involved
4 in and determine what level of involvement can we
5 sustain.

6 So MFSA was a thing that had been going on a
7 long time. It didn't appear to be wanting to move
8 toward what I believed was what we needed. So Portland,
9 myself, we actually -- we engaged strongly with MFSA to
10 say we feel like the future requires this update. I
11 wouldn't say that we would leave, but we definitely
12 wanted to get attention from the leadership to make sure
13 that we were heard, because it felt like we weren't
14 getting heard.

15 **Q. Did you have conversations with your senior**
16 **leaders or senior management that you report to about**
17 **withdrawing from the MFSA?**

18 A. I believe I discussed with the City manager. I
19 briefed him on what MFSA was and what FPAAC was and the
20 unique relationship we've got, because it's not -- it's
21 not often that public resources get leveraged by private
22 interests, and this is one case where that is what is
23 occurring.

24 So I wanted him to make sure that he understood
25 the unique relationship that we were involved in, albeit

BARTZ / MOLINA

1 long-term, but clearly make sure that he understood the
2 nature of the relationship and what we were trying to
3 accomplish, what I was going to try to accomplish was
4 going to potentially cause a ripple effect because MFSA
5 has a board.

6 **Q. So you're describing the MFSA as a private**
7 **interest?**

8 A. To me -- well, I can't go to any of the meetings
9 and they won't give me any information, so I'm assuming
10 they're not public.

11 **Q. Related to FPAAC, which I'll -- it's the Fire**
12 **Protection Agencies Advisory Council; is that correct?**

13 A. Correct.

14 **Q. As I understand from the MFSA plan, which is**
15 **Exhibit 292 at Pages 57 and 58 for those that want to**
16 **look, it says, and I'll read it slowly, "The mission of**
17 **FPAAC is to set forth a comprehensive system which**
18 **ensures fast, well coordinated, and effective response**
19 **to vessel fire incidents in the lower Columbia region."**

20 **Does that sound correct to you.**

21 A. That sounds like what they would like to
22 accomplish.

23 **Q. Okay. And is it your testimony here today that**
24 **MFSA is responsible for that planning, not FPAAC?**

25 A. FPAAC is responsible for the planning piece that

BARTZ / MOLINA

1 we own, which is what resources, so we have a fire plan.

2 **Q. But in terms of reviewing the plan to decide if**
3 **it's adequate or not, that's an FPAAC responsibility;**
4 **correct?**

5 A. Well, it's a money issue. MFSA controls the
6 money.

7 **Q. MFSA gives money to FPAAC; correct?**

8 A. They don't give us enough.

9 **Q. Understood.**

10 A. So they give a sum and we have to prioritize it
11 in training and equipment. What I've done is I've
12 actually we're not longer going to -- we're going to do
13 the required training to maintain what we've already
14 established, but my direction to the planning part of
15 FPAAC was there's no point in continuing to purchase
16 equipment or new training until we get this assessment
17 done.

18 You have to have a plan before you can know what
19 to train and what equipment to buy and how to deploy.
20 Without a plan you're just blindly buying stuff and
21 sending people to training, and they come back and you
22 don't have a plan on what to do.

23 That's been the fundamental issue. FPAAC wants
24 to do the right thing. We were willing to sacrifice our
25 own budget to accommodate it, but it's not enough money

BARTZ / MOLINA

1 to actually do a plan, a risk assessment, and that's why
2 we pushed for the grant.

3 **Q. You're familiar with a firefighter named Todd**
4 **Knoeppel?**

5 A. Knoeppel, yes.

6 **Q. Knoeppel. Apologies to Mr. Knoeppel.**
7 **K-n-o-e-p-p-e-l. He's the chair of the FPAAC planning**
8 **section?**

9 A. Correct.

10 **Q. He's one of your firefighters?**

11 A. Correct.

12 **Q. Page 11 of your testimony you say that the**
13 **regional planning for a vessel fire incident at the Port**
14 **is, quote, wholly inadequate, closed quote.**

15 **Do you see that?**

16 A. Correct.

17 **Q. When did you reach that conclusion?**

18 A. As soon as I learned what FPAAC was and what
19 their capabilities were.

20 **Q. And when was that, sir?**

21 A. Few years ago, probably three or four years ago.

22 **Q. Have you told anyone at the Port that the**
23 **firefighting plans at the Port are wholly inadequate?**

24 A. I told -- we've communicated to MFSA that we
25 don't think what they're portraying as our capability is

BARTZ / MOLINA

1 really something we can produce given our resources.
2 We're not -- a fire at the Port, a ship dock versus a
3 ship in the channel, ship in the channel we can't
4 respond to. A ship at dock, we can -- the agreement is
5 every fire agency would send one engine and three
6 people. So that type of commitment isn't -- from my
7 view, isn't going to be able to accomplish much at a
8 burning ship at dock side.

9 Q. Thank you, Chief.

10 What I asked you was have you told anyone at the
11 Port, and what I heard you say was no, you haven't told
12 anyone at the Port; is that correct?

13 A. Yeah, I've talked to FPAAC and MFSA.

14 Q. As I read the budget reports that are posted on
15 the Internet for the City of Vancouver, including
16 Vancouver Fire Department, you're familiar with those
17 budget reports?

18 A. Yes.

19 Q. They report that the Vancouver Fire Department
20 is rated as a 4 on a scale of 1 to 10, 1 being best and
21 10 being worst; is that correct?

22 A. Washington State Ratings Bureau.

23 Q. That's correct.

24 And the budget report says that you were
25 downgraded to some level in 2002; is that correct?

BARTZ / MOLINA

1 A. Correct.

2 Q. What were you moved from to what?

3 A. From a 3 to a 4.

4 Q. And you remain at a 4 today?

5 A. Correct.

6 Q. As I looked at that same budget report -- you're
7 familiar with those budget reports? You see them or
8 help to compile them or someone who reports to you does?

9 A. Yes.

10 Q. In 2013 and '14, your FTEs were 198. Does that
11 sound correct?

12 A. Yes.

13 Q. And then in 2015 and 2016, your FTEs were 185?

14 A. Are we talking total count?

15 Q. The report says FTEs.

16 A. Okay. We haven't lost any FTEs, so I don't know
17 why it would be down. That sounds like a suppression --
18 a uniform number versus a total number.

19 Q. Because you mentioned 188 in your direct
20 testimony this morning.

21 A. Yeah. I have 211 currently total in my
22 department, but the 188 refers to uniform.

23 Q. I'm just reading it off the budget report that
24 your group prepares for the mayor or the city council.

25 MR. BARTZ: Thank you. I have no further

KISIELIUS / MOLINA

1 questions.

2 JUDGE NOBLE: Redirect?

3 Mr. Kisielius, sorry, I didn't see that you
4 needed to ask a question. I apologize.

5 CROSS-EXAMINATION

6 BY MR. KISIELIUS:

7 Q. Chief Molina, my name is Tadas Kisielius and I'm
8 attorney for the applicant and I also have a couple
9 questions for you.

10 I want to return to your testimony about the
11 nature of Bakken crude oil as it relates to other types
12 of crude oils. You said you used the ERG, the emergency
13 response guide, as one of the bases of your opinion.

14 To your knowledge, does the ERG treat Bakken
15 crude any differently than any other crude oils?

16 A. No.

17 Q. Are you familiar with testing requirements to
18 ensure that Bakken is properly classified as a hazardous
19 Class 3?

20 A. I've heard of that effort, yes.

21 Q. So given that, is it accurate to say you're
22 basing your opinion about Bakken crude on what you were
23 told?

24 A. My opinion in terms of --

25 Q. I think you talked a little about the volatility

KISIELIUS / MOLINA

1 of Bakken crude.

2 A. Yeah. I think it's not treated differently
3 because once you have a fire, you have a fire. What I
4 was talking to was the ignitability of it in its
5 transport stage.

6 **Q. And again, is it your opinion that it is**
7 **incorrectly classified as a Class 3 flammable liquid?**

8 A. In my opinion, I think it should be
9 reclassified.

10 **Q. What are you basing that opinion?**

11 A. I think it's the volatility, so the ability
12 to --

13 **Q. I understand the -- I'm saying what information**
14 **have you reviewed to make that judgment?**

15 A. Yeah. I want to say it was the -- and again,
16 I'm familiar with the vapor pressure that it's
17 transported in a pipeline versus a railcar and the
18 difference of that. It feels -- from what I've read,
19 the --

20 **Q. And what is it that you have read?**

21 **JUDGE NOBLE: Mr. Kisielius, could you let**
22 **him answer the question? I think you're interrupting.**

23 **MR. KISIELIUS: My apologies.**

24 **THE WITNESS: Various articles, journals,**
25 **information, things like that. Part of that briefing**

KISIELIUS / MOLINA

1 that I get from my staff on exactly the product. From
2 what I've read and understood, there's -- it seems to
3 make sense it would be reclassified just because of the
4 flammability and volatility.

5 BY MR. KISIELIUS:

6 **Q. Have the people that report to you done any**
7 **testing themselves?**

8 A. No.

9 **Q. Are they aware of any testing that it should be**
10 **different?**

11 A. I think, again, they probably -- they read the
12 same things I did in terms of information. There's a
13 lot of talk about trying to do that, about treating it
14 in North Dakota specifically, about -- so there's things
15 going on. I was part of a contingent that was
16 advocating for the crude oil-by-rail safety initiatives
17 to try -- part of that was actually trying to see if we
18 could address the volatility at the point before it gets
19 put on the train.

20 **Q. I want to revisit some of your discussion about**
21 **the Mosier event, and I think you were asked to describe**
22 **what could happen if that occurred downtown.**

23 **Have you determined the probability of an event**
24 **like the one in Mosier occurring downtown?**

25 A. I haven't calculated it. Not specifically, no.

KISIELIUS / MOLINA

1 Q. On that specific event you had described I think
2 in response to one of Ms. Reed's questions, you said it
3 takes a lot of foam and water.

4 Are you aware of how much foam was actually
5 required to extinguish the fire in Mosier?

6 A. No, I'm not aware of what the specific.

7 Q. Would you be surprised to learn from
8 Chief Appleton -- let me ask.

9 Were you present for Chief Appleton's testimony?

10 A. I was not.

11 Q. Would you be surprised to know that it took two
12 to 5-gallon pails of foam according to Chief Appleton?

13 A. I don't know what the state of the fire was when
14 it was applied, but it was probably almost out.

15 Q. I want to talk a little bit about training. I
16 have a couple questions.

17 You had testified I think to the limits -- the
18 training that you had taken, the HAZMAT training that
19 you had taken and you're identifying those that were
20 beyond the training that you had taken.

21 I think you had mentioned specifically nuclear
22 or bio threats were kind of additional training; is that
23 correct?

24 A. Yeah, they call it sea burning.

25 Q. Are those types of incidents considered to be

KISIELIUS / MOLINA

1 different or more significant than that covered by the
2 standard HAZMAT training?

3 A. Yes. I mean, explosives and radiological and
4 nuclear stuff would typically -- they're part of the
5 full scope of HAZMAT, but they're not the ones that --
6 they're less -- given our risk profile, they're less.

7 **Q. You mentioned on the training that had been**
8 **offered that rail and HHFT trains were your priority for**
9 **the training; is that correct?**

10 A. Yes. The appearance, from my view, the sudden
11 appearance of HHFTs in the community and then the
12 subsequent highlighting of their derailment and assuming
13 fires cause -- I'll say caught me off-guard and in terms
14 of planning.

15 So that's been the focus, is getting the
16 planning part of our community up to speed as well as
17 the train. So yes.

18 **Q. So I know that you had explained your -- you**
19 **declined the project's invitation on the site-specific**
20 **training, but has your department participated in any**
21 **training offered by the railroad?**

22 A. Yes. We have sent people -- we have a pretty, I
23 would call it good relationship with BNSF over the
24 years, and we've continued, given the fact that we have
25 the continuing rail problem, we've been engaged with

KISIELIUS / MOLINA

1 them for training.

2 Q. And you raised a concern about the cost of that.

3 Have you or your department ever asked others,
4 whether it's the railroad or the project, to assist in
5 covering the cost of the backfill while your employees
6 are participating in training?

7 A. I would hope so, but I'm not at that -- I don't
8 think they ever have, the BNSF folks have. They've been
9 very gracious with the training in allowing us to attend
10 it and covering the cost of that, but I think we've
11 always been on the hook for the backfill.

12 I can't say specifically that they've turned us
13 down. I would hope we've asked and if they hadn't -- I
14 would assume they just covered their costs, you know,
15 their part of it, partnership type of a deal. And so we
16 take advantage of training; we just have to budget for
17 the cost and we have to prioritize that in the budget.

18 Q. I want to revisit one of the exhibits that you
19 referred to and it's the chart, Exhibit 3043. We may
20 not need to pull it up if you're familiar with the
21 exhibit that I'm describing.

22 A. I believe so.

23 Q. I just had a very basic question.

24 Do you know what kind of trains those were that
25 were involved many those incidents?

KISIELIUS / MOLINA

1 A. I have more detailed information. I did not --
2 I don't right now, can't tell you.

3 Q. Do you know if any of those were unit trains of
4 oil?

5 A. I do not believe they were.

6 Q. I have just a couple more questions for you.
7 Just to follow up on something on the MFSA plan. We
8 were talking about FPAAC.

9 Are you familiar with the private contractors
10 that respond to those types of incidents as part of that
11 plan?

12 A. The OSRO folks, the Clean River folks?

13 Q. So it's not just the FPAAC but there are other
14 resources that respond to those types of incidents?

15 A. Yeah. As I said, the oil spoil contingency of
16 MFSA is very active. They do a great job of containing
17 oil spills, particularly marine oil spills.

18 Q. But the fire side is I guess is what I'm --

19 A. The fire side is the other leg of the stool, and
20 that's the one that's kind of -- so you've got this real
21 strong, muscular leg and you've got this little skinny
22 atrophied one. That's the fire one.

23 Q. But it's your understanding that the independent
24 contractors do not provide fire response?

25 A. Yeah. They're very specific to oil spill

KISIELIUS / MOLINA

1 non-ignited. If there's a fire, they won't engage.
2 They won't engage unless they're at a safe enough
3 distance to cover it. So they really don't do any
4 firefighting.

5 The firefighting components, we do do some
6 training with them in terms of assisting them with boom
7 deployment. We've made an argument that we should get
8 some of that money because we assist them with the boom
9 deployment. But no, they pretty well do oil spill only
10 and we do firefighting.

11 **Q. I also want to revisit your testimony about**
12 **the -- well, let me, before I go there let me ask you**
13 **about some more testimony.**

14 You had talked about the limitations of your
15 department's HAZMAT team and looking into some changes.
16 **Are you familiar with the BNSF's HAZMAT team?**

17 A. Uh-huh.

18 **Q. Are you aware if any of them are staffed in**
19 **Vancouver?**

20 A. I believe there is a contingent here.

21 **Q. Is it your understanding that they would also**
22 **participate in a response to a rail incident?**

23 A. We would expect them to, yes.

24 **Q. Turning briefly to your testimony about the**
25 **absence of a gap analysis provided by the applicant,**

KISIELIUS / MOLINA

1 would you agree that for an accurate gap analysis that
2 would require the fire department's participation?

3 A. Yes.

4 Q. And I know Mr. Bartz asked you a lot of
5 questions about information.

6 Are you aware -- are you or anybody from your
7 department working with the applicant to describe the
8 contents of a scope of work for a gap analysis?

9 A. I've not -- I'm not aware that we've provided
10 information based on that type of a request.

11 Q. I'd like to give you a document to try to
12 refresh your recollection.

13 A. Sure.

14 Q. You can take a minute to review that.

15 So Chief Molina, I'd like to ask you again: Are
16 you aware of anybody in your department working with the
17 applicant to define the scope of work for a potential
18 gap analysis?

19 MS. REED: I'd like to object. I'm not
20 sure, but I think this may have been involved with the
21 EIS, and I just wanted to make sure that it was not.

22 MR. KISIELIUS: It is. It predates the EIS.

23 MS. REED: Okay. All right. Then I'll
24 withdraw that objection.

25 JUDGE NOBLE: Did you just say you would

KISIELIUS / MOLINA

1 withdraw the objection?

2 MS. REED: Yes. I just want to make sure.

3 THE WITNESS: So it says "draft," so I'm not
4 sure, and there's no date. I struggle to put it in
5 context, but this looks like a --

6 BY MR. KISIELIUS:

7 Q. And you don't need to testify to the document.
8 I'm just wondering if this jogs your memory if you're
9 aware whether or not anybody from your department worked
10 with the applicant to define the scope of work of a gap
11 analysis?

12 A. This looks like something that came out of the
13 fire marshal's office as part of the applicant's -- or
14 the application process. And it looks like something
15 that the fire marshal's office puts together as part of
16 that scope that would be required in the event that was
17 agreed to.

18 Q. And do you recall, are you aware of whether or
19 not the applicant offered to pay for the gap analysis in
20 agreement with the fire department?

21 A. Well, I think the question there was the fire
22 department's costs versus the City. So, and where
23 the -- who would be actually invoicing for it. So I
24 don't recall an offer by Tesoro to pay for it, but
25 typically, depending on the EIS, we may require the cost

REED / MOLINA

1 of that to be covered.

2 Q. And I guess I'm asking in advance of the EIS.
3 The question I have for you is do you know whether the
4 applicant offered to pay for a third party to conduct a
5 gap analysis?

6 A. I don't have knowledge that that was offered.

7 MR. KISIELIUS: Thank You, Chief Molina. I
8 have no further questions.

9 THE WITNESS: Thank you.

10 JUDGE NOBLE: Redirect?

11 MS. REED: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. REED:

14 Q. I just have a few questions for you,
15 Chief Molina.

16 First I'd like to talk about confidential
17 information versus public information.

18 Does the fire department receive information
19 that it has to keep confidential because, for example,
20 it might relate to a potential terrorist threat or
21 contains some other sort of sensitive law enforcement
22 information?

23 MR. BARTZ: Objection to the form.

24 MS. REED: Well, the reason I'm asking the
25 question is because the question was asked whether he

REED / MOLINA

1 had provided information, and I wanted to explore the
2 type of information that he would produce if it were
3 requested versus what he could not produce.

4 JUDGE NOBLE: What is the basis of your
5 objection?

6 MR. BARTZ: She's testifying --

7 JUDGE NOBLE: To the form of the question?

8 MR. BARTZ: Yes. She's testifying instead
9 of just asking him about the forms of information. Are
10 there restrictions on what you can release, instead of
11 her telling us all the reasons why.

12 JUDGE NOBLE: Well, I'll sustain the
13 objection and ask you to rephrase it.

14 MS. REED: Okay.

15 BY MS. REED:

16 **Q. If you received a request for production of**
17 **public records, is there some information that you might**
18 **have to withhold on the basis of confidentiality and**
19 **could you describe what that information might be?**

20 A. Yes. There's been -- there are some areas that
21 we've termed SSI, security sensitive information, and
22 they're typically not really related to local resources,
23 although they are, most likely they are -- as an
24 example, the risk assessment that was done for the Port
25 security command for the boats that we received a few

REED / MOLINA

1 years ago, that study was SSI material.

2 So to view it, we had to -- so only certain
3 people in the department could get access to it, and we
4 couldn't share or distribute it. There's not a lot of
5 it, but there are pieces of information that are
6 restricted.

7 **Q. So if -- if someone like the applicant were to**
8 **request information from you regarding, for example,**
9 **readiness planning, would you provide that information**
10 **and would you provide it regardless of whether it**
11 **contained SSI?**

12 A. So if it's in process, it's not done yet, we
13 typically don't release it yet. And then once it's
14 completed, we would do an evaluation of the material in
15 it. Is there anything that -- Washington is a very
16 sunny state when it comes to full disclosure, so there's
17 very limited things we can really redact, but we would
18 look to see which ones make sense with the City
19 attorney's office.

20 But unfortunately, in this day and age, we do
21 have to look at things from a different lens, critical
22 incident, critical facilities, the capabilities of the
23 security related to those, the Port areas. Things of
24 that nature all fall in that area that is SSI.

25 **Q. And except for information that falls in that**

REED / MOLINA

1 category of SSI, would you be fully responsive to a
2 request for public records?

3 A. Yes.

4 **Q. You were asked some questions about -- related**
5 **to the volatility of Bakken crude. Is part of your**
6 **responsibilities as a firefighter to understand the**
7 **volatility of various hazardous chemicals?**

8 A. Yes.

9 **Q. And is that something that firefighters trained**
10 **in HAZMAT would be aware of?**

11 A. Yes.

12 **Q. Do you require special training as a chemist in**
13 **order to understand issues of volatility?**

14 A. No. If I could add to that?

15 **Q. Sure.**

16 A. There is some HAZMAT training that falls in a
17 category of a more scientific -- so as you progress
18 through the training, you can take these classes that do
19 allow for a little bit more in-depth chemical
20 understanding, but it's not typical. Probably not
21 germane, but I feel like I needed to tell you.

22 **Q. Okay.**

23 MS. REED: I have no further questions.

24 JUDGE NOBLE: Council questions? To my
25 left?

1 Mr. Siemann?

2 MR. SIEMANN: Good afternoon. Thank you
3 very much for being here today.

4 I want to just quickly ask about mutual aid.
5 What's the frequency in which you have to call in mutual
6 aid for an event in Vancouver?

7 THE WITNESS: There's mutual aid and there's
8 automatic aid. Automatic aid is often, potentially even
9 daily. Mutual aid usually is a little bit lesser. So
10 mutual aid is really what we would do with Portland and
11 things of that nature. Because of the state line,
12 there's less automatic aid available so we make verbal
13 requests for resources with them, and that typically
14 would happen on a two alarm fire, so probably three or
15 four times a year on mutual.

16 Automatic aid happens pretty much on a daily
17 basis because we've all agreed on a time-life critical
18 emergency we send the closest unit regardless of
19 jurisdiction. So really it's just dependent on where a
20 given unit is during a day when a call comes in. And
21 so, by definition, automatic aid is kind of the way we
22 live with time-life critical events.

23 MR. SIEMANN: So if I understand correctly,
24 mutual aid is used just for more extreme events?

25 THE WITNESS: For us it is. In some

1 jurisdictions, they may not have automatic aid
2 agreements so they actually rely on calling the dispatch
3 and asking the other jurisdiction if they could assist;
4 where in our area we've really gotten to the level where
5 we just agreed we need to get an agreement in place
6 ahead of time so we don't have to have that delay in
7 time.

8 It's just dependent on the jurisdictions and
9 the relationships and how they want to share resources,
10 whether they want to lose control, because you kind of
11 lose control when you do automatic aid versus keeping
12 more positive control with mutual aid.

13 MR. SIEMANN: And then with HAZMAT, there
14 have been a couple questions about this and perhaps I
15 missed it. I think that you mentioned that HAZMAT from
16 Portland is not available because of tort liability
17 issues.

18 What I'm really interested in is can you
19 explain a little bit about mutual aid and HAZMAT in a
20 little more detail to see how that works?

21 THE WITNESS: Sure. Portland has a robust
22 HAZMAT team, and we're fortunate enough to be the HAZMAT
23 team for the Region 4, which is the four counties around
24 Clark. So we've developed a team that's I would say on
25 par with Portland's.

1 Portland just covers Portland though --
2 actually, Portland covers Portland and they're part of a
3 regional response for Oregon. Washington doesn't have a
4 coordinated state response yet. I hope to one day. But
5 we've taken it upon ourselves through Region 4, the UASI
6 system, to create a team -- (Court Reporter
7 interruption.) The Urban Area Security Initiatives.

8 So we've leveraged grant money to create
9 this team and then maintain it, but it's accessible by
10 any of the four counties. And we would probably go
11 outside the county if there was a need. But, so we are
12 the regional team for the four counties surrounding
13 Clark, or four counties including Clark.

14 MR. SIEMANN: And are there other HAZMAT
15 teams that would respond in the event of a derailment
16 and fire in Vancouver?

17 THE WITNESS: Well, we would go through the
18 Department of Emergency Management, and we could get --
19 there's a team in Tacoma, there's a team in Seattle,
20 Spokane's got one, I believe Tri-Cities. They're not
21 part of a coordinated statewide funding and model, so
22 every one of us has to fund our own teams through
23 whatever ways we can. And then we would have -- if we
24 needed that large of a response, we could ask our
25 partner cities to send it through DEM.

1 MR. SIEMANN: One other question revolves
2 around fire boats, and I understand that Vancouver has
3 one that has a limited ability to address an oil vessel
4 fire.

5 Are there others? Like what would be the --
6 if there were a vessel fire, what do you expect to be
7 the marine response from not just yourself but others?
8 Like what is the sort of capacity there?

9 THE WITNESS: Sure. So yes, Portland has
10 large fire boats that are capable of flowing a lot of
11 water, relative to our size fire boat. And we have a --
12 it goes back to that where is the ship at? Is it at
13 channel? Is it at dock?

14 And if it's at dock, we typically fight it
15 from the dock, but we've utilized the fire boats to
16 fight it from the water side. So, yeah, Portland, all
17 of us would pitch in on that type of an event. We've
18 gone over and assisted them with large structure fires
19 that were adjacent to water, and they've done the same
20 for us.

21 MR. SIEMANN: Thank you.

22 JUDGE NOBLE: Mr. Stephenson?

23 MR. STEPHENSON: Thank you. Let me be the
24 first to wish you a good afternoon, Chief Molina.

25 THE WITNESS: Thank you.

1 MR. STEPHENSON: Two questions. The first
2 is around authority.

3 We've got City here, Port, County, maybe
4 some private. So who has authority to rush out to do
5 the prevention and the response to a fire at the
6 facility? Let's start there.

7 THE WITNESS: So if I understand who has the
8 authority to respond to a fire at the proposed terminal?
9 Well, that would be the City of Vancouver. The Port is
10 annexed into the City, and so it falls within our
11 footprint for response.

12 MR. STEPHENSON: So that's you. And then
13 Chief Appleton yesterday from Mosier said in his case,
14 there were two brave men he said from the railroad, in
15 that case he means Union Pacific, and he and the other
16 mutual aid folks mostly just provided support and did
17 their community thing.

18 So in this case there's a couple scenarios:
19 One would be at the facility and one would be along the
20 railroad before it gets to the facility, where, as we've
21 heard, the railroad has some responsibility.

22 How does the incident command get set up and
23 who takes control of that?

24 THE WITNESS: For the facility or for the
25 rail or for either?

1 MR. STEPHENSON: In both cases, yes, please.

2 THE WITNESS: I think they're both similar.

3 The way we roll out incident command is the first
4 arriving officer, so let's say an engine with a captain
5 on it, he would establish command, so now command is
6 established. As other resources arrive, command would
7 stay with him unless we could improve the quality of the
8 command.

9 Typically, the battalion chief would be the
10 next arriving official that would assume the authority
11 of command for that incident. So fire, most likely, I
12 mean police could arrive first and establish command,
13 but typically fire would arrive, we would have an
14 initial commander, we would wind up with a battalion
15 chief formalizing command and then once that command and
16 command post, because part of command is establishing
17 the location of command, would be communicated through
18 the radio as to who is in charge, what their location
19 is, and then he would begin managing the response.

20 So are we staging? What do you want the
21 next units to do? What's the organization going to look
22 like?

23 Pretty soon after that, if it's a rail
24 incident or facilities incident, we would engage in a
25 unified command structure. So we would have law

1 enforcement there. We would probably have somebody with
2 emergency management, if there was going to be some
3 evacuations. And we would have railroad officials there
4 as well as facility folks available, Port if it was
5 actually on the Port property.

6 So yeah, we try to get as many of the
7 affected stakeholders as possible in the command post
8 because then we would start looking at planning. What
9 do we intend to do? What are the resources? What do we
10 need to call for? And it's a 12-hour cycle. We'd start
11 looking at that. What do we need to do in the next
12 12 hours? And who can assist us?

13 Everybody brings to the table information,
14 knowledge, experience, resources to allow us to figure
15 out the best way to get this event to a conclusion with
16 the least amount of life loss for sure, but property
17 damage, ecological damage.

18 MR. STEPHENSON: Thank you.

19 JUDGE NOBLE: Any other questions to my
20 left? Any questions to my right?

21 Mr. Stone, did you have a question?

22 MR. STONE: Not anymore.

23 JUDGE NOBLE: All right.

24 Mr. Stohr?

25 MR. STOHR: Thank you and good afternoon,

1 Chief.

2 I'm interested, you talked about some of the
3 preplanning and prep work you're doing with the
4 increased crude-by-rail traffic.

5 Are you aware of any sort of coordinated
6 training or planning that's going on along the entire
7 route between here and Spokane?

8 THE WITNESS: The route between here and
9 Spokane I'm not aware of. We're working closely with
10 BNSF in our local area, but I'm not familiar with
11 anything outside of our area.

12 MR. STOHR: Pasco or Washougal?

13 THE WITNESS: Washougal, I am in
14 communication with the fire chief over there and letting
15 them know that we're working on a plan here, that we
16 would be willing to help them assist with planning --
17 once we have ours up and running, it's kind of easier to
18 replicate it, because right now we're kind of creating
19 it. Once we have it created, we'll engage with any
20 community along the rail line that wishes to kind of
21 look at it and do the same thing.

22 MR. STOHR: Thank you.

23 JUDGE NOBLE: Mr. Snodgrass?

24 MR. SNODGRASS: A couple of questions.

25 In the event of a Cascadia level subduction

1 quake, what would the department's priorities be as best
2 you could guess?

3 THE WITNESS: That's a large event and the
4 modeling shows a lot of infrastructure that would be
5 affected. Unfortunately, some of those would be fire
6 stations.

7 So our immediate plan would be to
8 self-assess ourselves, what's still standing, what's
9 still available, and then begin looking at what we call
10 a windshield survey -- (Court Reporter interruption.)
11 A windshield survey, which is really an assessment of
12 the community. What does the service area look like
13 post-event? Is it all affected? Is it a specific area
14 that's affected or some others?

15 So really trying to figure out what's the
16 priority in the service area in terms of damage and life
17 hazard. And so we'd also begin -- we have a
18 notification where the folks on duty can find out how
19 their family is, because it's important to take care of
20 responders -- you can't have your mind on the job if you
21 don't know what happened at home, so we have a way of
22 trying to get that information to them as soon as
23 possible while they're out doing the response that we
24 need to do.

25 And then we'd begin -- we have a department

1 operations center that's in a building that is
2 seismically safe. So that would be the brains and the
3 heart of the fire department to run -- because we would
4 assume that dispatch would probably be down, radios
5 might be down. So we have a backup radio system, we
6 have a backup command and control center.

7 And then we begin calling back folks. Some
8 of the problems with that is some folks live across the
9 river so if the bridges are down, they can't come back.
10 We've been working on an agreement with Portland which
11 allows -- us to share firefighters so if a Portland
12 firefighter is in Vancouver he can report to our station
13 and we can use him. Same with our firefighters over
14 there, so that we're not wasting a lot of time with
15 people trying to get across if we can't get across for
16 some reason.

17 And then calling back folks that are local,
18 which is a little bit easier, but again, it depends on
19 transportation corridors can be likely damaged and not
20 allow for folks to get to work to go to do rescuing and
21 things of that nature. And the usual notifications
22 would take place in terms of state and federal and
23 hopefully, again, it depends on how many -- you know, my
24 fear is it's so large that Washington's resources will
25 pretty well be sucked up by Seattle, and rightly so, and

1 then Portland is going to be taking care of Portland in
2 Oregon and us in southwest Washington, we're kind of
3 going to be on our own for a while.

4 MR. SNODGRASS: Would you have any resources
5 to bear or likely ability to access a fire at the
6 terminal?

7 THE WITNESS: You know what? Unfortunately,
8 it would be part of our review. One of the hard things
9 about an assessment like that is we often have to, if we
10 can't use the resources to put out a fire sometimes, if
11 there's no life safety hazard, if we've evacuated the
12 area and rather than put out the fire, we would most
13 likely let it continue to burn.

14 We'd be doing that in a lot of places.
15 Suddenly a fire that was once an immediate action would
16 become common, and so we would really focus on people
17 first and foremost and if we can get the people out of
18 the area that was involved, we wouldn't have -- we don't
19 have enough resources to engage every fire and so the
20 fires that would be in areas where we could get people
21 out, hospitals and nursing homes and things of that
22 nature would be the priority. Everything else we would
23 just do some evacuation and, unfortunately, there would
24 be significant property loss.

25 MR. SNODGRASS: Would turning to a let's say

1 a Mosier level event within the rail corridor outside of
2 downtown, within essentially the residential rail
3 corridor in Vancouver where there's derailment, one or
4 two cars are on fire, would you be likely to be
5 approaching that from the north of that area in terms of
6 not your command but the hoses and so forth, that would
7 be likely from the north?

8 THE WITNESS: Yes. I mean, the access would
9 come in from the north. We might be able to do some
10 east and west deployment, but north, east and west
11 first. We would get the boat as well if we needed to
12 and approach from the south.

13 MR. SNODGRASS: If the derailment is to the
14 south of the tracks, I don't know anything about
15 firefighting, to what extent does that hinder your
16 ability to fight fire if you have cars on fire of the
17 south side of the tracks and you're fighting from the
18 north?

19 THE WITNESS: It depends on the topography.
20 If it's off the track on the south side down a ways, it
21 would hinder us quite a bit in getting streams to bear
22 from the north. We might be able, depending on access,
23 to get east and west of it, but most likely we would
24 have to rely on the fire boat to deploy a stream,
25 assuming it was within range, south of it.

1 MR. SNODGRASS: Last question I guess just
2 also sort of focusing on the topography and the position
3 issues.

4 You had mentioned in terms of the vapors,
5 not the volatility but the heaviness of the vapors from
6 Bakken and that those would tend to follow the contours
7 of the land, is it -- all things being equal, is it more
8 likely that those vapors would go south of the tracks or
9 not?

10 THE WITNESS: You know, it would depend on
11 which side of the tracks derailed. A southern
12 derailment, in my opinion, it all slopes down, so yeah,
13 it would slope down toward the water.

14 MR. SNODGRASS: I'm just trying to get a
15 sense of how big a magnitude risk that poses. Some of
16 the prior testimony identified the potential for
17 ignition but also talked about a more general dispersion
18 and didn't introduce the idea that it's a heavier
19 weight, which would tend to focus on a particular
20 direction to some extent, I would think.

21 THE WITNESS: Yes. I mean, it's going to
22 lie low and it's not -- it's something to consider.
23 We've been talking about a lot about fire as the hazard,
24 but the actual vapors themselves are a health hazard.

25 MR. SNODGRASS: Is there anything that can

1 be done about a health or condition hazard about that?
2 What would you do?

3 THE WITNESS: No. I mean there's nothing --
4 once it's derailed and there's a spill, we have to work
5 with both the inhalation hazard of the vapor and the
6 ignition hazard of the vapor assuming it hasn't ignited.

7 MR. SNODGRASS: Thank you.

8 JUDGE NOBLE: Mr. Paulson, are you wanting
9 to ask a question?

10 MR. PAULSON: Mr. Stephenson reminded us I'm
11 keeping everybody from lunch, but just a couple of
12 questions for clarification, Chief. Good afternoon.

13 THE WITNESS: Good afternoon.

14 MR. PAULSON: Fair to say that trains have
15 been coming through this area for over a hundred years?

16 THE WITNESS: Yes.

17 MR. PAULSON: And they're serving ports and
18 industrial areas from Vancouver, British Columbia to who
19 knows how far south?

20 THE WITNESS: Yes.

21 MR. PAULSON: And some of those are unit
22 trains?

23 THE WITNESS: Correct.

24 MR. PAULSON: Some, for instance, grain
25 trains have been calling the Port of Kalama, Longview,

1 Tacoma, Seattle, Portland as well as Vancouver for a
2 long time?

3 THE WITNESS: Yes.

4 MR. PAULSON: So my question is your
5 testimony today I gather deals with the commodity, not
6 the trains?

7 THE WITNESS: Correct.

8 MR. PAULSON: I'm done.

9 MR. SHAFER: Chief Molina, thank you very
10 much for your testimony today. Just a few brief
11 questions.

12 I'm trying to understand the financial
13 relationship between you and the railroad, meaning
14 should a derailment occur which was proven to be clearly
15 the fault, and I don't mean to disparage the railroad in
16 any way but just a hypothetical, if it were clearly
17 shown to be the fault of the railroad that required
18 significant response and resources on the Vancouver Fire
19 Department, would the fire department be made whole in
20 that situation? Are you compensated by the railroad?
21 Can you help clarify that for us?

22 THE WITNESS: We do have the ability to
23 recover costs associated with a HAZMAT response under
24 law, but we've got a really -- we have a good
25 relationship with the railroad, so we would -- they've

1 paid us for smaller events that we've responded to so my
2 thought would be it would be the same.

3 Don't get me wrong. We have to do an
4 accurate accounting of exactly what we sent, what was
5 the rate and what was the equipment, but yes, they would
6 be able to reimburse us for the cost of the response.
7 And not to answer a question you didn't ask, but it's
8 the cost associated outside of the event that get a
9 little more difficult to capture.

10 MR. SHAFER: Okay. Thank you.

11 You also spoke some on the readiness model.
12 I think actually in reference to the unit trains that
13 are currently utilizing the track, could you just
14 generally assess your thought on the status of that
15 readiness response? Do you think the department is
16 there? Is there work to do? Is there a gap?

17 THE WITNESS: With regard to rail risk of
18 the unit trains and the product specifically, we're in
19 the planning stages of it, so what you've seen is the
20 latest and greatest mapping that we've done to see
21 exactly what the scope is. The next step is to continue
22 the planning process with -- and what is the probable
23 event. And we're actually using the Mosier event as the
24 model, so let's take that, what it was and let's put
25 that in several places, residential, downtown, Port, to

1 look at what it would take to deploy to that.

2 So from there we're going to develop --
3 we'll be developing what our current capability is.
4 I've mentioned earlier our HAZMAT team is not minimum
5 staffed. Is that something we should do and what's the
6 cost of that? Is there additional equipment we need?
7 Is there a shortage of equipment, given the fact that --
8 I mean, do we want to try to make an early intervention
9 within the one-hour or two-hour frame, which incidental
10 no fire department to date has been able to deploy to
11 that interval and successfully end it before it gets
12 into the growing stages.

13 So that's a decision of do we want to try to
14 be able to do that. And that's a very aggressive. But
15 if we can do that, particularly in the downtown area,
16 then what does it take to do that?

17 Because that's a fairly aggressive and most
18 likely a pretty expensive readiness cost to be able to
19 get in and deploy rapidly and effectively in a one- to
20 two-hour framework. Or are we just going to look at
21 let's let the growth stage grow, let's intervene in the
22 decay stage, which gives us more time, so what's the
23 training and equipment for that.

24 So I think we're in the early stages, now,
25 we've got an accurate picture of how many people are

1 along the corridor, what critical facilities are there,
2 what does a half mile look like, and we begin sharing
3 this with the DEM folks, because we have population
4 counts so we know exactly approximately how many people
5 need to be sheltered. And then we do an assessment of
6 our own capabilities and saying where are we? What do
7 we think? What is the service level?

8 Ultimately, we just have to land on what
9 should we -- what does the community expect us -- do
10 they expect us to put it out in one to two hours or is
11 it okay for us to isolate and deny entry and keep it
12 from spreading, evacuate folks and then basically wait
13 until it burns to a point where we can intervene.

14 MR. SHAFER: Thank you. Last question.

15 If this project is proven to require an
16 undue burden on the police department or just generally,
17 if any development or any industrial site is proven to
18 be an undue on the police department, do you ever enter
19 into agreements or are able to assess that specific
20 development to cover those added costs?

21 Do you have any anything like that in place?

22 THE WITNESS: You said police but you're
23 talking fire?

24 MR. SHAFER: I'm sorry. Excuse me, the fire
25 department.

1 THE WITNESS: That's really a planning
2 question. There are some fees available. I'm not
3 sure -- we typically don't, have not put in place. So I
4 guess I can't speak to it. Probably planning could or
5 law could, particularly if we do those types of fees.

6 If they're already in the City area, it's
7 kind of one those -- I would assume there is some things
8 if you're going to stand up a chemical factory in the
9 middle of town somewhere where it's zoned properly that
10 there might be some things we could look at.

11 Typically, it's really about mitigating the
12 risk at the facility, and so it's really about fire
13 protection systems and making sure we do the best
14 engineering we can. And if there is things related to
15 that, we have done agreements with particular clients,
16 I'll call them, where they've provided us mitigation
17 equipment, standalone, things of that nature. It's kind
18 of dependent on what exactly they're putting up. We
19 just don't have a flat fee that we assess everybody.

20 MR. SHAFER: Okay. Thank you.

21 JUDGE NOBLE: Are there any other council
22 questions?

23 Mr. Lynch has a question.

24 MR. LYNCH: Thank you, Chief Molina.

25 I was actually going to ask you a question

1 regarding Exhibit 3020, which is a map that was attached
2 to your prefiled testimony. I think it was identified
3 there as substitute Exhibit C, Page 1 of 3. I don't
4 know if we can get Exhibit 3020 up or not. Very good.
5 Thank you.

6 I notice that when you go east along
7 Highway 14 and right around North Anderson Road there's
8 quite a cluster of what it looks to be adult care
9 facilities that are within a half mile of the railroad
10 tracks.

11 THE WITNESS: Correct.

12 MR. LYNCH: So what I'm curious about is if
13 you have an incident near here, is there some
14 coordinated plan to -- is each adult care facility on
15 its own to get out Aunt Lena or Uncle Oly, or is it up
16 to the -- I'm just trying to get a sense of what happens
17 to first responders here, how they deal with that.

18 THE WITNESS: Sure. So there are quite a
19 number of adult care facilities throughout the service,
20 but there is a cluster there and a little further east.
21 Part of the planning process would be to engage those
22 folks directly and let them know what we're planning.

23 So we'd like to talk to you about what is it
24 your facility look like. Are your folks able to
25 evacuate? Are they not? And we'll have to make those

1 types of entries into the system, the computer system so
2 when we have an incident there, we can pull it up and
3 say we have ambulatory or non-ambulatory folks, and then
4 that would be the focus of the evacuation we would
5 communicate to law enforcement as well as the ambulance
6 company.

7 Those are the priorities we can -- you know,
8 we'll be notifying folks at home that are capable of
9 self-evacuating through the dispatch system. But
10 clearly those facilities should they have people that
11 need special medical care, we're going to have to bring
12 to bear ambulance services as well as law enforcement to
13 successfully evacuate them and potentially from fire, if
14 we've got resources.

15 MR. LYNCH: Would you anticipate it would
16 take a while longer to evacuate?

17 THE WITNESS: Sure. Those types of
18 facilities, they take a little longer. We're going to
19 have to get ambulances there. We're going to have to
20 move folks carefully, make sure that the medical
21 equipment they're on is moved as well. And again, we
22 would have to -- we'd work with them to identify what
23 facility would best be a good location for them to move
24 to that could support special needs of that nature.
25 You've identified something that is an obvious risk that

1 we've got in the corridor, that if a derailment was in
2 that area would pose a challenge.

3 MR. LYNCH: And there's no -- I understand
4 if you don't have a plan in place now, but there's no
5 like foam tree sort of thing in place now?

6 THE WITNESS: Our dispatch system most
7 likely could notify them. The difference would be they
8 would probably -- those that could self-evacuate, but
9 staff there is trained, they would probably be calling
10 911 back and saying we can't evacuate or I've got X
11 people that need to be moved carefully.

12 So we need to include them in the plan ahead
13 of time versus relying on them to call us and let us
14 know they've got a problem. And that's the next step.
15 Now that we've got an accurate idea of exactly all the
16 types of, I'll call them facilities that are in that
17 corridor, we need to engage that.

18 We most likely have been out there if
19 they're an actual facility as part of our prefire
20 planning. We just haven't been out there and talked to
21 them about evacuation.

22 MR. LYNCH: Thank you. And my last
23 question, I'm just kind of curious if that new Gateway
24 development that's proposed being developed along the
25 river, are there more firefighting resources that are

1 going to be available because of this area?

2 THE WITNESS: I'm not familiar with the
3 "Gateway" term. I'm sorry.

4 MR. PAULSON: You mean the waterfront
5 development?

6 MR. LYNCH: Sorry.

7 THE WITNESS: The question was, is there
8 going to be more?

9 MR. LYNCH: Right. Is there going be to
10 more equipment available in this area because this area
11 is being developed or is there going to be more lines
12 being extended like through the proposed facility to
13 reach that development? Do you have any sense of any of
14 that that's going to be taking place?

15 THE WITNESS: Well, the infrastructure will
16 be there to support firefighting, both from a protection
17 systems perspective as well as manned lines. We really
18 have an opportunity with new construction to really get
19 in place advanced fire protection systems.

20 So we're going to do a lot of -- the fire
21 marshal's office along with planning is really looking
22 at how can -- our biggest concern really is the
23 underground parking, so a fire underground is difficult
24 to access, and so we're really looking for them to do
25 that next layer of fire protection, sprinkler systems,

1 standpipe systems that are below grade. So we're going
2 to rely a lot on new protection systems.

3 We are relocating a fire station so that --
4 right now it's kind of in a bad spot for all of it.
5 We've moved it out basically to the top of downtown so
6 that -- we've been told, a consultant told us it was
7 easier to come into downtown than to get out of
8 downtown. So right now apparently we're actually
9 building a new station just on the edge of downtown that
10 can cover downtown.

11 So I think the combination of fire
12 protection systems, the infrastructure that's being put
13 in to address fire flow and then relocating fire
14 resources so they have rapid access is going to allow us
15 to cover that area.

16 MR. LYNCH: I should have asked this last
17 question to a previous witness. But you might know the
18 answer.

19 So any what's called dead-end water lines
20 that are currently on the property where this proposed
21 facility is going to be, are those going to be extended
22 out or are secondary water lines going to be put in
23 because of that?

24 THE WITNESS: I don't have any knowledge of
25 that. Sorry.

1 MR. LYNCH: That's great. Thank you.

2 JUDGE NOBLE: Mr. Moss has a question.

3 MR. MOSS: Mr. Lynch's question reminded me
4 that I had some questions on this exhibit too.

5 I wonder if you could just briefly tell us
6 what a critical facility is on the legend of this
7 particular exhibit. What type of facility is that?

8 THE WITNESS: I can't tell you. It's
9 probably related to most likely electrical power-type
10 stuff.

11 MR. MOSS: Okay.

12 THE WITNESS: Some of the stuff we just
13 labeled it generic, because again, some information
14 is -- we'd rather not share the exact nature of every
15 critical facility.

16 MR. MOSS: Sure. Another category of
17 facility that's indicated here is called a Tier 2
18 facility. I'm wondering what that might be.

19 THE WITNESS: The Tier 2, those are
20 facilities that have either a type of material,
21 chemical, or a quantity of a type of material that is
22 part of their normal, either the work process or they
23 store it. So under the Community Right-to-Know Act,
24 they have to report through a Tier 2 report, hence the
25 name. They report annually to us and let us know what

1 do they have, what's the quantity, where is it located,
2 and oftentimes we verify it as well. And so they report
3 that to us annually.

4 MR. MOSS: Okay. Thank you.

5 JUDGE NOBLE: Are there any more council
6 questions? I'm sure there are not.

7 Now, questions based on council questions,
8 just an estimate of time?

9 MR. KISIELIUS: I think I only have one.

10 JUDGE NOBLE: How many do you have,
11 Ms. Reed?

12 MS. REED: I don't expect to have any unless
13 I have any based on that one.

14 JUDGE NOBLE: We'll just take that question
15 so the witness will be able to leave, hopefully.

16 RE-CROSS-EXAMINATION

17 BY MR. KISIELIUS:

18 Q. Chief Molina, you were answering Chair Lynch's
19 questions about adult care facilities?

20 A. Correct.

21 Q. Would any of those need to cross the tracks in
22 order to evacuate?

23 A. It appears so.

24 Q. It appears so?

25 A. I see some that are -- it appears not. There

1 are some adjacent to it, but not on the south side.

2 MR. KISIELIUS: Thank you. No further
3 questions.

4 JUDGE NOBLE: Ms. Reed?

5 MS. REED: No questions.

6 JUDGE NOBLE: All right. Chief Molina,
7 thank you very much for your testimony. You are excused
8 as the witness.

9 THE WITNESS: Thank you.

10 JUDGE NOBLE: Now, our long suffering court
11 reporter gets to go to lunch. It's 12:41. We will be
12 in recess until 1:40.

13 (Lunch break.)

14 JUDGE NOBLE: Good afternoon. Before we
15 get -- we are back on the record.

16 Before we get started I just wanted to let
17 everyone know that there's a letter that's been given to
18 me dated July 11, 2016, and it just has to do with the
19 public comment period related to the adjudication that
20 is scheduled for Friday, the 29th of July, and the
21 letter is from Skamania County Fire District requesting
22 written comment, and I've already issued an order about
23 that, but what I wanted to say on the record today was
24 that that letter indicates that there's a
25 misunderstanding that the public comment period has been

ODLE / SCHAEFFER

1 reduced, and it has not.

2 Since the beginning of this adjudication,
3 it's been scheduled for that Friday afternoon. The
4 public would have the entire afternoon for making public
5 comments. So it hasn't been reduced, that's what it is,
6 and it's the same as it always has been. I just wanted
7 everyone to know. Thank you.

8 We're ready to proceed. It's my
9 understanding that Mr. Piccolo has the next witness.

10 MR. ODLE: Actually, Mr. Odle, but same
11 organization.

12 JUDGE NOBLE: All right.

13 MR. ODLE: And we call Brian Schaeffer. The
14 City of Spokane calls Brian Schaeffer.

15 JUDGE NOBLE: Is it Chief Schaeffer?

16 THE WITNESS: Yes, ma'am.

17 JUDGE NOBLE: Would you raise your right
18 hand, please?

19 BRIAN SCHAEFFER,
20 having been first duly sworn, testified as follows:

21 JUDGE NOBLE: You may proceed, Mr. Odle.

22 DIRECT EXAMINATION

23 BY MR. ODLE:

24 Q. Please state and spell your name for the record,
25 please.

ODLE / SCHAEFFER

1 A. Brian Schaeffer. Assistant chief, City of
2 Spokane Fire Department.

3 **Q. Would you spell it also?**

4 A. Sure. S-c-h-a-e-f-f-e-r.

5 **Q. And it's Brian, B-r-i-a-n?**

6 A. The correct way, yeah, B-r-i-a-n.

7 **Q. How are you employed?**

8 A. I'm the assistant chief for the City of Spokane
9 Fire Department.

10 **Q. Would you give me a summary of your educational**
11 **background?**

12 A. I have a bachelor's degree in fire science, a
13 master's degree in public administration, and I'm
14 finishing up my final couple hours, my dissertation work
15 for my doctorate.

16 **Q. And a summary of your work history?**

17 A. Most recently, obviously, I'm employed by the
18 City of Spokane. Prior to that I was the deputy chief
19 of operations for the City of Yakima Fire Department.
20 Prior to that I was in West Valley Department in Yakima
21 County, and prior to that I was fire chief in a suburban
22 department outside of St. Louis called Wright City Fire
23 Protection District -- (Court Reporter interruption.)
24 Wright City Fire Protection District in suburban St.
25 Louis.

ODLE / SCHAEFFER

1 **Q. Could you give an overview of the scope of your**
2 **duties with the City of Spokane?**

3 A. Sure. As the assistant chief, I'm
4 responsible -- I have direct reports from the
5 operations division, the administrative division, the
6 training division, communications division, and
7 emergency medical services division. Overall executive
8 leadership for the organization, including the
9 administrative side.

10 **Q. How many firefighters approximately are employed**
11 **by the City of Spokane?**

12 A. Currently 328 full-time equivalents. That
13 include firefighters and some civilians, and, yeah 328.

14 **Q. How many firefighters are on schedule? How do**
15 **you staff per day?**

16 A. Good question.

17 **Q. Is the better question.**

18 A. Sixty-one per shift. Our shifts last 24 hours.
19 We work 24 hours on, 72 hours off, so every day for
20 24 hours there are 61 firefighters on the street. And
21 multiply that by four and that's our number of fire
22 suppression personnel.

23 **Q. Earlier Vancouver Fire Chief Molina provided**
24 **some information regarding vehicles that Vancouver**
25 **employs or has available at their disposable.**

ODLE / SCHAEFFER

1 Can you give an overview of what the Spokane
2 Fire Department has?

3 A. Very similar to the City of Vancouver. Fifteen
4 fire stations, or actually now we just added one, so
5 16 fire stations. And a fire station can house multiple
6 fire companies, so we have multiple fire companies, and
7 so we staff 19 fire companies on a 24-hour shift and
8 then we have three two-person units that are essentially
9 ten-hour units during the day just to help us with
10 volume, and we call those peak activity units.

11 **Q. Focusing on the handling of hazardous materials**
12 **or responding to, how many staff members have some level**
13 **of certification to handle hazardous materials?**

14 A. So we're authorized in our budget for 13 per
15 shift. So out of that 61 that we staff on a daily
16 basis, 13 of those positions are dedicated hazardous
17 materials technicians or hazardous materials
18 specialists. We staff those from individual stations
19 that are identified and equipped with special vehicles
20 to respond to hazardous material incidents.

21 **Q. What kind of training do those individuals go**
22 **through to acquire those certifications?**

23 A. So we train to the NFPA, which is National Fire
24 Protection Association. The NFPA standards for
25 technician level and for specialist level, as well as

ODLE / SCHAEFFER

1 our 12 chief officers, are all at the incident command
2 level including myself. So we're able to manage
3 hazardous material incidents in the State of Washington.

4 **Q. If you exceed or if there's a particular event**
5 **which requires additional hazardous material**
6 **firefighters or personnel, is there any sort of**
7 **interlocal agreement or help from elsewhere?**

8 A. So just for clarification, help for hazardous
9 materials technicians and specialists and that type of
10 equipment?

11 **Q. Yes.**

12 A. The answer is no. We do not have agreements or
13 inter-locals with other agencies that have like
14 hazardous materials teams to respond to those types of
15 incidents.

16 **Q. Did you have an opportunity to review the**
17 **prefiled testimony that was filed on your behalf in this**
18 **matter?**

19 A. Yes, sir.

20 **Q. Is everything in that document true and**
21 **accurate?**

22 A. Yes, sir.

23 MR. ODLE: Now, Ms. Mastro, could you put up
24 2505, please.

25 BY MR. ODLE:

ODLE / SCHAEFFER

1 **Q. Mr. Schaeffer -- or Chief Schaeffer, my**
2 **understanding is that you participated in the creation**
3 **of this document. Let me ask you a few questions about**
4 **essentially what it is. If you could describe that for**
5 **the council.**

6 A. Absolutely.

7 **Q. There it is. So is it accurate to state that**
8 **you had some role in creating this document?**

9 A. Certainly, I did.

10 **Q. Could you explain it for the council, please.**

11 A. It's really tough to read. I apologize for the
12 tiny letters up there.

13 But these are essentially points of interest
14 that we identified in our discussions of the what-if
15 scenario. What if we did have the train derailment,
16 specifically with the product of crude oil in Spokane.
17 What would be some of our concerns from the fire
18 department's leadership team of target hazards.

19 And we identified areas like our infrastructure,
20 including water, communication, the transportation or
21 arterial lines for people and supplies, as well as some
22 of the community's infrastructure such as schools,
23 airports and obviously our city hall and our primary
24 fire station is right in that area as well.

25 **Q. As you alluded to, we're here in connection with**

ODLE / SCHAEFFER

1 the prospect of additional train cars carrying crude oil
2 passing through Spokane.

3 Would a derailment of a train or cars carrying
4 crude oil present unique challenges to the City of
5 Spokane from an emergency perspective?

6 A. Without a doubt. We've been planning,
7 discussing and working towards having mitigation
8 solutions for quite some time for a likely event in the
9 City of Spokane, and I say "likely." It's probably not
10 the best term, but potential for disaster involving the
11 product in Spokane. Remind me what the rest of the
12 question was.

13 **Q. You answered it.**

14 A. Okay. Just making sure.

15 **Q. Are there any particular difficulties either**
16 **staffing or logistical which would be -- which you would**
17 **encounter in the instance of a train derailment?**

18 A. So there are variable, there are several
19 concerns and variables. Even with our current level of
20 staffing, I think what I entered in with my written
21 testimony is some of our primary concerns. There are
22 five that I listed that I probably referred to.

23 But one, in our community, I'm sure many of the
24 council are very familiar with Spokane. We're very
25 isolated. Our infrastructure is somewhat old

ODLE / SCHAEFFER

1 specifically with regard to notification.

2 We have a program called Alert Spokane that
3 citizens can sign up for, but unfortunately, we can
4 only -- because of Qwest infrastructure, we can only
5 notify people -- about 7,000 people per hour, which is
6 very antiquated. I think on the west side of the
7 mountains the infrastructure is a lot more robust, the
8 fiber is more robust, they don't have some of the copper
9 lines we're still stuck with using. So we're looking
10 for other solutions, better ways to notify people, but
11 right now that's all we're stuck with.

12 So that's one area that we identified as a key
13 challenge for us is how do we evacuate -- notify and
14 evacuate our downtown core, the area where the railway
15 leads into. And that leads into Number 2, obviously,
16 the evacuation in an urban community and somewhat
17 suburban community, urban primarily where the railway
18 is, is how do we get all those people exited.

19 And then my Number 3 that I put on there as well
20 is where do we put them? We've had experience in the
21 past with most recently with wind storm where we lost --
22 almost 200,000 people lost power in our community and we
23 had to put up shelters.

24 We learned really fast that we didn't have the
25 capability in our community to put people for any length

ODLE / SCHAEFFER

1 of time. We were only able to open up three shelters,
2 and they were essentially houses. And we focused with
3 those people who were most at risk and put some of our
4 paramedics in those places and tried to keep them well,
5 but we really struggled with that.

6 If we had to evacuate our downtown core, first,
7 how could we do that, especially if the arterials are
8 congested or if our community's split in half? And then
9 where do we put them and how do we treat them? That's
10 one of our primary challenges.

11 The last two, firefighting capability I
12 mentioned simply because a city of our size should have
13 much more staffing. When I first started in Spokane
14 around 11 years ago we were forced to lay off 48 -- we
15 lost 48 positions, we laid off 29 people. And we never
16 recovered from that. So our daily staffing is always a
17 struggle.

18 We are responsible for responding to well over
19 40,000 calls annually, and we do that with those
20 61 people on shift. When an emergency occurs, those
21 calls don't go away, the normal business doesn't stop.
22 An incident like this will take all of our on-duty staff
23 and then some, not only for the initial, but for the
24 extended attack of the fire.

25 So the firefighting capability and our access to

ODLE / SCHAEFFER

1 foam is again somewhat limited, extremely limited
2 primarily because of our geographic location.

3 And then, as I mentioned before, the last bullet
4 is that we are the only hazardous materials team,
5 municipal hazardous materials team in the area that has
6 jurisdictional authority to respond to those type of
7 incidents.

8 So those -- that would be the framework of where
9 we're at in the City of Spokane.

10 **Q. Are there areas in Spokane where a derailment**
11 **would be particularly problematic or difficult from an**
12 **emergency standpoint?**

13 A. The simple answer is yes. It's a lot more
14 complex for us. We have one interstate that runs
15 through the city right next to the railway, as well as
16 our river. But we have elevated streets, elevated
17 bridges. Our railway through the middle of the city is
18 elevated as well. So there are a lot of complexities
19 about the geography that contribute to that.

20 **Q. Do you have a role in training the staff in the**
21 **Spokane Fire Department?**

22 A. I do.

23 **Q. What role do you take or what do you do?**

24 A. My primary role or one of my roles as the
25 assistant chief is to prepare our chief officers, which

ODLE / SCHAEFFER

1 will be the incident commander in this type of scenario,
2 prepare them so they're ready. So we go through a
3 pretty intensive, almost 120-hour mentoring period of
4 training on how to specifically manage, collaborate,
5 work across the hall with our police departments and our
6 other non-governmental agencies to form unified command,
7 and then plan on continuing those incident objectives
8 and such throughout the conclusion of the incident.

9 **Q. Are you aware of any firefighters from the City**
10 **of Spokane who have received railroad training at the**
11 **Security and Emergency Response Training Center?**

12 A. Yes.

13 **Q. Can you estimate how many personnel participated**
14 **in that?**

15 A. I can actually get you the exact number here.
16 At least I thought I could.

17 **Q. An estimate is fine.**

18 A. I think around 30. That's not Park Water. That
19 would be the SERTC?

20 **Q. Correct.**

21 A. So 31 employees as of today have participated in
22 SERTC.

23 **Q. And what's the time period over the last how**
24 **many months?**

25 A. About -- the last 36 months.

ODLE / SCHAEFFER

1 **Q. What about have any staff members attended**
2 **training put on by the railroads related to firefighting**
3 **or other emergency response in the context of railways?**

4 A. We have a BNSF yard just to the east of our
5 training center, so there's really a seamless
6 integration between us and them when it comes to
7 training. We do a lot of training with BNSF and our
8 HAZMAT techs will actually go over to the yard because
9 it's really simple essentially just to drive down the
10 road and work with the different tank cars that they
11 have, learn as much as they can about how the lines
12 work, the safest ways to work around the lines.

13 And then the BNSF employees also participate
14 with our LEPC, our Local Emergency Planning
15 Commission -- or Committee, I'm sorry, LEPC. And
16 they're almost to a first name basis, so they're very --
17 they're very well versed in each other's roles,
18 responsibilities and capabilities.

19 **Q. Are you familiar with the train derailment in**
20 **Mosier, Oregon?**

21 A. I am.

22 **Q. Is your staff trained for a scenario such as**
23 **that presented where there was a derailment and a fire?**

24 A. Our staff is trained. Obviously that's part of
25 the technician and the specialist and the incident

ODLE / SCHAEFFER

1 command qualifications that we all maintain. We had
2 never had one.

3 Obviously the experience piece is what we're
4 missing from a training standpoint, because you want to
5 build that in. But from a basic responsibility, a
6 didactic situation, yes, we're trained.

7 **Q. Can you give us some examples of what sort of**
8 **training has occurred?**

9 A. So with the technician and the specialist
10 training, our technicians are able to identify through a
11 process what a product is and make predictions on what a
12 product will do. We have the ability to monitor ambient
13 air, liquids and solids to determine the concentration.
14 If it's a gas, we can obviously build exclusion zones.
15 We have extensive training in the mitigation of
16 hazardous materials if it is something that we can go in
17 and work on a valve like chlorine or some of the other
18 things that are shipped that you see on day-to-day
19 basis. Pretty well every everything in that curriculum
20 we've trained to that level and that standard.

21 **Q. There was discussion yesterday of a tabletop**
22 **exercise or maybe multiple tabletop exercises.**

23 **Could you give a description of what a tabletop**
24 **exercise is and what specifically was done?**

25 A. So you'll see a lot of these as we get more

ODLE / SCHAEFFER

1 time. But what we do at tabletop exercises are we get
2 everybody in a room, almost a room that would be this
3 size, and we bring them together. They're all from
4 different backgrounds, but they would all be players if
5 we had this type of catastrophe that occurred in our
6 community.

7 You want to establish a relationship with them,
8 hopefully by a first name basis, before you have to meet
9 them at 3:00 in the morning during a really bad day. So
10 we bring everybody together, get them working together,
11 get them comfortable and then present them with a
12 problem. And then there's no time constraint, there's
13 nobody dying. There's simply a very pragmatic way of
14 working through a problem together and then talking it
15 at designated breaks of, okay, this changed. How are
16 you going to react?

17 And if it would be the case of me, I would be
18 coming from the fire suppression and emergency medical
19 standpoint, but our colleagues over at the school
20 district has a completely different lens.

21 Lewis & Clark was identified on this, and it's
22 one of our largest high schools. And they're a
23 stakeholder and a very big stakeholder in our community,
24 so we would engage them and listen to what their issues
25 are, their concerns are and try to work that into a

ODLE / SCHAEFFER

1 solution.

2 This type of an event is a community problem,
3 and it needs to be solved by the community. We've
4 talked with our federal partners. We're probably not
5 going to see any federal help for 48 to 72 hours.

6 All emergencies start local. That's the
7 emphasis that we've been trying to do in Spokane is just
8 put all of our emphasis on tabletops, on drills and try
9 to get everybody ready for that if it should occur.

10 **Q. Even with this training interaction, in your**
11 **opinion if a train were to derail in a Mosier-type**
12 **scenario in downtown Spokane, is the City of Spokane,**
13 **specifically the Spokane Fire Department, equipped to**
14 **deal with the resulting fallout?**

15 A. Well, it really depends on the scenario. Most
16 often when we talk about these, the scenario is built
17 for a worst-case scenario and then I don't think any
18 community is completely prepared.

19 We're as prepared as we can be for a very small
20 scenario with no complexity. Once you add a level of
21 complexity like having an ensuing fire or multiple cars
22 that have leaked product into our river and threatening
23 our drinking water. That changes things incredibly. Or
24 if we have people trapped or we have people that are
25 injured, those complexities, the more that you add on,

KISIELIUS / SCHAEFFER

1 the decrease in our capability of handling the incident.

2 MR. ODLE: Thanks, Chief Schaeffer. That's
3 all the questions I have for now.

4 JUDGE NOBLE: Mr. Piccolo, do you have
5 questions for this witness?

6 MR. PICCOLO: I do not, Your Honor.

7 JUDGE NOBLE: Cross-examination?

8 CROSS-EXAMINATION

9 BY MR. KISIELIUS:

10 Q. Chief Schaeffer, my name is Tadas Kisielius and
11 I'm the attorney for the applicant, and I have just a
12 couple questions for you.

13 A. Okay.

14 Q. Your testimony today reflects the written
15 testimony; I think you walked through the five different
16 things you had identified in your written statement.

17 Did you hear the testimony of Mr. Hildebrand,
18 the City's consultant, yesterday?

19 A. No, sir.

20 Q. Are you familiar with his written testimony?

21 A. Not to a point that I could speak to it, no.

22 Q. Okay. He had identified I think through earlier
23 work with the City eight recommendations, and in his
24 testimony yesterday and his written testimony he said
25 that the City had completed 80 to 90 percent most of

KISIELIUS / SCHAEFFER

1 those recommendations and was making progress on
2 completing the rest in 2016. And I think he had also
3 said in some more detailed testimony yesterday that
4 Spokane had addressed these precise concerns, and I'm
5 quoting from the transcript, "water supply, foam supply,
6 manpower and evacuation capability."

7 So I guess I'm trying to understand your
8 testimony in light of your own expert's evaluation of
9 your preparedness and the progress that the city has
10 made. He spoke very glowingly of your progress towards
11 those eight goals.

12 Are you disagreeing with that conclusion?

13 A. We can disagree. Can I address just -- the one
14 that comes to mind specifically that Mike brought up to
15 us or recommended to us was personnel.

16 So our daily staffing is 61. It didn't change.
17 When we sat down and negotiated a contract with our
18 bargaining unit, we changed our minimum staffing of
19 hazardous materials technicians, which actually was
20 around 8 per shift, up to 13 per shift. That was how we
21 increased in numbers of our hazardous materials
22 technicians and specialists.

23 But we didn't increase the daily staffing; we
24 did that by retraining. Actually, it really worked well
25 with us because we had a lot of retirements. So we had

KISIELIUS / SCHAEFFER

1 a training program, it was brought to Spokane and we
2 tried to train as many people as we possibly could.

3 In terms of water supply, I'm not familiar with
4 that recommendation at all and how that plays in with
5 our water distribution system.

6 In terms of foam, we had never actually
7 inventoried our foam, and he came and he said you really
8 need to do that. You need to know where this stuff is.
9 And he showed us some examples of formal foam plans, and
10 we took that, and what we did was we contacted everybody
11 in the nearby jurisdictions, even if they only had five
12 gallons. Where do you carry it and how much do you
13 carry?

14 So we were actually able to inventory where all
15 the foam existed in the community, and then we have that
16 set up at our dispatch center so that if we need foam we
17 can ask for that incident commander to make that generic
18 request, and we could speed up that process, whereas
19 before it involved multiple phone calls. So now we know
20 exactly how many gallons we have, where it is and how to
21 get it and before we didn't have that.

22 So those were two areas that I identified. And
23 what was the other one? I apologize.

24 **Q. Well, I can read you a paragraph of what he**
25 **said. I think the other piece that he said that you**

KISIELIUS / SCHAEFFER

1 hadn't quite identified and that I wanted to turn was
2 entering into a written mutual aid agreement with
3 Fairchild Air Force Base and we're generally talking
4 about the joint training between Air Force, Spokane
5 County and Spokane City with the HAZMAT response team
6 capability that's been going on a regular basis.

7 A. Right, it is. But we don't have an agreement
8 with them yet. And it's completely a bureaucratic
9 nightmare to work with military and a government entity
10 when you're a local government. It just takes time.

11 So aside from actually calling each other on
12 incidents, we have been training and we've been doing
13 everything we can to get the people familiar with each
14 other, and even deal with -- and I'm sure of those of
15 you on the west side with Joint Base Lewis and McChord
16 you understand the level of security.

17 Before we couldn't even talk to each other. Our
18 radios didn't talk because they had encryption and a
19 whole bunch of security requirements that we didn't
20 have. So we actually ended up sharing radios just to be
21 able to get the teams on a tactical level to be able to
22 talk to each other.

23 In the future, we will be joint responding. I'm
24 going to do everything I can to be able to have those
25 teams merge and respond together. But until we get a

KISIELIUS / SCHAEFFER

1 legal document, we're not able to do it yet.

2 Q. So on that joint response, I think you talked a
3 little bit about the training with the railroad, but are
4 you familiar with the railroad's HAZMAT response team?

5 A. I am not, no.

6 Q. So I have one more -- couple of questions.

7 The issues and concerns that you described in
8 your testimony, are those unique to trains traveling to
9 and from this specific facility?

10 A. Point of clarification. Trains carrying?

11 Q. Crude oil to this facility, the one we're
12 talking about here, Vancouver Energy?

13 A. No. I think this is to any train traveling
14 throughout Spokane that would have a hazardous material,
15 but the concern is the increase in frequency increase
16 the risk. I think that would be a logical assumption on
17 our part.

18 MR. KISIELIUS: Thank you. No further
19 questions.

20 JUDGE NOBLE: Redirect?

21 REDIRECT EXAMINATION

22 BY MR. ODLE:

23 Q. Chief Schaeffer, has the railroads, specifically
24 BNSF, offered to demonstrate their response capabilities
25 to you or, to your knowledge, anyone within the Spokane

SCHAEFFER

1 Fire Department?

2 A. Not that I'm aware of, no, sir.

3 MR. ODLE: No further redirect.

4 JUDGE NOBLE: Council questions? Questions
5 to my left? Questions to my right?

6 Mr. Shafer.

7 MR. SHAFER: Chief Schaeffer, thank you for
8 your testimony today. One question.

9 Could you give us a sense of kind of the
10 proportionate increase, say the project were to be
11 approved. What would be the proportionate increase of
12 the rail traffic through the city?

13 THE WITNESS: I haven't seen a prediction.
14 Everything that I've read is there's a potential of
15 variance, but I don't know what the exact is supposed to
16 be.

17 MR. SHAFER: I was just curious if you had a
18 sense of like the total volume baseline of what you're
19 dealing with right now and then, if the project were
20 added, what kind of a percent increase would that be.

21 THE WITNESS: I'm sure our planners could
22 probably recite that, at least an estimate, but I wasn't
23 prepared to answer that one.

24 MR. SHAFER: Okay. Thank you.

25 JUDGE NOBLE: Any other questions to my

REED / HOLMES

1 right? Any questions based upon that question?

2 MR. KISIELIUS: No, Your Honor.

3 MR. ODLE: No, Your Honor.

4 JUDGE NOBLE: Deputy Chief Schaeffer, thank
5 you very much for your testimony. You are excused as a
6 witness.

7 Who will be calling the next witness?

8 MS. REED: The City of Vancouver. The City
9 of Vancouver calls Eric Holmes.

10 JUDGE NOBLE: Mr. Holmes, could you raise
11 your right hand, please.

12 ERIC HOLMES,
13 having been first duly sworn, testified as follows:

14 JUDGE NOBLE: Please proceed, Ms. Reed.

15 DIRECT EXAMINATION

16 BY MS. REED:

17 **Q. Mr. Holmes, please state and spell your name for**
18 **the record.**

19 A. Eric Holmes, E-r-i-c, H-o-l-m-e-s.

20 **Q. Where are you currently employed and what are**
21 **your current job duties?**

22 A. Currently employed as the city manager for the
23 City of Vancouver. And in that capacity, I serve as the
24 chief executive officer for the City. My duties include
25 being the lead policy advisor for the City council,

REED / HOLMES

1 preparing the biennial budget recommended to the City
2 council for their consideration and adoption,
3 administration of that budget and overseeing and
4 managing day-to-day operations of the City.

5 **Q. What is your educational background?**

6 A. Undergraduate degree in planning, public policy
7 and management, and a master's degree in public
8 administration. And I've attended a variety of ongoing
9 professional development education sessions over the
10 course of my career.

11 **Q. Could you briefly describe your work history?**

12 A. Certainly. I've been working in public service
13 for about 23 years. The majority of that has been in
14 Clark County for a variety of public agencies.

15 I began my career in land use and development at
16 a city in the State of Oregon. In the early '90s, I
17 joined the planning staff at Clark County. That was
18 during the development of the original growth management
19 plans under the Growth Management Act in the early '90s.

20 Since then I have worked in a variety of
21 capacities for Clark County, City of Washougal, the City
22 of Battleground, and the City of Vancouver. And for
23 about the last 15 years I've served in an executive
24 capacity there as a department head or as city manager.

25 MS. REED: Your Honor, I am not certain

REED / HOLMES

1 whether the substitute Exhibit 3009, the resume of Eric
2 Holmes, was admitted after we had substituted that for
3 the direct testimony, so I just wanted to confirm. And
4 if it is not, move for admission.

5 JUDGE NOBLE: I believe that it has. My
6 indication on the screen is that it has; 3009 has been
7 admitted.

8 MS. REED: Okay. Thank you.

9 BY MS. REED:

10 **Q. Mr. Holmes, did you submit prefiled testimony in**
11 **this matter?**

12 A. I did.

13 **Q. Do you have any corrections to your prefiled**
14 **testimony?**

15 A. I do. First is on Page 6 of my testimony on
16 Line 5, that is reference to a quarry. That should be
17 deleted and substituted with "lumber company." And also
18 on Page 6, Line 13 it says there's been 24 HHFT
19 derailments since October of 2006, and, in light of the
20 Mosier incident, that should be changed to 25. In
21 addition, statistics cited later on the same page were
22 calculated without consideration to the Mosier incident
23 and should be amended accordingly.

24 **Q. Okay. Do you adopt your prefiled testimony as**
25 **corrected as your sworn testimony in this matter?**

REED / HOLMES

1 A. I do.

2 **Q. Please describe Vancouver's land use and**
3 **development plans and vision.**

4 A. Certainly. As I mentioned, I began my career in
5 the region of southeast Washington, at the dawn of the
6 Growth Management Act -- (Court Reporter interruption.)
7 At the dawn of the Growth Management Act, and I've been
8 involved in land use planning and long-range planning
9 for a variety of agencies in the area. The City of
10 Vancouver for decades has been focused on growing to be
11 a more urban city and establishing and enhancing
12 connections not only within the City, but also
13 connecting the City to the shore and the Columbia River
14 in a way that recognizes not only our history and
15 heritage with the river but also the recreation,
16 economic development, and identity attributes of the
17 river brings to our community.

18 The plan emphasizes how uses relate to one
19 another, how we can build stronger connections between
20 uses located within the City, and to co-locate
21 complimentary uses so that we have opportunity to
22 maximize the use of limited municipal resources.

23 **Q. And just for the council's reference, the**
24 **comprehensive plan is Exhibit 3097.**

25 A. Thank you.

REED / HOLMES

1 A couple of key policy objectives in our
2 comprehensive plans are to facilitate development that
3 minimizes adverse impact on neighborhoods and adjacent
4 areas, to locate complimentary uses adjacent to one
5 another, and to increase the ratio of jobs to housing so
6 that our economy is more self-sustaining.

7 JUDGE NOBLE: Mr. Holmes, you're speaking a
8 little bit fast for the court reporter.

9 THE WITNESS: Thank you.

10 As we have sought to implement or
11 comprehensive plan, we have developed a series of
12 subarea plans throughout the City. Subarea plans are a
13 method of taking a finer grain approach and establishing
14 policies to achieve the desired state in defined
15 geographic subareas of the City.

16 We've completed seven of those subarea plans
17 throughout the City, and four of them, as they are
18 defined geographic areas, four of them are either
19 adjacent to or within a half a mile of the existing rail
20 line in the City. We talk about each one of those.

21 The first is our Fruit Valley subarea plan.
22 It's located on the western side of the City of
23 Vancouver. It's one of our most socioeconomically
24 challenged areas of the City. That is included in the
25 record as Exhibit 5904.

REED / HOLMES

1 Just to the east of that is the Vancouver
2 City Center Vision Plan, which defines the urban growth
3 aspirations for about 150 blocks of our downtown area
4 that's bounded on the south by the Columbia River, on
5 the east by Interstate 5, on the north by
6 Fourth Plain Boulevard, and on the west by the rail
7 line. That's included in the record at Exhibit 3092.

8 The proposed terminal is located
9 approximately two miles west of downtown and a shorter
10 distance west of the Fruit Valley subarea, and
11 consequently, the City has concerns about the potential
12 implications for both of those areas. In addition, as I
13 mentioned, the rail line runs through or is immediately
14 adjacent to both of those subareas.

15 Included in the City Center Vision Plan, and
16 I'll refer to that as the VCCV, which stands for
17 Vancouver City Center Vision, is the waterfront
18 redevelopment project. It's about a 32-acre
19 redevelopment located between the Burlington Northern
20 rail line and the Columbia River shoreline just south of
21 our downtown core.

22 That redevelopment project ultimately is
23 planned to include about 3,000 housing units, about
24 2,500 direct jobs, about 400,000 square feet of retail,
25 and a limited amount of institutional uses. It includes

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1 approximately ten acres of public open space, recreation
2 space; about slightly more than seven of those acres are
3 being actively developed into a waterfront park
4 virtually as we speak.

5 The redevelopment project is enabled by
6 public investment in infrastructure to provide adequate
7 access for pedestrians, autos and emergency response
8 vehicles. To date, the City has through partnerships
9 with other public agencies, including the Port of
10 Vancouver with private development interests and with
11 state investment and federal investment, the City has
12 completed about \$44 million worth of improvements to
13 improve the access to the waterfront site, about
14 \$6 1/2 million worth of onsite road and utilities
15 improvements to extend an arterial road to and through
16 the site, and is currently engaged in construction of
17 the waterfront park that I mentioned earlier, which is
18 estimated to cost approximately \$27 million.

19 So the City has made substantial investments
20 through a series of partnerships in public
21 infrastructure that not only enable our public and our
22 citizens to connect to the Columbia River, but also in
23 support of a significant new urban economic development
24 project in downtown.

25 Continuing west, there is a congressionally-

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1 designated historic reserve as well as a national park
2 that is just to the west of Interstate 5 and abutting
3 our downtown, and it's also that historic reserve
4 straddles the Burlington Northern main line and includes
5 much of the Columbia shoreline between Interstate 5 and
6 about a mile to the west.

7 Just to the west of that is another subarea
8 that we refer to as our Lower Grand employment area. It
9 is bordered on the south by the SR 14 and the railroad,
10 and on the north by 5th Street is bisected by
11 Grand Avenue and a portion of that area is currently
12 developed with a shopping center and a mix of industrial
13 uses. A significant portion of that subarea is slated
14 for redevelopment with high intensity employment and
15 industrial uses. That can be found in the record at
16 Exhibit 3055.

17 And then continuing to the eastern portion
18 of the City, a subarea that we refer to as the Riverview
19 Gateway. It's included in the record as Exhibit 3096.

20 That is an existing quarry that is
21 approximately a quarter mile north of the rail line,
22 Burlington Northern rail line, approximately 200 acres,
23 and it is slated for redevelopment with in excess of
24 2 million square feet of urban mixed-use development
25 including office, retail, public open space, and

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1 residential uses. That, by the way, has been submitted
2 by the property owner for master plan approval for a
3 portion of that subarea.

4 And in addition to the City's comprehensive
5 plan and the subarea plans that are incorporated in that
6 policy document, the City has adopted a new strategic
7 plan to guide our policy objectives and infrastructure
8 investments and partnerships over the next six years.
9 That continues to emphasize the importance of the
10 Columbia River and it being the key to the City
11 realizing the objective of being a safe, welcoming,
12 vibrant, and prosperous city, and, again, those linkages
13 to the river and connecting the City together. That's
14 included in the record in Exhibit 3042.

15 MS. REED: Ms. Mastro, could you please
16 display Exhibit 3099.

17 BY MS. REED:

18 **Q. This exhibit contains some photographs of the**
19 **areas that we just talked about, and we thought it would**
20 **be helpful to the council to see some pictures.**

21 **So Mr. Holmes, could you discuss these**
22 **photographs?**

23 A. Certainly. The photograph currently shown on
24 the screen in the center of it is Vancouver City Hall.
25 Just to the right of that building in the photograph is

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1 the Vancouver Hotel and Convention Centre.

2 **Q. Would you like a pointer?**

3 A. Sure.

4 (Discussion off the record.)

5 BY MS. REED:

6 **Q. The trick is you're going to have to speak into**
7 **the microphone at the same time.**

8 A. I can multitask.

9 This is the building I was referencing earlier
10 as the Vancouver City Hall. This is the Vancouver Hotel
11 and Convention Centre. This is a mixed-use project
12 kitty-corner from our city hall and convention center
13 and abutting Esther Short Park, which is at the center
14 of our downtown. That includes a few hundred
15 residential units and ground floor retail, as well as a
16 destination parking garage.

17 The park that I mentioned earlier is a venue
18 that hosts year-round community events as well as
19 private events. It is also home to the Vancouver
20 Farmers market. On a typical weekend, it draws around
21 15,000 people a day.

22 MS. REED: Could you please go to the next
23 page?

24 THE WITNESS: This is a photograph of the
25 downtown, again, I'm indicating the city hall and the

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1 convention center there. The shoreline that you see
2 here where this was taken from the river looking north,
3 the shoreline that you see here is the shoreline that is
4 planned for redevelopment that is actually currently
5 under construction for redevelopment of the downtown
6 waterfront project.

7 MS. REED: Would you please go to the next
8 page?

9 THE WITNESS: This photograph gives the
10 council a flavor. This is taken on our Main Street in
11 downtown facing north. Gives a sense of what the
12 current urban development is there, as well as the
13 nature of historic structures and the kind of activity
14 and density that we have in the downtown. This
15 particular location and intersection of Main Street and
16 Evergreen is probably about a quarter mile from the rail
17 line.

18 MS. REED: Next page, please.

19 THE WITNESS: This is our infamous
20 interstate bridge that the continuation of the
21 interstate that crosses this bridge is the western
22 boundary -- or excuse me, the eastern boundary of our
23 downtown. One of the challenges that presents for our
24 community is congestion associated with not only
25 constraint and capacity of the crossing, but also

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1 unreliability of the crossing because it's a lift span.

2 There are about 400 lifts annually of that
3 span. Each lift causes pretty significant backups on
4 the interstate system and, consequently, the arterial
5 system in our surface streets. I highlight that so the
6 council is aware that when we look at emergency
7 responder concerns to either the rail line or the
8 terminal site itself, this is a significant contributor
9 to congestion unreliability of our street system and
10 transportation system. And it also, as we look at
11 regional response capacity, particularly mutual aid with
12 Portland fire bureau, this is one of two ways that they
13 can cross the river with apparatus other than fire
14 boats.

15 MS. REED: Next page, please.

16 THE WITNESS: This gives a perspective of
17 Vancouver City Hall. This is just to -- in this
18 photograph would be to the right of city hall off the
19 screen and, when looking at a map, to the south of city
20 hall about 200 feet is the Burlington Northern rail
21 line. It's on an elevated berm as it traverses
22 downtown.

23 MS. REED: Next page, please.

24 THE WITNESS: This is a perspective looking
25 from west to east along the north shore of the Columbia

REED / HOLMES

1 River. This is a public beach that is located between a
2 high density -- yeah, we live in a beautiful place --
3 high density multi-family project, condo project,
4 there's a public Renaissance trail that runs just at the
5 foot of these condos and between the shoreline and the
6 buildings that has 800,000 pedestrian visitors a year.

7 That connects from the waterfront park that
8 I mentioned earlier that we're under construction with,
9 will connect from there along the shoreline of the
10 river, ultimately out to the Columbia River Gorge
11 National Scenic Area -- (Court Reporter interruption.)
12 National Scenic Area.

13 That's the long-term vision. The existing
14 trail connects beyond the industrial area. You see the
15 cranes here by about another one and a half miles to
16 Wintler Park, which is another public park -- (Court
17 Reporter interruption.) Wintler, W-i-n-t-l-e-r, which
18 is another public park and public beach the City
19 maintains and operates.

20 The significance of this is all of these
21 activities are between the rail line that would carry
22 the crude commodity and the shore of the Columbia River.
23 It's a major destination for not just Vancouver
24 residents but the region, and it gets significant use
25 throughout the year.

REED / HOLMES

1 BY MS. REED:

2 Q. And is this one of the areas that could have
3 access issues that you had mentioned between the rail
4 line and the river?

5 A. It is. Access to the industrial development
6 seen in the distance here, the housing we see here and
7 the public amenities, is restricted to really two
8 grade-separated crossings, one at Columbia where
9 Columbia runs underneath the Burlington Northern main
10 line and the other is at -- I believe it is Columbia
11 Shores Boulevard, but I may need to follow up and
12 clarify that. But it is a grade-separated crossing that
13 runs underneath the Burlington Northern main lane and
14 provides area access not only to the residential, this
15 is a restaurant complex here as well, but also beyond
16 this to the east.

17 I mentioned some industrial area. There's about
18 270 acres of heavy industrial, much of it metal
19 fabrication, those kinds of uses, in that area that has
20 significant direct employment. And all of that is
21 through just those two grade-separated crossings, and
22 again, the Burlington Northern main line is on an
23 elevated berm through there.

24 MS. REED: Next picture, please.

25 THE WITNESS: This picture gives a flavor of

REED / HOLMES

1 the nature of the recreation amenity that runs along the
2 Columbia River shoreline. Just to probably about
3 500 feet to -- behind these folks that are looking at us
4 would be Interstate 5 and maybe 200 feet to the right of
5 this would be the Burlington Northern main line, again,
6 on an elevated berm there. This is part of --
7 considered part of the national historic site.

8 MS. REED: Next page, please.

9 THE WITNESS: This is a continuation of that
10 trail. Again, these buildings in the background behind
11 the trail are the restaurants/retail office complex that
12 has been developed between the railroad and the Columbia
13 River shoreline. The railroad just to the north of
14 these, which on the photograph would be to the right,
15 again, the railroad would be probably about 500 feet
16 away.

17 MS. REED: Next, please.

18 THE WITNESS: This is a perspective from a
19 public plaza that is in Esther Short Park, I mentioned
20 that earlier. Esther Short Park is about a five-acre
21 urban park right in the middle of our downtown. It's
22 the largest public square in the west, originally
23 dedicated to the City in the mid-1800s.

24 In the late '90s, the City committed to the
25 journey of revitalizing and redeveloping our downtown

REED / HOLMES

1 into a major urban center. One of the leading
2 investments that we made to help catalyze that was a
3 renovation of Esther Short Park.

4 And what you see here in the foreground is
5 referred to as Propstra Plaza. It's about a one-acre
6 public plaza that includes a water feature, interactive
7 water feature that is very attractive to families
8 particularly with young children throughout the late
9 spring and summer months.

10 And then the park itself serves as a venue
11 for free concerts both noon once a week and in the
12 evening on Thursday nights throughout the summer season
13 that draws thousands, as well as a variety of other
14 events every weekend in combination with the farmers
15 market.

16 MS. REED: Next page, please.

17 THE WITNESS: And again, that's city hall in
18 the background there.

19 MS. REED: Next page, please.

20 THE WITNESS: This is an image of the
21 Vancouver Farmers Market that, again, starts typically
22 in May and runs through October.

23 MS. REED: Next page, please.

24 THE WITNESS: About ten years ago the City,
25 in an effort to continue to better connect our community

REED / HOLMES

1 to the Columbia River and to build on our heritage, the
2 Historic Reserve took on a project that we refer to
3 locally as the "land bridge." It is depicted here
4 hosting a bike ride, but it provides an opportunity for
5 pedestrians to cross the SR 14 connecting our waterfront
6 to the Historic Reserve National Park that's located
7 adjacent to our downtown.

8 This gives a good depiction of the proximity
9 of this trail to the Burlington Northern main line which
10 is immediately adjacent.

11 MS. REED: Next page, please.

12 THE WITNESS: Earlier I mentioned one of two
13 grade-separated crossings that provides access to the
14 waterfront redevelopment area that has already been
15 developed and that industrial area; this is one of them.
16 This is where Columbia crosses underneath the Burlington
17 Northern main line. These towers that you see are the
18 towers that hold the ballast for the lift span of the
19 interstate bridge, so it gives you an idea of proximity
20 of that bridge to our downtown.

21 MS. REED: Next photograph, please.

22 THE WITNESS: This is another perspective of
23 the land bridge. This is one of the primary entrances
24 on the south side of SR 14 and is located immediately --
25 just the other side of this wall is SR 14, and this is

REED / HOLMES

1 the berm for the Burlington Northern main line. And
2 again, this is part of the trail system that
3 accommodates an estimated 800,000 people annually.

4 MS. REED: Next, please.

5 THE WITNESS: This is another perspective of
6 a little bit further to the east of a continuation of
7 that trail system. These buildings that you see here is
8 an additional condominium project. The distance between
9 the trail corridor that you see depicted here, obviously
10 this is the Columbia River and the rail line, which is
11 on the north side of these condominiums, is probably
12 between 500 and 750 feet.

13 MS. REED: Next, please.

14 THE WITNESS: And this is -- you may
15 recognize by now the city hall in the background.
16 Earlier I had mentioned that the City is under active
17 construction of the development of the waterfront park.

18 This is a picture of that development
19 activity. This is the foundation of an extension of the
20 trail corridor that I referenced in earlier photographs.
21 And just to the south of or to the right of this
22 photograph is the park itself, which is being designed
23 to house not only the casual recreational user but also
24 events similar to Esther Short Park and is expected to
25 accommodate routinely events that draw up to 3,000

REED / HOLMES

1 people.

2 BY MS. REED:

3 Q. Thank you.

4 Could you summarize the City infrastructure that
5 would be affected by the proposed oil terminal?

6 A. Certainly. In walking through these
7 photographs, I've highlighted some of the primarily
8 recreational amenities that draw our public, which
9 includes not just Vancouver residents, but because the
10 river is a regional treasure, draws folks from all over
11 Clark County and southwest Washington.

12 But adjacent to or in close proximity to the
13 rail line are a variety of essential public facilities
14 that are critical to the City's ongoing operations. I'd
15 like to walk through those starting from west working to
16 east.

17 I'm going to reference some that are City, some
18 that are other public agencies, primarily the county,
19 but all critical to ongoing operations and public
20 services. So I'm going to -- the far west located
21 between Mill Plain Boulevard and the rail line is the
22 City's west side wastewater treatment plant. It is one
23 of two wastewater treatment facilities that treat all
24 the sewage and wastewater from the City of Vancouver
25 including some portions of the unincorporated area.

REED / HOLMES

1 Further east of that is city hall which you saw
2 from multiple perspectives in the picture. Adjacent to
3 that is the Vancouver Hotel and Convention Centre, with
4 about 30,000 square feet of convention space.

5 Further to the east of that is our Marine Park
6 engineering and water reclamation facility. It is the
7 second of two water reclamation facilities and it
8 handles -- the two in concert handle wastewater from the
9 City and unincorporated areas. That's also immediately
10 adjacent to south of the rail line between the rail line
11 and the Columbia River, and it includes our engineering
12 services for all city infrastructure.

13 Back just to the northwest of our downtown, but
14 within, depending on where you're standing, within one
15 to four blocks of the rail line is Clark County Public
16 Services, which includes our CRESA, the emergency
17 dispatch agency, and regional emergency planning agency,
18 Clark County Courthouse, Sheriff's Office, and board of
19 county commissioners, as well as all -- the central
20 location for Clark County public services.

21 Sorry to jump around geographically a little
22 bit, but back to -- moving a bit further east, adjacent
23 to the Lower Grand employment area that I mentioned
24 earlier, is Vancouver's Water Station Number 4. It is
25 one of our major sources of domestic and potable water

REED / HOLMES

1 supply for the Vancouver water system, and it supplies
2 about 14 percent of all of the City's water. That's
3 about 300 feet away from the rail line on the north side
4 of the line.

5 In addition, as I'm sure you've heard in other
6 testimony, there are 32 at-grade crossings located
7 within the City of Vancouver where there are either
8 public or private streets crossing the Burlington
9 Northern main line. One of the concerns that the City
10 has is that the increased number of unit trains
11 associated with operation of the terminal would
12 contribute to baseline traffic on the main line, which
13 has increased delay consequences and the potential for
14 interference with emergency response capacity.

15 **Q. Could you describe some of the other public and**
16 **private uses that would be affected by the proposed**
17 **project?**

18 A. Sure. In addition to the essential public
19 facilities that I mentioned earlier in my testimony, the
20 City owns and operates as part of the national historic
21 reserve a general aviation airport, Pearson Airport.
22 That is really abutting the Burlington Northern main
23 line on the north side of the tracks. The historic
24 reserve I had mentioned earlier which stands the
25 Burlington Northern main line. Adjacent to the Marine

REED / HOLMES

1 Park engineering and water reclamation facility is the
2 water resource education center that the City operates
3 as a community resource to help educate our citizens and
4 through partnership with schools about good stewardship
5 of our water resources. It is also a venue that's
6 available for larger education community gathering and
7 private events. People get married there, actually,
8 which I'm always surprised they don't realize it's a
9 sewage treatment plant, but it's really beautiful.

10 I mentioned the Renaissance trail and its
11 proximity to the Burlington Northern main line. And
12 then, in addition, this is a little more esoteric, but
13 one of the decisions we've made at the state level is to
14 try to steward shorelines in the state in a way that
15 they benefit citizens of the state, and the relocated
16 rail spur does bisect a portion of the shoreline
17 enhancement district for the Columbia River as
18 designated by the City and acknowledged by the state.

19 In addition to the public amenities that I've
20 mentioned, there are fairly significant private
21 employment centers that are either adjacent to or in
22 close proximity to the Burlington Northern main line,
23 and this is in addition to those located at the Port of
24 Vancouver. Our downtown central business district has
25 significant urban development and houses approaching

REED / HOLMES

1 10,000 employees during the day. Columbia Business
2 Center, which is the industrial area located just to the
3 east of downtown and south of the railroad between the
4 railroad and the Columbia River shoreline is home to
5 approaching 2,000 direct jobs, mostly industrial jobs.
6 Grand Central and the Lower Grand employment area is a
7 mix of retail, service and industrial jobs that are
8 within between 3- and 500 feet of the Burlington
9 Northern main line.

10 And then we anticipate each of those areas to
11 continue and to grow for the foreseeable future.

12 **Q. Could you explain the direct impacts of the**
13 **project siting on Vancouver and the areas you just**
14 **discussed in particular?**

15 A. Sure. The proposed development, the site
16 itself, an operation of that presents some operational
17 hazards associated with the transfer of the crude
18 commodity from trains to tanks and from tanks to
19 vessels. Every time the commodity is transferred,
20 there's some risk associated there.

21 Those risks include environmental hazards
22 associated with a risk spill and ignitions as well as
23 the ignition hazards associated with the volatility of
24 the commodity itself. And you've heard a lot of
25 testimony about some of the first responders concerns

REED / HOLMES

1 and risks associated with that.

2 The City does recognize that EFSEC has already
3 issued a limited order affirming land use consistency,
4 and we've provided some detailed discussion of our
5 concerns at Exhibits 3051 and 3057 that are included in
6 the record. And I think it's important to recognize
7 that that is a limited order and it pertains really only
8 to the general category of the use of the site, which is
9 an administrative decision. That land use consistency
10 order does not address discretionary aspects of the
11 permitting process and land use review, which is really
12 the purpose of this proceeding and the preparation of
13 the EIS.

14 And the EFSEC I think has already acknowledged
15 by virtue of issuing a determination of significance in
16 calling for an EIS that there are probable significant
17 adverse impacts that are going to result from this
18 project. Just a small example that the draft EIS
19 specifically recognized those increased risks to
20 Vancouver and our population from --

21 MR. DERR: Your Honor, can I just impose the
22 DEIS question objection once again with this line of
23 testimony?

24 JUDGE NOBLE: Yes, you may. I'm just
25 thinking about that myself.

REED / HOLMES

1 MS. REED: Your Honor, this is really just a
2 discussion of the impacts to the City from the project
3 siting, and it's not specific to DEIS. In fact, the
4 witness might be able to just not mention the DEIS.
5 Would that be possible?

6 THE WITNESS: Sure.

7 MS. REED: It's not exclusively related to
8 the DEIS.

9 JUDGE NOBLE: I'm going to overrule the
10 objection provided that the witness simply testify about
11 the impacts to the City from the proposal, which is what
12 he's testifying overall about.

13 MR. DERR: Your Honor, if I might.

14 JUDGE NOBLE: Certainly.

15 MR. DERR: I think the issue is if he speaks
16 to the draft EIS concludes probable significant adverse
17 impacts, I understand that to be a violation of the DEIS
18 ruling. If he speaks to his own opinion about those
19 impacts without reference to DEIS conclusions, perhaps
20 that is not a violation of the DEIS ruling.

21 JUDGE NOBLE: Correct.

22 MR. BARTZ: Your Honor, Dave Bartz for the
23 Port of Vancouver.

24 To Mr. Derr's point, the witness just did
25 testify with the draft EIS as his basis, and we'd move

REED / HOLMES

1 that that testimony be stricken.

2 MS. REED: Your Honor, the witness has
3 testified at length that -- about the impacts of the
4 proposed facility to the City, to its planning, to its
5 land use to the community, and it has made one limited
6 reference to the EIS.

7 JUDGE NOBLE: I was trying to remember the
8 reference, and I did not hear it as repeating the
9 conclusion of the draft EIS. I think he just mentioned
10 that something that was in the draft EIS.

11 MR. BARTZ: Your Honor, if I might. I'm
12 trying to be helpful.

13 JUDGE NOBLE: Sure.

14 MR. BARTZ: Quote, "just a small example of
15 the draft EIS specifically recognized that those" --

16 JUDGE NOBLE: Are you looking at the
17 transcript?

18 MR. BARTZ: Yes, ma'am.

19 JUDGE NOBLE: Okay. Maybe I could just have
20 it read back by the court reporter.

21 MR. BARTZ: That would be great. Thank you.

22 JUDGE NOBLE: Could you read back the last
23 answer?

24 (Court reporter read back:

25 "Just a small example that the draft EIS

REED / HOLMES

1 specifically recognized those increased
2 risks to Vancouver and our population
3 from --")

4 JUDGE NOBLE: I'm going to sustain that
5 objection because of the wording and ask that you
6 question the witness so that he understands that these
7 have to be his conclusions and his testimony about the
8 impacts to the City.

9 Does the witness understand the ruling?

10 THE WITNESS: I do.

11 JUDGE NOBLE: All right. Thank you.

12 BY MS. REED:

13 **Q. Can you testify as to your conclusions with**
14 **respect to those impacts?**

15 A. I can.

16 **Q. Okay. Please proceed.**

17 A. Okay. The original question was an overview of
18 the direct impacts, and I addressed hazards and risks
19 associated with handling of the commodity, the
20 recognition that there was a limited order. My intent
21 was to underscore how limited that order was and offer
22 as part of these proceedings my own observations
23 relative to the risks that the project presents for the
24 City of Vancouver.

25 I've mentioned earlier the rail crossing delays,

REED / HOLMES

1 which has not only risks associated for individual and
2 property owners that are impacted by those delays, but
3 also first responders and potential for interference
4 with their ability to respond. And we believe that the
5 potential adverse impacts to the environment cannot be
6 sufficiently mitigated. And I can address some of the
7 offsite or indirect impacts as well.

8 JUDGE NOBLE: As I'm remembering the
9 question, it was a pretty broad question.

10 THE WITNESS: Uh-huh.

11 JUDGE NOBLE: And have you finished your
12 answer?

13 THE WITNESS: On the direct impacts, yes.

14 BY MS. REED:

15 **Q. So could you please also explain the indirect**
16 **impacts of the project site.**

17 A. I believe that that is where we see some of the
18 greatest risks to our community. The proposed terminal
19 would result in a pretty dramatic increase in the
20 transit of crude-by-rail through the City of Vancouver,
21 estimated to be in excess of 200 percent over 2015
22 levels. That source is Burlington Northern Santa Fe,
23 but the exact numbers can't be confirmed because of the
24 proprietary nature.

25 Transits adjacent to the downtown because of the

REED / HOLMES

1 operation of the facility and the length of the trains
2 would be equivalent to 12 to 15 trains per day. That's
3 found in Exhibit 3131. That's part of the record.

4 Q. If I could just interrupt you for a minute,
5 Mr. Holmes, could we take a look at Exhibit 3131? I
6 believe you said that there would be an increase in
7 transits, in train transits in the downtown area that
8 would be equivalent to 12 to 15 trains per day, but it's
9 my understanding that there are only four to five trains
10 a day that would be related to this project.

11 So could you explain how that impact, how you
12 came up with that impact?

13 A. My understanding of the operations of the
14 facility would result in each train coming in past the
15 downtown, past the historic reserve and the multi-family
16 project here through downtown out to the Port of
17 Vancouver, unload, and then have to come back through
18 here onto the main line to make a transit and come back
19 far enough because of the length of the trains, come
20 back far enough so they can then switch to take the line
21 up north, which would then be empty trains would then go
22 through, not back on this main line but through -- I
23 want to say Stampede Pass, but I can't remember for
24 sure. And if it's four trains a day, four in, four back
25 out to make that, and then four back up. So that's

REED / HOLMES

1 where the 12 to 15 came from.

2 **Q. Okay. Thank you. You can go ahead.**

3 A. Sure. I, as well as those that have referenced
4 multiple times in testimony, the delay to motorists
5 associated with blocking at-grade crossings, the risks
6 of additional transits adjacent to downtown because of
7 the commodity itself.

8 The applicant did not consider some of these
9 offsite safety impacts. In Vancouver, for example, none
10 of the rail, at-grade rail crossings were examined for
11 the consequence of declining or loss of current levels
12 of service.

13 Crude oil, specifically the Bakken crude that
14 the terminal is proposed to handle, is volatile, and as
15 such, when it's transported in the volumes, and again I
16 want to focus on the volumes that are anticipated by the
17 facility, it's unique among all cargo along -- that
18 would be transported along this line.

19 So we recognize that there is existing traffic,
20 train traffic, there will continue to be train traffic
21 on the line. We also recognize that some of that
22 traffic does include hazardous or volatile cargo, but
23 our concern is that the volume -- the consistency, the
24 volume, the frequency, and the concentration of this
25 particular commodity as it traverses the line at that

REED / HOLMES

1 level of frequency.

2 The size of the facility is the largest of its
3 kind in the nation, and the associated risk really is
4 disproportionate to the capacity of the City to respond,
5 as well as it would significantly tax or potentially
6 outstrip the capacity of the regional responder system
7 under mutual aid agreements. And I mentioned the only
8 other larger department in the Metro area is the City of
9 Portland, and earlier I mentioned some concerns about
10 their ability to respond with significant resources
11 given the unreliability of the interstate and interstate
12 bridge.

13 I want to emphasize that our concern and our
14 opposition is really to the dramatic increase in the
15 crude-by-rail. As I mentioned, that has unique safety
16 risks not only because of the nature of the commodity
17 itself but also the frequency or consistency, the
18 volume. And that concern is rooted in our concerns
19 about the community's safety.

20 And when we look at some of the risks, there
21 have been 14 crude-by-rail accidents since the
22 Lac-Megantic accident in July of 2013, and that includes
23 Mosier. That's an average of about one every 2.6
24 months. That's not an indication of probability, but it
25 is a fact of frequency.

REED / HOLMES

1 Every one of those accidents has resulted in a
2 spill, fire or both and it caused damage to the property
3 and environment at risk to the surrounding land use and
4 developments and neighborhoods.

5 And I believe you've heard from first responder
6 officials from the City of Mosier, but that incident
7 happened under, for lack of a better term, optimal
8 conditions. My understanding is updated railcars, the
9 1232s were involved. There was a regulated speed in a
10 rural area, not an urban area like Vancouver and,
11 fortunately, a lack of typically prevailing winds that
12 day. But it still resulted in a fire and a spill, and
13 if just one of those conditions had changed, it could
14 have been very traumatic and devastating outcome, even
15 more so than already.

16 I know during Chief Molina's testimony earlier
17 today there was a reference to a table that's included
18 in Exhibit, I believe 3043 in the records, documents
19 that there have been 15 rail accidents or incidents
20 within the City of Vancouver since 2008. That's a
21 one -- about one the average of every 6.8 months.

22 So those risks are real. They're not
23 hypothetical; the risks of a conflict associated with
24 rail transport. The frequency of those both when we
25 look at a national scale and those involving

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1 crude-by-rail and --

2 MR. DERR: Your Honor, I think there's an
3 objection. I have a question.

4 It appears the witness is reading testimony.
5 It's a very long answer to a question, and I guess I'd
6 like to ask if this is his prefile or if this is a
7 different document. And if it's a different document,
8 if we might be able to see a copy of the document he's
9 referring to in his testimony.

10 MS. REED: Your Honor, he has an outline of
11 his -- this is not his prefiled testimony. He has an
12 outline of his oral testimony, and I'll be glad to
13 provide that to counsel.

14 JUDGE NOBLE: All right. She'll provide it
15 if that's your request.

16 MR. DERR: That would be great if I could
17 see it to assist with cross. I'd appreciate it.

18 JUDGE NOBLE: Have you finished your answer,
19 Mr. Holmes?

20 THE WITNESS: I'm clear to go?

21 JUDGE NOBLE: You're clear to go.

22 THE WITNESS: Okay. I've addressed concerns
23 about the capacity of our first responders. The other
24 thing, earlier in my testimony I highlighted a series of
25 public facilities that are adjacent to or near the rail

REED / HOLMES

1 line ranging from emergency operations center, city
2 hall, our wastewater treatment plants and potable water
3 supplies all of which would be at risk of event of an
4 accident or derailment that would have impacts beyond
5 just the immediate area of the accident. If there was a
6 fire or a spill, because those provide service across
7 the entire City.

8 And in addition, we have concerns about the
9 cumulative impacts associated, not just with this
10 facility but with others that are proposed throughout
11 the region that would contribute to congestion that
12 would either reach or potentially exceed the capacity on
13 the main line, and some of those are either crude or
14 coal facilities that we have shared concerns about
15 because of the commodity.

16 JUDGE NOBLE: Your voice is dropping at the
17 end of your sentences and you're speeding up a little
18 bit.

19 THE WITNESS: Thank you.

20 MS. REED: Your Honor, at this point we
21 would like to call up an exhibit, but it hasn't been
22 admitted yet, so -- and I wasn't sure if you had ruled
23 on its admissibility or reserved. I think you reserved
24 ruling, but it's a set of exhibits, Exhibits 3071
25 through 3075. And those are related to the EIS for the

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1 Millennium Bulk Terminal facility.

2 JUDGE NOBLE: That's right, they haven't
3 been admitted yet and the Port is opposing those
4 exhibits.

5 MS. REED: Okay. And the witness was just
6 testifying as to cumulative impacts of this project and
7 other proposed projects, and the Millennium Bulk
8 Terminal facility is another proposed project.

9 Does the Port still maintain its objection?

10 MR. BARTZ: We do, Your Honor. I've heard
11 enough to waive an objection to 3071 because he's talked
12 about the rail impacts in his direct testimony and
13 because of the cumulative impact on 3075.

14 But the rest of those are really just a big
15 dump of that Millennium DEIS. That's not relevant and
16 doesn't make a fact in issue here anymore likely than
17 not.

18 JUDGE NOBLE: What about 3075? You're still
19 maintaining your objection to that one?

20 MR. BARTZ: No, Your Honor. Based on the
21 testimony I've heard from the witness, 3075 and 3071, we
22 withdraw an objection. We remain objecting to 3072,
23 3073 and 3074.

24 JUDGE NOBLE: 3071 and 3075 will be
25 admitted. Could I ask if the City wants to withdraw the

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1 offer of 3072, -3 and -4?

2 MS. REED: We will, Your Honor. The 3071
3 and 3075 established the information that we were
4 seeking to establish sufficiently.

5 JUDGE NOBLE: 3072, 3073 and 3074 are
6 withdrawn. You may proceed.

7 BY MS. REED:

8 **Q. Mr. Holmes, I believe you were starting to talk**
9 **about cumulative impacts with respect to proposed**
10 **facilities, and could you please proceed.**

11 A. Sure. The concern is associated with cumulative
12 impacts not only from the proposed terminal at Port of
13 Vancouver, but the combined impact primarily on
14 rail-based traffic from both the Millennium Bulk and the
15 Cherry Point Terminal projects which are proposed, and
16 the City has been participating in those process as
17 well, representing the same set of concerns and
18 objections reflected here and in our prefiled testimony.

19 The cumulative impacts include not only the
20 risks associated with delays and interruption of first
21 responders because of at-grade crossings and in some
22 cases there are commodity-based concerns because of the
23 risks associated with transporting those commodities by
24 rail, as well as concerns that the overall rail capacity
25 would potentially exceed capacity within the next 10 to

REED / HOLMES

1 15 years.

2 Q. Mr. Holmes, could you summarize the City's
3 position with respect to this project and its safety?
4 Could you, for example, address how the City would
5 respond if these risks that you have addressed could be
6 adequately mitigated?

7 A. Everything the City does is in the context of an
8 authorizing environment, and the first level that is
9 obviously state law statutes authorize us to take
10 certain actions. For me, it is also the policy
11 direction of the City council.

12 About two years ago, the City council adopted a
13 very clear policy stance relative to this project.
14 That's reflected in a resolution that declared their
15 stance, and that resolution says that the City continues
16 to oppose based on concerns about safety and operational
17 impacts to the City of Vancouver until safe transport
18 can be proven, reliably proven. And the facts suggest
19 that we have not been able to accomplish that.

20 There are a number of rule-making efforts at a
21 federal level, a state level, all geared towards trying
22 to come up with the right formula of regulations,
23 technology, operations that would assure the safe
24 transport of this particular commodity. And to date, it
25 has not been successful. And that's evidenced by the

BARTZ / HOLMES

1 ongoing accidents and derailments and specific concerns
2 in Vancouver associated with at-grade crossings, the
3 volume of at-grade crossings that we have and the
4 potential for conflicts that's rooted in our local
5 experience.

6 MS. REED: Thank you. I have no further
7 questions.

8 JUDGE NOBLE: Cross-examination of
9 Mr. Holmes?

10 CROSS-EXAMINATION

11 BY MR. BARTZ:

12 Q. Thank you. Good afternoon, Mr. Holmes. My name
13 is Dave Bartz and I represent the Port of Vancouver.

14 JUDGE NOBLE: Excuse me, Mr. Bartz. I just
15 was looking at the clock and thinking that maybe before
16 a -- I don't want to interrupt your cross, but maybe we
17 should take a short break before cross-examination. I
18 assume it's going to be not a short cross-examination?

19 MR. BARTZ: I don't believe it will be
20 short. Thank you.

21 JUDGE NOBLE: We will be in recess for
22 15 minutes until 3:30.

23 (Recess taken from 3:15 p.m. to 3:31 p.m.)

24 JUDGE NOBLE: Cross-examination.

25 MR. BARTZ: Thank you, Your Honor.

BARTZ / HOLMES

1 BY MR. BARTZ:

2 Q. Good afternoon again, Mr. Holmes. I'd like to
3 try to start with something simple. I worry when
4 lawyers say that, so I'll do my best.

5 Is the city council of the City you represent
6 objecting to crude oil-by-rail or rail?

7 A. Crude oil-by-rail.

8 Q. So if we removed crude oil from any of this
9 conversation, we either wouldn't be here and it would be
10 a vastly different conversation?

11 A. That's correct.

12 Q. So a few more questions, several more questions,
13 but just a few more based on what you told us here
14 today.

15 Water Station Number 4, when was that drilled,
16 approximately?

17 A. I don't know the date. Vancouver is an old
18 city, so I would wager that it was more than 20 years
19 ago but can verify if it would serve the process. But
20 it's been there a number of years.

21 Q. I get to celebrate -- I have celebrated my
22 59th birthday this year but I think of myself as still
23 young, but it's within the modern era?

24 A. It's within the modern era.

25 Q. Thank you.

BARTZ / HOLMES

1 You made a comment by unit trains all by
2 themselves and just to verify what you and I talked
3 about a few minutes ago, the City's objection and your
4 objection is not to unit trains?

5 A. That's correct. It is worth noting that it is
6 the commodity that has triggered this whole proceeding.

7 **Q. Thank you.**

8 **You mentioned the increased delay consequences.**
9 **That's a projected concern, not a reflection of actual**
10 **today; correct?**

11 A. Correct.

12 MR. BARTZ: Ms. Mastro, can we see 3131,
13 please?

14 BY MR. BARTZ:

15 **Q. So you don't have to repeat with the pointer,**
16 **but you showed your understanding of how a train would**
17 **essentially back out of the Port of Vancouver after it**
18 **had been unloaded. And we're talking about the project**
19 **trains for this project.**

20 When it does the backing out before it heads
21 north, if that's the hypothetical trip, it does not
22 block any at-grade crossings when it does that backing
23 out; correct?

24 A. Correct.

25 **Q. This morning we were able to listen to**

BARTZ / HOLMES

1 Chief Molina talk about those 15 incidents that he put
2 in his chart that you referred to, and he confirmed that
3 none of those incidents involved oil trains. And you
4 didn't disagree with that; correct?

5 A. I did not disagree.

6 **Q. So if I said West Vancouver Freight Access**
7 **project to you, that means something?**

8 A. Yes.

9 **Q. Is it fair to say that you would agree that the**
10 **West Vancouver Freight Access Project involved**
11 **significant investment by the Port of Vancouver?**

12 A. Yes.

13 **Q. And investment by others?**

14 A. Yes.

15 **Q. Public agencies, including the City of**
16 **Vancouver; correct?**

17 A. Yes. During my testimony, I testified that a
18 total of about \$44 million had been spent on the
19 waterfront access project. A portion of that is
20 attributable also to the West Vancouver Freight Access
21 Project.

22 **Q. And I think on the City website for the**
23 **Vancouver Waterfront Redevelopment project, you gave the**
24 **Port some credit as well as others credit; correct?**

25 A. Correct.

BARTZ / HOLMES

1 Q. And you confirmed that the Port and the City
2 working together got federal and state money to help do
3 this whole bunch of development we're now seeing and
4 looking at?

5 A. That's correct.

6 Q. Specifically, just because it's been an issue in
7 some of these cases, I want to ask you a couple things.

8 The Port's work to create the new rail entrance
9 facilitated the improved accesses or access at all for
10 Grant and Esther Street to the waterfront; is that
11 correct?

12 A. That's correct.

13 MR. BARTZ: Ms. Mastro, could you show
14 Exhibit -- my memory is 1018, but I already told you I
15 was 59 so it's fading. It's 1015, please.

16 BY MR. BARTZ:

17 Q. Mr. Holmes, this is a picture of the former
18 viaduct between the City and the waterfront. Does that
19 look familiar to you?

20 A. Seems like a long time ago, but it wasn't that
21 long ago. But yes, that's the prior viaduct.

22 Q. And that's gone now?

23 A. Correct.

24 Q. And that's gone in part because of the work the
25 West Vancouver Freight Access Project helped facilitate?

BARTZ / HOLMES

1 A. Correct.

2 Q. There have been times when the Port chose to
3 change its schedule at the City's request to
4 accommodate, like any partnership, something else needed
5 to happen either because of money or scheduling and the
6 Port postponed or did something differently because of
7 the City' request?

8 A. That is correct.

9 MS. REED: I would have to object to the
10 question as very vague. I'm not quite sure what is
11 meant by "something."

12 BY MR. BARTZ:

13 Q. In the development of the Grant and Esther
14 Street underpasses and the development of the Columbia
15 Way roads, the roadway including the deep utilities, in
16 several of those instances there were times when the
17 City asked for the Port to postpone or change its
18 schedule in that construction; is that correct?

19 A. I'll provide a little more detailed answer.

20 I joined the City in 2007. My initial job in
21 the City was economic development director, and in 2010,
22 I was appointed to city manager. The West Vancouver
23 Freight project and the Waterfront Access project were
24 initiated before I joined the City. During the course
25 of planning, funding and construction, there were

BARTZ / HOLMES

1 changes in sequencing to the Port's rail investment that
2 were made by the Port to better facilitate timing and
3 potentially funding for the Waterfront Access project.
4 I don't remember details beyond that.

5 Q. I have a whole bunch of documents that I was
6 trying to hope avoiding going through those with you, so
7 thank you. That's sufficient.

8 I'll finish on this area of the question about
9 the Columbia Way deep utility work and the road work
10 that was done relatively recently.

11 That was a, to give an example, where the Port
12 took a forward leadership position to help facilitate it
13 because of some timing restrictions or money
14 restrictions that the City had at the current moment; is
15 that correct?

16 A. That one is a little more complicated. There
17 was a tremendous amount of shared interest and shared
18 benefit there, and since that work was done, the Port
19 has embarked on a significant effort towards an urban
20 redevelopment of their holdings there at Terminal 1
21 which is what the Columbia Way arterial extension
22 traverses.

23 Q. In your prefiled testimony, you mentioned some
24 plans of the City of Vancouver that you believe support
25 opposition to the current project; correct?

BARTZ / HOLMES

1 A. I brought a copy of my prefiled testimony, but I
2 would rather have a fresh one. So I'm referencing the
3 right and accurate document, and then I would ask you to
4 draw my attention to the specifics.

5 Q. Sure. I can do that. I don't have an extra
6 copy of your testimony, but I'll try to read it in the
7 way it makes sense. Mr. Derr is going to loan you his
8 copy.

9 On Page 3 of your testimony you mention the City
10 of Vancouver comprehensive plans. Do you see that?

11 A. Yes.

12 Q. I'm going to refer you to two policies you did
13 not mention, EC-7 and PFS-16. I presume those aren't --
14 do you remember what those are in some general format?

15 A. If you're referencing comprehensive plan
16 policies?

17 Q. Yes.

18 A. Then no.

19 Q. Okay. So I will read this slowly. Policy EC-7
20 says, "Regional Focus. Work with the larger Portland
21 Vancouver region to leverage opportunities, unique site
22 availability, and marketing to promote the region
23 nationally and globally to attract new business."

24 Does that sound familiar?

25 A. If that's in the comprehensive plan, frankly

BARTZ / HOLMES

1 it's not a document that I read regularly, but I have no
2 reason to believe that it's not accurate representation
3 of the policy.

4 Q. You reviewed the comprehensive plan to prepare
5 your prefiled testimony; correct?

6 A. Yes.

7 Q. And the Port of Vancouver, as the furthest
8 deepwater port off the Columbia River with a newly
9 improved rail-efficient yard and the lay down of large
10 area Terminal 5, you could see where at least in the
11 Port's mind, which they testified to, offers some unique
12 market capacity. Do you see that?

13 A. Yes.

14 Q. That might be useful in national or global
15 business and trade?

16 A. Yes.

17 Q. Then Policy PFS-16, "Economic Development: In
18 order to support continued economic vitality of
19 Vancouver, major transportation system investments
20 should facilitate freight mobility, job creation,
21 regional competitive position, and revenue growth."

22 Does that sound familiar?

23 A. Yes.

24 MS. REED: I need to interject an objection.
25 Could you please identify where in the comprehensive

BARTZ / HOLMES

1 plan that occurs so that I can take a look at it too?

2 MR. BARTZ: Yes. The cite I have is 5-56.

3 MS. REED: Okay. Thank you.

4 JUDGE NOBLE: That was not really an
5 objection so much as a request for clarification. Are
6 you objecting?

7 MS. REED: Yes, Your Honor, it was a request
8 for clarification.

9 MR. BARTZ: And the earlier one on
10 Policy EC-7 is 3097 dash -- which is an exhibit number
11 in this case -- dash 0156.

12 MS. REED: Okay. Thank you.

13 BY MR. BARTZ:

14 Q. About two weeks ago when this journey started
15 here in this proceeding, Mr. Smith testified that the
16 Port of Vancouver has seen consistent years of
17 economic -- improved economic growth and income.

18 Is that something you're familiar with?

19 A. Yes.

20 Q. And when the City did the Vancouver City Center
21 Vision, or the VCCV, they performed the EIS,
22 Environmental Impact Statement; correct?

23 A. That's correct. It was a planned action.

24 Q. And in the final Environmental Impact Statement
25 it acknowledged that train traffic would increase; is

BARTZ / HOLMES

1 that correct?

2 A. That is correct. It did not anticipate the
3 unique aspects of this commodity; no one did at the time
4 that that was drafted and adopted.

5 **Q. Understood. Thank you.**

6 **So you've described your background, which**
7 **includes a lot of planning and work in the public**
8 **sector; correct?**

9 A. Correct.

10 **Q. As a professional in that area, have you come to**
11 **your own professional opinion about the suitability of**
12 **crude oil for the City of Vancouver?**

13 A. Yes.

14 **Q. And what is that opinion?**

15 A. Based on my knowledge as of this proceeding, the
16 risks associated with transport and handling of crude,
17 particularly by rail and the physical nature of the City
18 of Vancouver relative to the number of at-grade
19 crossings presents, when viewed in light of the
20 frequency and outcome of crude oil derailments
21 experienced in recent years, is that current technology,
22 regulations, operations are insufficient to assure
23 consistently safe handling and transport.

24 **Q. Can you point to a time when you adopted that**
25 **opinion?**

BARTZ / HOLMES

1 A. It's been in the course of my gaining knowledge
2 through this proceeding when it first came to beyond the
3 radar on the City of Vancouver by virtue of the Port
4 choosing to pursue the project three years ago, three
5 and a half years ago.

6 **Q. Was that your opinion at the time the city**
7 **council adopted the resolutions that you described in**
8 **your testimony?**

9 A. Yes. And it's memorialized in a resolution
10 which, again, I prepared in my capacity as policy
11 advisor to them, and events that have unfolded since
12 then have underscored my concerns.

13 **Q. Is it your understanding to faithfully execute**
14 **your responsibilities to the city council after they**
15 **passed that resolution that it was your job to make sure**
16 **that the City employees didn't do -- take action or**
17 **provide effort that would facilitate the Vancouver**
18 **Energy project application for EFSEC?**

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BARTZ / HOLMES

1 A. My expectation is that we would fulfill our
2 responsibilities of the authorizing environment that I
3 mentioned earlier, which includes, combines with the
4 regulations of the government city and our operations as
5 well as the legislative expectations of city council.

6 (Court Reporter interruption.)

7 **Q. So is it fair to say you'll do what you're**
8 **required to do but not more?**

9 A. Relative to this project?

10 **Q. Correct.**

11 A. The city council has made their expectations
12 clear.

13 **Q. Have you explained to any of the City employees,**
14 **any City employee, that they were not to take an action**
15 **or to invest energy and activity that could have been**
16 **perceived as assisting the application of Vancouver**
17 **Energy before EFSEC?**

18 A. Could you repeat that?

19 MR. BARTZ: Could you read it back, please?

20 (Court reporter read back the question.)

21 THE WITNESS: Yes.

22 BY MR. BARTZ:

23 **Q. Has the City of Vancouver done any analysis**
24 **about any other cargos that it contemplates opposing?**

25 A. One of the policy avenues that this project has

BARTZ / HOLMES

1 catalyzed was a moratorium on crude oil handling
2 facilities, and the city council actually next Monday
3 will hold a hearing on a change to our development
4 regulations that would prohibit crude oil transport --
5 crude oil handling facilities. And there's a slightly
6 broader definition than just crude oil, but, so they are
7 holding a hearing on that to consider a planning
8 commission recommendation on that.

9 **Q. Other than crude oil, setting that aside, any**
10 **other analysis or development or investigation into**
11 **efforts to critically examine other cargos to perhaps**
12 **oppose?**

13 A. Nothing specific. The only caveat I will offer
14 to that is in the course of the council considering
15 options under the moratorium, policy options under the
16 moratorium, there was limited and fairly casual
17 discussion on the record about expanding it beyond
18 crude. The ultimate process through the planning
19 commission -- (Court Reporter interruption.) Through
20 the planning commission that the council will hold a
21 hearing on next Monday does not reflect any of those
22 things. It's just crude and I think tar sands, but
23 still very focused on crude.

24 **Q. So what were some of those other cargos that**
25 **have been left on the cutting room floor, so to speak?**

BARTZ / HOLMES

1 A. If I can clarify, the discussion wasn't about
2 cargos specifically and rail cargos. Concurrent with
3 the period of the moratorium, the City of Portland
4 adopted a much more expansive policy that addressed much
5 more than just crude. That prompted some of our
6 citizens to raise the question about whether -- and
7 actually the media to raise the question about whether
8 the City of Vancouver would take a similar more
9 expansive stance.

10 And not speaking from a position of authority
11 about the Portland action, but my anecdotal
12 understanding is that it included -- went so far as to
13 prohibit the location of new gas stations. So that was
14 the context. There was never a specific, well, we
15 should look at this particular commodity.

16 **Q. And when you say "the media," do you mean any**
17 **other outlet other than The Columbian?**

18 A. Yes.

19 **Q. And then, as far as employees you talked to in**
20 **response to my question a couple of minutes ago, did**
21 **that include some employees of the fire department?**

22 A. Chief Molina.

23 MR. BARTZ: Thank you. I have no further
24 questions.

25 JUDGE NOBLE: Any other questions from the

DERR / HOLMES

1 proponents? Mr. Derr?

2 MR. DERR: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. DERR:

5 Q. My name is Jay Derr, and at this late hour I'm
6 tempted to say I represent the commodity that you
7 apparently don't like, but I'll say instead that I
8 represent the applicant for this particular terminal
9 project. And I do have a few questions for you.

10 So, and I appreciate your answering your
11 testimony that the issue is crude-by-rail, not rail, but
12 I want to ask some questions then about how some of the
13 information in your testimony as well as some of the
14 information that witnesses for the City have provided,
15 how they apply only to crude-by-rail as opposed to rail.
16 So that's kind of the line of questioning I want to
17 start with.

18 And the first one I want to talk about is what
19 was described as a rail crossing level of service
20 analysis. I believe you testified that one of the
21 problems was the applicant failed to do an LOS analysis
22 at-grade crossings. Am I remembering that correctly?

23 A. That's correct.

24 Q. And so does the City typically require rail
25 crossing level of service analysis for new development

DERR / HOLMES

1 projects?

2 A. We do require level of service analysis at
3 street intersections. I actually cannot testify whether
4 we require it at at-grade crossings.

5 Q. So did you review the testimony of your public
6 works staff person, I'm forgetting his name, who spoke
7 yesterday about this issue?

8 A. Ryan Lopossa?

9 Q. Ryan.

10 A. I did not.

11 Q. So you don't know that Mr. Lopossa testified
12 that this is the first one he's ever asked to be done?

13 A. I did not know.

14 Q. So moving forward, will the City now be doing
15 rail level service analysis for development projects in
16 the City, say other Port tenants that are dependent on
17 freight rail?

18 A. The nature of this particular proposal is
19 treated differently under the statute than any other
20 commodity-based proposal, and that is the City is
21 preempted from a regulatory capacity, and that's placed
22 in the hands of the EFSEC. So we are participating in
23 the adjudicate process to express our concerns about the
24 project and in that way it is not analogous to other
25 projects that would not be subject to the EFSEC

DERR / HOLMES

1 proceeding.

2 Q. So for purposes of applying City regulations and
3 the way the City applies regulations, would you be
4 asking EFSEC to do it differently than the City would
5 typically do or to do it the same way the City would
6 typically do?

7 A. I think by definition it's different.

8 Q. So your testimony or your request is that EFSEC
9 look at this issue, even if it's an issue of applying
10 City plans and policies and regulations, you would be
11 asking EFSEC to do it differently than what you would
12 typically do for other projects?

13 A. Yes. I believe that the process dictates that.

14 Q. I want to ask you some questions about crossing
15 risk. I believe you testified to issues of at-grade
16 crossing and risks. I believe at least in your prefile,
17 you spoke of one incident from, I want to say 2015, but
18 you have my copy of your prefiled testimony so I can't
19 remember --

20 A. Yes.

21 Q. -- for sure. Is that a risk that is unique to
22 crude oil trains?

23 A. It is not.

24 Q. So those risks at at-grade crossing collisions
25 or risk would be the same be it a crude train or any

DERR / HOLMES

1 other train?

2 A. I believe that the difference is the risk
3 associated with a crude train are inherent in the
4 commodity that it's carrying, so if the conflict
5 resulted in a derailment and a spill, that's a different
6 thing than if it was grade.

7 **Q. So it relates to spill of the commodity if**
8 **there's a derailment, not the risk of hitting somebody**
9 **at the crossing?**

10 A. It's both.

11 **Q. I also want to ask you a question about access.**
12 **And I don't know your community as well as you do.**

13 I believe you testified to an area around Marine
14 Park, I think it was Columbia Shores, maybe an
15 industrial area, in that area as well, and I believe
16 your testimony was there were only two access points to
17 that area of the City which is between the railroad and
18 the river. Am I remembering that correct?

19 A. If I could have staff bring out map 3020,
20 Exhibit 3020 which I believe is a map of the City. I'll
21 do my best -- is this it? I'll do my best to indicate
22 with a little more clarity what I was talking about.

23 So this is downtown, this is the Columbia Shores
24 area, and the access point that I was referring to is
25 here. Columbia goes underneath the Burlington Northern

DERR / HOLMES

1 main line, and then underneath the interstate bridge and
2 along the river to Columbia Shores and the industrial
3 area. That's one access point.

4 The other is a grade-separated crossing here
5 where you can come off of either SR 14 or Columbia House
6 Boulevard and travel underneath the rail line.

7 There is one way out. It's a small, aged
8 tunnel, about one lane wide, with limited overhead
9 clearance towards the east end of what we refer to as
10 the Columbia Business Center, which is that industrial
11 area. And that's what I was referring to.

12 **Q. So those areas between the railroad track and**
13 **the river have access to downtown via Columbia Way?**

14 A. Correct.

15 **Q. As well as access, I guess it's underneath the**
16 **railroad tracks?**

17 A. That's correct.

18 **Q. And then under 14. Thank you.**

19 So I have, again, since your concern seems to
20 relate to the commodity, some questions to you about
21 what other commodities your concern might relate to.

22 **First, are you familiar with the railroad's**
23 **common carrier obligations?**

24 A. Yes. I mean, roughly. I'm not an expert.

25 **Q. So I don't testify, maybe I'll ask you, what's**

DERR / HOLMES

1 your understanding of a railroad's common carrier
2 obligations?

3 MS. REED: I have to object to this line of
4 questioning. I think it's certainly outside the scope
5 of the witness's direct testimony.

6 MR. DERR: He testified to concerns about
7 particular commodities on the rail line, and this is
8 directly related to what commodities travel on the rail
9 line.

10 JUDGE NOBLE: Well, it seems like your
11 question was asking for a legal conclusion.

12 MS. REED: You didn't ask about his
13 awareness of what commodities travel. You asked him
14 about his understanding of their obligations as a common
15 carrier, which is a different question, I thought, Your
16 Honor.

17 JUDGE NOBLE: I think that was your
18 question. So I am suggesting that that is asking for a
19 legal conclusion. Do you disagree with me, Mr. Derr?

20 MR. DERR: That is why I asked him first if
21 he knew what that meant, and I was going to ask a
22 question about how that relates to what commodities are
23 carried on the rail line. But if the first part of the
24 question is sustained, then I will simply ask him if he
25 understands what the railroad's obligations are to carry

DERR / HOLMES

1 other commodities on the rail lines.

2 JUDGE NOBLE: That's the part of the
3 question that I think is asking him for a legal
4 conclusion. But that's not the basis of the objection,
5 I guess, is it?

6 MS. REED: Well, Your Honor, I do believe
7 it's asking for a legal conclusion. I also believe that
8 it's outside of the scope of his testimony in that it
9 addresses a legal issue that was not addressed in his
10 testimony or any of the testimony of any of the other
11 City witnesses dealing with a railroad's common carrier
12 legal obligation.

13 JUDGE NOBLE: Well, anyway, I'm going to
14 sustain the objection. And maybe you can just ask him
15 about his general knowledge.

16 BY MR. DERR:

17 **Q. Mr. Holmes, can you tell me, what's your**
18 **understanding or knowledge about whether the railroad**
19 **carries other commodities besides crude oil?**

20 A. My understanding is they carry a wide variety of
21 commodities, the rail does, and that they -- if it's a
22 legal commodity, then they have wide latitude to carry
23 that through interstate commerce.

24 **Q. Do they carry other hazardous materials?**

25 A. My understanding is they do.

DERR / HOLMES

1 **Q. Do they carry crude oil to other locations**
2 **besides this project?**

3 A. My understanding is currently they do.

4 **Q. Are you familiar with a commodity which is**
5 **called a TIH, or a toxic inhalant hazard?**

6 A. I'm not.

7 **Q. So based on your testimony of what the issue is**
8 **for the City, is it the City's position that rail**
9 **carriage of those other commodities to other**
10 **destinations is also an issue that the City would**
11 **oppose?**

12 A. The City's concern is the volume and the nature
13 of this commodity and the combination of those two.
14 Volume is represented by the concentration and frequency
15 of the trains through the City, and the volatility is
16 represented by the series of -- not only the nature of
17 the commodity itself, but also the track record of
18 accidents and spills and fires associated with transport
19 of the commodity. A lot of that, and my understanding
20 is associated with what has been a very swift and steep
21 increase in the total volume nationally of transport of
22 this commodity, and our various rule-making and
23 legislative apparatus at the federal, state and --
24 (Court Reporter interruption.) Apparatus at the
25 federal, state and local levels have all been struggling

DERR / HOLMES

1 with coming up with the right formula to try and make it
2 safe. They just haven't yet.

3 Q. And would the City's response requirements,
4 fire, police, emergency service response requirements be
5 similar for existing transportation of those commodities
6 as it would be for transportation of commodities to this
7 particular project?

8 A. Make sure I understand the question. So could
9 you --

10 Q. Let me try it this way.

11 How would -- or would the City's response
12 requirements for fire and emergency services be
13 different for transportation of the commodities to other
14 locations through the City, which I believe you
15 testified you know is happening, as compared to a
16 response to transportation of these commodities to the
17 Vancouver Energy Terminal?

18 A. My understanding of existing cargos being
19 transported through the City is that none of them are at
20 a volume and of comparable volatility nature to the
21 crude that would be coming through that would be
22 associated with this terminal.

23 Q. So is it your understanding that no Bakken crude
24 is going through the City at this time?

25 A. No, that's not. That's not my understanding.

DERR / HOLMES

1 My understanding is that the current volumes are
2 significantly less than what would be coming through the
3 City if the project were built.

4 **Q. What do you understand those current volumes to**
5 **be with the project?**

6 A. I believe in my --

7 MS. REED: I have to object at this point.
8 That question calls for information that is of the
9 nature described by Chief Molina during his testimony of
10 being sensitive security information and information
11 that the City has agreed not to disclose except to
12 authorized persons.

13 MR. DERR: I believe he can limit his
14 testimony to what's been contained in prefiled
15 testimony.

16 JUDGE NOBLE: I think it was a fair
17 question. He's testified about his understanding
18 generally of the amount and so I think this is just a
19 clarifying question. I don't think it's asking for
20 specific information that is classified or secret.

21 MS. REED: Okay. If you can answer in
22 general terms, then I'll withdraw my objection.

23 JUDGE NOBLE: It was my understanding that
24 the question --

25 BY MR. DERR:

DERR / HOLMES

1 Q. You can answer in terms of number of trains if
2 that's a nice general phrase for you.

3 A. In my earlier statements, I testified that
4 Burlington Northern Santa Fe has indicated that it would
5 be in excess of 200 percent of 2015 levels.

6 Q. And what were the 2015 levels?

7 A. I can't say.

8 Q. You don't know what the existing train volume
9 is?

10 A. I don't know the current volume.

11 Q. That's a little hard for you to calculate
12 percentages off a base number you don't know what it is.

13 A. I didn't calculate them. It was from Burlington
14 Northern Santa Fe.

15 Q. I want to ask you a couple of questions.

16 You testified I believe to what you identified
17 as the direct impacts at the terminal facility and we'll
18 be careful not to use the phrase "EIS" in my question or
19 your answer. I just have a couple questions about what
20 you've taken a look at to reach those opinions about the
21 direct impacts.

22 You mentioned risk of spill or an incident at
23 the facility; is that correct?

24 A. Uh-huh.

25 Q. Have you reviewed the BakerRisk Qualitative Risk

DERR / HOLMES

1 Assessment for the facility that discusses the risk?

2 A. Without using the term "EIS"?

3 Q. That was not in the EIS document, so you can use
4 that term.

5 A. I have not.

6 Q. Have you reviewed the spill response plans for
7 the facility?

8 A. I have not.

9 Q. How about the fire system plan for the facility?

10 A. I have not.

11 Q. One last question to clarify your discussion of
12 transits of the trains from the project through town.

13 I believe you testified it could be 12 to
14 15 transits through town. It sounds like you did not
15 review the testimony of the BNSF witness; is that
16 correct?

17 A. That's correct, I did not.

18 Q. So if I were to propose to you that she
19 testified it's likely the trains will return along the
20 Columbia Gorge route and not go north, would that change
21 your answer as to how many transits would go through
22 downtown?

23 A. If that were the case, as I described earlier,
24 my understanding of the transits were associated with
25 the actions necessary for the trains to travel north.

REED / HOLMES

1 If the trains aren't traveling north, then I think it's
2 logical to conclude that there would be fewer transits.

3 MR. DERR: Thank you. I have no further
4 questions.

5 JUDGE NOBLE: Redirect?

6 REDIRECT EXAMINATION

7 BY MS. REED:

8 Q. You stated earlier that you had discussed with
9 Chief Molina issues with respect to the applicant's case
10 before EFSEC. Do you recall that?

11 A. Yes.

12 Q. You were asked if you had had conversations with
13 the City employee about assisting the applicant, and you
14 responded that you had had a conversation with
15 Chief Molina.

16 A. Yes.

17 Q. Could you explain what that conversation was
18 about?

19 A. Certainly. The context was after the city
20 council had adopted both the resolution and opposition
21 to the terminal, as well as the moratorium on new
22 facilities in the City, new crude oil handling
23 facilities. The context was a couple of fronts.

24 Chief Molina was seeking affirmation of
25 direction relative to engaging in new and additional

REED / HOLMES

1 training and equipment acquisition. We regularly
2 participate in federal grant programs to acquire
3 equipment, and he I believe testified to our approach to
4 training. That was specific to readiness of the impacts
5 associated with the crude oil terminal.

6 I expressed concern about readying the
7 department without any committed additional resources
8 ongoing in a way that would, lack of a better term,
9 artificially mitigate the risks associated with the
10 terminal. One other circumstance was I believe there
11 was a grant from Tesoro Savage that was offered to the
12 City, and we declined that.

13 **Q. Okay. Would you agree that the City does not**
14 **have authority under state law to site energy**
15 **facilities?**

16 A. My understanding is we are completely preempted,
17 including right now, to the building permit process and
18 ongoing monitoring inspections.

19 **Q. And was that understanding the basis of your**
20 **response that the process dictates different handling of**
21 **this proposed project from other projects involving**
22 **other commodities?**

23 A. Yes. State law treats energy facilities such as
24 the one proposed here differently than anything else,
25 and that was the basis of my testimony that it is

REED / HOLMES

1 inherently different than what would be a typical state
2 proceeding.

3 Q. When the City determined that it was in
4 opposition to the proposed project based on public
5 health and safety considerations, did it decide to
6 confine its analysis to issues that were unique to
7 Bakken crude or did it decide to look at all issues
8 related to public health and safety?

9 MR. BARTZ: Objection to the form of the
10 question.

11 JUDGE NOBLE: What is your objection to the
12 question, the form?

13 MR. BARTZ: Well, at least to my experience
14 that was a speech that she wants a yes or no to, and
15 this is a witness that should be asked -- from her own
16 counsel should be asked open-ended questions.

17 JUDGE NOBLE: Are you able to rephrase the
18 question?

19 MS. REED: Sure.

20 JUDGE NOBLE: I'm sustaining your objection.

21 BY MS. REED:

22 Q. I'm trying to get at a question that was asked
23 of you on cross, and there were questions asked about
24 the unique nature of crude oil and the public health and
25 safety concerns that you had related to that.

REED / HOLMES

1 And my question is, once the City determined
2 that it was opposed to this project, did it limit its
3 inquiry into public health and safety issues to those
4 issues that were unique to crude-by-rail?

5 A. Since this project manifested in the City, I
6 described earlier that there were two primary policy
7 arenas that we had been looking at. One is the
8 council's declared legislative stance relative to the
9 project, and that resolution actually calls for a series
10 of actions by local agencies, including the Port, our
11 legislature, the governor, our federal delegation to
12 address rules and regulations that help improve the
13 safety of the transport of crude-by-rail.

14 It also directs me and my office to oppose any
15 project that would contribute to an increase in
16 crude-by-rail through the City of Vancouver, including
17 those outside our city limits. And I mentioned in my
18 earlier testimony that we are actively participating in
19 proceedings throughout the Northwest that would do that.

20 The other is the moratorium which prohibited
21 crude. And in the course of that moratorium, which was
22 extended I believe three times, six months at a whack,
23 in large part so that we could do the policy research
24 and have the public engagement necessary to have an
25 informed decision presented to the city council relative

HOLMES

1 to the desired policy, the outcome of that was the
2 recommendation that they'll consider Monday night, which
3 is really limited just to the crude commodity.

4 Earlier I testified that in the course -- and in
5 the intervening time of that moratorium, other agencies
6 looked at more expansive policies that prohibited a
7 broader cross-section of commodities. The City chose
8 not to go that route.

9 **Q. And you testified that you're aware that there**
10 **are existing unit trains carrying Bakken crude that go**
11 **through Vancouver.**

12 **In your opinion, does the fact that there are**
13 **existing unit trains going through Vancouver justify the**
14 **addition of more unit trains carrying Bakken crude going**
15 **through Vancouver?**

16 A. No.

17 MS. REED: I have no more questions.

18 JUDGE NOBLE: Council questions?

19 Mr. Shafer's light is on. Sorry, Mr. Paulson.

20 Mr. Shafer can go first though.

21 MR. SHAFER: Mr. Holmes, thank you very much
22 for your testimony today. A few questions.

23 Do you happen to recall approximately when
24 the first unit train came through the City?

25 THE WITNESS: I don't.

HOLMES

1 MR. SHAFER: Maybe a few years ago, does
2 that seem reasonable?

3 THE WITNESS: I have a general understanding
4 of when the midwest crude oil boom started.

5 MR. SHAFER: No, just the first unit train
6 as you anticipated coming into the City of Vancouver.

7 THE WITNESS: Of any commodity?

8 MR. SHAFER: No, of the Bakken oil.

9 THE WITNESS: I don't.

10 MR. SHAFER: Okay. Where I go with that is
11 I was just curious if when the first train came, did the
12 City approach the railroad or the Port, were these
13 concerns -- because even when the very first train came
14 through, I would think that many of the concerns that
15 had been raised about it would have been present at that
16 time, emergency response, public safety and so forth.

17 So I'm just curious, did the City bring
18 forward those concerns in any way to the railroad or to
19 the Port? Did you feel like there was any legal basis
20 to be able to do that?

21 THE WITNESS: Our experience with the
22 railroad strongly suggests that there not only wouldn't
23 be a legal basis to do that, but also not a very
24 receptive audience. The City recognizes that -- and I
25 testified earlier that the total volume of trains, while

HOLMES

1 we have concerns about that, is really secondary to the
2 nature -- the unique nature of this particular commodity
3 and the volumes of this commodity that would be coming
4 as a result of the terminal.

5 MR. SHAFER: Okay. And since the time of
6 the very first train, of course there's been a
7 significant increase in the number of those trains. So
8 in the intervening time since the first until now given
9 that increase, has the City attempted to address that
10 with the railroad or even the Port for that matter as
11 they experience the increase?

12 THE WITNESS: So this proceeding and one
13 other limited scope project have been the primary forums
14 for discussions with the Port about it, so fairly
15 structured. And I'll just -- I won't repeat myself on
16 the railroad contact.

17 MR. SHAFER: Okay. And one last one. I
18 know this is very hypothetical, but I want to put this
19 forward.

20 Let's suppose the project for whatever
21 reason moved up to the Port of Longview but the number
22 of trains needed to still route through the City of
23 Vancouver, so the City would experience the same train
24 increase in volume. You added four or so trains per
25 day.

HOLMES

1 Do you think that the City of Vancouver
2 would have any recourse in that event?

3 THE WITNESS: If the same project were
4 located anywhere else but resulted in the increase of
5 crude-by-rail through Vancouver, we would participate to
6 the same degree that we are in this proceeding.

7 MR. SHAFER: Okay. Thank you.

8 JUDGE NOBLE: Mr. Paulson?

9 MR. PAULSON: Thank you.

10 Mr. Holmes, first if I may, Judge Noble, one
11 small disclaimer that I did work at the Port of
12 Vancouver, left in May of 2012. None of this was on the
13 table when I was there. So I would just confirm with
14 Mr. Holmes that's his understanding as well.

15 THE WITNESS: Correct.

16 MR. PAULSON: Just a little history, because
17 I do know that, and you were there as well.

18 As I recall, it was about 2007 or '08 that
19 the City and the Port's waterfront development were
20 looking at acquiring a former Boise Cascade facility,
21 but the acquisition was blocked because of rail issues
22 serving two or three other non-Port related activities.

23 Is that your understanding?

24 THE WITNESS: Yes, generally.

25 MR. PAULSON: Generally. And I'm speaking

HOLMES

1 generally. And as a practical matter, the Port, in
2 working with the City and Columbia Waterfront LLC,
3 stepped up to alleviate that problem by putting in the
4 new rail access.

5 THE WITNESS: I believe my earlier testimony
6 confirmed that already.

7 MR. PAULSON: All right. And that rail
8 access was not actually completed to benefit the Port
9 until this year -- (Court Reporter interruption.) That
10 rail access was not completed until the trench, I think
11 was the term, was completed this year?

12 THE WITNESS: That timing sounds right. I
13 can't testify that it's this year or late last year but
14 that time, it sounds like.

15 MR. PAULSON: Give me half a minute here.
16 Just out of curiosity, curiosity question.

17 When did the City move into the new city
18 hall?

19 THE WITNESS: 2011.

20 MR. PAULSON: And during that timeframe,
21 2011, 2012, 2013, were you aware that the Port of
22 Vancouver was working with another company, BHP Billiton
23 and an international -- (Court reporter interruption.)
24 BHP Billiton, B-i-l-l-i-t-o-n, I think, to ship potash
25 from Canada through the Port of Vancouver?

HOLMES

1 THE WITNESS: Yes. I participated in a
2 number of meetings on that.

3 MR. PAULSON: So the issue of additional
4 unit trains coming is no a surprise --

5 THE WITNESS: That's correct --

6 (Court Reporter interruption.)

7 MR. PAULSON: -- the issue of new unit
8 trains coming into the Port or the increased number did
9 not come as a surprise to you?

10 THE WITNESS: That's correct. I mean, we --

11 MR. PAULSON: Again, it's a commodity issue
12 that you're concerned about?

13 THE WITNESS: Yes, and the risks associated
14 with the commodity.

15 MR. PAULSON: Thank you. I have no other
16 questions.

17 JUDGE NOBLE: Any other questions to my
18 right? I apologize to my left side. But are there
19 questions to the left?

20 Mr. Rossman?

21 MR. ROSSMAN: Thank you for your testimony
22 today.

23 My understanding is that there's at least
24 one approval or permit that is going to potentially be
25 issued by the City of Vancouver or at least that's been

HOLMES

1 applied for by the applicant, that's for the industrial
2 pretreatment program; is that right?

3 THE WITNESS: Industrial pretreatment.

4 MR. ROSSMAN: Is that right?

5 THE WITNESS: I believe that's correct. The
6 Public Works director has given me verbal briefing that
7 that is the one unique permit.

8 MR. ROSSMAN: Can you explain to me whether
9 the City's moratorium and policy position are going to
10 impact how the City's processing that application?

11 THE WITNESS: Completely unrelated.

12 MR. ROSSMAN: So in terms of the direction
13 to not take action that could be perceived as supporting
14 the project, that isn't going to impact how you're
15 progressing that permit?

16 THE WITNESS: No.

17 MR. ROSSMAN: Thank you.

18 JUDGE NOBLE: Any further questions to my
19 left?

20 Mr. Siemann?

21 MR. SIEMANN: Good afternoon.

22 Some portion of your testimony related to
23 the shoreline area and shoreline development and the
24 fact that it's in some ways -- the access is blocked
25 from the -- by the rail line or that it is limited, I

HOLMES

1 suppose is a better way to put that. And so then you've
2 also testified that the concern is not so much the rail
3 or the volume of rail, but the commodity that is being
4 transported.

5 Can you first of all help me understand what
6 the concern is relative to that access to that shoreline
7 area and the commodity specifically?

8 THE WITNESS: Yeah. I include in my
9 testimony primarily to make sure there was an accurate
10 reflection that a portion of -- that the transport of
11 the rail would encroach into the shoreline management
12 area. From a practical perspective, that particular
13 area, it's a portion that is kind of down underneath the
14 swing span of the rail bridge.

15 From a practical perspective, it doesn't
16 really have much impact on public access to the
17 shoreline. It's in the midst of an industrial area.
18 There's not pedestrian or general public access there
19 anyway. So I include it as a technical observation from
20 a practical perspective, that particular encroachment,
21 which is right here as the rail spur goes down
22 underneath the swing span on the north-south rail line
23 and crosses the Columbia River, from a practical
24 perspective, there is little to no public access there
25 anyway, so...

HOLMES

1 MR. SIEMANN: But I thought there was
2 actually plans for waterfront park area that the rail
3 line bisects or separates I suppose in some ways from
4 downtown -- so the downtown area to that area.

5 THE WITNESS: So the rail line comes here
6 underneath or over the top of I-5 and then the spur, the
7 Port, what we call the Port lead line or the spur that
8 leads into the Port and branches off right about here.
9 The waterfront park is along this about half mile.

10 The grade separations that the City
11 completed through a variety of partnerships, including
12 with the Port of Vancouver, provides grade-separated
13 crossings. The concern is by increasing the frequency
14 and volume of crude-by-rail through that area and the
15 appurtenant risks associated with that, the proximity to
16 city hall and what I mentioned earlier, that's where the
17 root of the concern and the objection of the City is.
18 It's not about the train itself, it's about the
19 commodity.

20 MR. SIEMANN: Where I was going with this is
21 that if access between those areas are underneath the
22 rail lines in some way could be improved, for example,
23 enlarging the spaces for more access, that wouldn't
24 actually change anything from your point of view it
25 sounds like?

HOLMES

1 THE WITNESS: No. I mean, through those
2 partnerships, we already spent a tremendous amount of
3 money down there improving the access. It's now adding
4 this commodity is the concern.

5 MR. SIEMANN: Got it. Thank you.

6 JUDGE NOBLE: Any other questions?

7 Mr. Stone?

8 MR. STONE: Sorry. I'm out of turn.

9 Good afternoon, Mr. Holmes.

10 The first week of the hearing in Vancouver,
11 during that week I drove down to Wintler Park, crossed
12 the railroad tracks at Beach Drive and, while I was
13 there, a few trains went by. And it struck me that the
14 rail corridor, the number of trains, the length of
15 trains really seemed out of scale with that residential
16 neighborhood.

17 And it leads me to ask, do you have a
18 Class 1 railroad main line going through your City
19 accessing the Port of Vancouver, which has undergone
20 redevelopment to be able to receive more freight
21 traffic.

22 And regardless of commodity, is there
23 anything in the City of Vancouver's comprehensive plan
24 or vision to try to reconcile that apparent land use
25 conflict that might exist?

HOLMES

1 THE WITNESS: There is, and I can't cite
2 specific policy references. Earlier in my testimony, I
3 shared that overall we have a policy objective to better
4 connect the City, better connect neighborhoods to one
5 another and connect the entirety of the whole better to
6 the Columbia River.

7 There are two barriers to that: One is
8 SR 14, the other is the railroad. The railroad does run
9 along a significant portion of its length in the City,
10 it is residential neighborhoods and it does -- Wintler
11 Park actually is a very stark example of where an
12 at-grade crossing, the access point of one of our very
13 popular beaches in the City on the river creates, to use
14 your term, disproportionate conditions, whereas the
15 volume and frequency is inconsistent with the land use.

16 We have known that to be the case and until
17 very recently the volume was an understood point of
18 concern. The commodity was far less so because we
19 didn't have the volumes that this contemplates and the
20 consistency day in and day out that this project
21 contemplates that creates the risk and hazard for the
22 community.

23 We have invested, as I mentioned earlier, in
24 at-grade crossings. Interestingly, the viaduct that was
25 shown earlier on cross, that was part of the \$44 million

HOLMES

1 access project, replacing that. Burlington Northern's
2 contribution ended up being about 1.3 million of that
3 44. There's pretty significant deficiencies through
4 there. And we have worked with Burlington Northern on
5 other safety improvements and quiet zones, so
6 liveability improvements, particularly a little bit east
7 of downtown.

8 MR. STONE: So assuming that State Route 14
9 and the railroad is not going to be relocated, I take it
10 your answer is the City is going to try to make
11 improvements in terms of crossings and access to
12 continue to link the City to the shoreline?

13 THE WITNESS: We'll continue to do that,
14 recognizing the reality of that infrastructure. But
15 again, in this case, it's the commodity and the safety
16 associated with that.

17 MR. STONE: Thank you.

18 JUDGE NOBLE: Is that it for the council
19 questions?

20 Questions based on council questions?

21 MR. BARTZ: Yes, Your Honor. Thank you.

22 RECROSS-EXAMINATION

23 BY MR. BARTZ:

24 Q. Mr. Holmes, in response to Mr. Shafer's question
25 you mentioned concerns with increased trains. And I

HOLMES

1 thought you and I talked about the West Vancouver
2 Freight Access and it was designed to increase
3 efficiency; correct?

4 A. Yes.

5 **Q. And there was an expectation there would be more**
6 **trains using the rail into the Port?**

7 A. Doesn't mean we're not concerned about it.

8 **Q. Is that concern focused on cargos to be carried**
9 **or should the Port of Vancouver be concerned about**
10 **marketing its facility that you don't want it to use?**

11 A. It is really about the unique attributes of the
12 commodity. Mr. Paulson in his questions highlighted a
13 recent history not only of the City's partnership and
14 participation in and support of the West Vancouver
15 Freight Access Project, which included significant
16 investment in rail capacity at the Port; we even I
17 believe either advocated for or co-signed on federal
18 grants to help support construction of that.

19 So we recognize the value of having the Port
20 positioned as it is, and we've enjoyed a positive
21 partnership for a number of years, and I believe we
22 continue to.

23 We have a different perspective on this
24 particular project, but we continue to work with the
25 Port on a variety of things. It really is -- and

HOLMES

1 Mr. Paulson mentioned BHP Billiton project. The City
2 was very supportive of that project, and I personally
3 participated as well as a number of my staff and members
4 of our city council in forums about that project. It
5 did not have the kind of risks associated with this
6 project.

7 Q. And again, that's your evaluation of risk is
8 based on the cargo?

9 A. Correct.

10 Q. So just last time, and because unfortunately
11 everything we're saying is being written down and going
12 to be read a zillion times by lots of people, in
13 response to Mr. Shafer you expressed concerns about
14 rail.

15 Are those anything more than a City leader like
16 yourself being concerned about rail and auto traffic and
17 how bikes get around, and it's a concern, but it
18 shouldn't rise to a level where the Port needs be
19 concerned about the City's position with respect to
20 increased rail?

21 MS. REED: I have to object to that
22 question. I believe it's been asked and answered
23 several times now.

24 JUDGE NOBLE: Well, I'm going to overrule
25 the objection. I think it's good for the witness to

HOLMES

1 have an opportunity to clarify. If it's not clear to
2 Mr. Bartz, then let's let the witness answer.

3 MS. REED: Okay.

4 THE WITNESS: The rail line has been a
5 fixture in the City for a hundred, probably slightly
6 more than a hundred years, and we recognize that. The
7 advent of this particular commodity and the volumes with
8 which it's being transported by rail is very known, and
9 the track record associated with that transport by rail
10 is alarming.

11 So our concern, our ambient concerns about
12 how to maintain a vibrant and livable City in light of
13 what we know will be ongoing potentially increasing
14 freight rail through our community, is an ongoing
15 concern. Our particular concern is associated with the
16 increase in crude oil coming through Vancouver, the
17 volatility of that commodity and because of being this
18 proposed terminal.

19 BY MR. BARTZ:

20 **Q. So it would be fair for the Port to conclude**
21 **that if it brought to its region or brought to its port**
22 **as well as the City a BHP Billiton fertilizer**
23 **potash-style project, not crude oil or a derivative of**
24 **petroleum, that unit trains would be fine?**

25 A. As I've just testified, we actually were active

HOLMES

1 in supporting that project when it came forward before,
2 and that was just a few years ago. I would anticipate a
3 similar stance.

4 MR. BARTZ: Thank you. No further
5 questions. I appreciate the council's indulgence.

6 JUDGE NOBLE: Ms. Reed?

7 MS. REED: No questions, Your Honor.

8 MR. DERR: I have no questions.

9 JUDGE NOBLE: I do apologize.

10 All right, Mr. Holmes. Thank you very much
11 for your testimony. You are excused as a witness. It's
12 been a long afternoon.

13 THE WITNESS: Thank you.

14 JUDGE NOBLE: Ms. Reed, it's 4:36.
15 Opponents had one more witness scheduled for today. I
16 would ask if that witness is available?

17 MS. REED: Yes, Your Honor.

18 JUDGE NOBLE: Is it likely to be a long
19 testimony?

20 MR. TIMMONS: No, Your Honor. It should be
21 quite short. I think probably about 15 minutes direct.

22 JUDGE NOBLE: Thank you. We should go
23 forward with that then.

24 MR. TIMMONS: My name is Daniel Timmons, I'm
25 here on behalf of Columbia Waterfront LLC. And Columbia

TIMMONS / GRADY

1 Waterfront calls Matt Grady to the stand.

2 And I'll try to slow down for you.

3 JUDGE NOBLE: Mr. Timmons, do you have a
4 card?

5 MR. TIMMONS: I provided my card. I forgot
6 to bring my nametags, so I apologize.

7 JUDGE NOBLE: Mr. Grady?

8 THE WITNESS: That is me.

9 JUDGE NOBLE: Would you raise your right
10 hand, please.

11 MATT GRADY,
12 having been first duly sworn, testified as follows:

13 JUDGE NOBLE: You may proceed, Mr. Timmons.

14 DIRECT EXAMINATION

15 BY MR. TIMMONS:

16 **Q. Mr. Grady, please state your name and spell it**
17 **for the record.**

18 A. My name is Matthew Grady.

19 **Q. Who is your current employer and what is your**
20 **job title?**

21 A. Employer is Gramor Development, Inc., and my job
22 title is vice president of project development.

23 **Q. And can you briefly describe your education and**
24 **professional background.**

25 A. Yes. I have an undergraduate degree in

TIMMONS / GRADY

1 geography and environmental studies from the University
2 of Vermont, and I have a master's degree in urban and
3 regional planning from the University of Hawaii. And
4 then I have -- (Court Reporter interruption.) Urban and
5 regional planning, University of Hawaii. I then I also
6 have a certification as a certified planner from the
7 American Planning Association.

8 **Q. And what are your general duties with Gramor?**

9 A. As vice president of project development, I
10 focus on managing projects, and it involves overseeing
11 numerous projects that our company undertakes. I get
12 involved with specific projects from the point of
13 putting offers on properties, negotiating with property
14 owners, going in front of neighborhood commissions and
15 planning commissions and zoning board of appeals to
16 obtain permits, working with consulting teams, and
17 securing permits to the point we can actually build
18 commercial mixed-use developments.

19 **Q. So are you familiar with the Columbia Waterfront**
20 **LLC Redevelopment Project?**

21 A. I am.

22 **Q. And what is your role with respect to that**
23 **project?**

24 A. This project I'm tasked with securing
25 entitlements for the actual subdivision of this project

TIMMONS / GRADY

1 so that lots can ultimately be sold to other people. In
2 addition to that, I'm tasked with securing permits for
3 some of the first development blocks on the site.

4 **Q. So what's the basic relationship between the**
5 **Gramor Development and Columbia Waterfront LLC?**

6 A. The Gramor Development acts as the manager for
7 all the LLCs, so for Columbia Waterfront LLC, we are
8 basically the entity which gets things done, the
9 day-to-day work.

10 **Q. Did you hear the earlier testimony by Vancouver**
11 **City Manager Eric Holmes?**

12 A. I did.

13 **Q. And do you agree with his basic general**
14 **description and characterization of the waterfront**
15 **development?**

16 A. I do agree with that statement.

17 **Q. Can you describe in your words the overall**
18 **vision for the waterfront development?**

19 A. The vision that we share with the City is one of
20 creating a very vibrant, 24-hour mixed-use community,
21 and I stress community because it's the size of a Pearl
22 District in Portland, Oregon. And it's going to have an
23 urban scale of a lot of built development city blocks,
24 built to the edge of the right of way. It will have a
25 vibrant park like none other in all of Clark County, and

TIMMONS / GRADY

1 it's going to be a hub of activity, which none exists
2 today.

3 **Q. And how many years has Columbia Waterfront been**
4 **working on this project?**

5 A. My understanding is about ten years.

6 **Q. And what was on the site before Columbia**
7 **Waterfront acquired the property?**

8 A. Boise Cascade Paper Corporation had their whole
9 paper operation covering the whole site.

10 MR. TIMMONS: Ms. Mastro, can we bring up
11 Exhibit 4028?

12 BY MR. TIMMONS:

13 **Q. Do you recognize and can you explain for the**
14 **council what this exhibit shows?**

15 A. Yes. This is Ordinance M-3936, and it reflects
16 the actual city council's adoption of the master plan
17 development for the waterfront project.

18 MR. TIMMONS: And we'll now bring up 4019.
19 BY MR. TIMMONS:

20 **Q. Can you describe what is marked as Exhibit 4019?**

21 A. I'm going to turn a little bit here. This
22 exhibit reflects an artist's rendition with
23 architectural help in modeling of a built -- basically a
24 built end zone project. So you have all the blocks
25 built up, park inhabited, and you've got the park in the

TIMMONS / GRADY

1 foreground with some lower buildings right around the
2 pier.

3 **Q. I'm going to stop you right there. I think you**
4 **might have a pointer to your right.**

5 A. This side. Lower buildings next to the pier,
6 which is jutting out 90 feet over the water, and then
7 we've got some smaller buildings right in the
8 foreground, and then we've got larger buildings to the
9 west permitted by the height limitations. And then we
10 have a series of buildings running along the whole back.
11 So it's two sets of blocks across the site.

12 **Q. So just to help orient the council, where is**
13 **Terminal 1, so the former Red Lion site that they would**
14 **have seen on their site visit?**

15 A. Terminal 1 would be actually off the graphic
16 here. It would be to your right.

17 **Q. So can you point out the access to the**
18 **waterfront that was described earlier?**

19 A. Yes, I can. You'll see the one primary access
20 point is Esther Street, which comes right through here
21 with the dark shadows, and there's a roundabout, which
22 is called Festival Street along the shore, but the main
23 access point is here. There's another one hidden right
24 over here, which would be Grant Street, and the third
25 one is offer to the right by the Red Lion.

TIMMONS / GRADY

1 **Q. Is there any way to access the Columbia**
2 **Waterfront site without going either across or under the**
3 **BNSF or the Port rail line?**

4 A. No, other than if by boat.

5 MR. TIMMONS: We'll bring up Exhibit 4020.

6 BY MR. TIMMONS:

7 **Q. Can you describe this exhibit for council?**

8 A. Yes. This view is a similar view of the same
9 model, but it's actually got a vantage point looking
10 from the west to the east towards I-5, which is at the
11 top of the screen here. And again, the pier is right
12 here. There's some lower buildings and this is what we
13 call the west end of the project. And again, the park
14 flanks the front portions next to the water and then we
15 have some of the tallest buildings to the west end and
16 then they progress down the scale, kind of like a wedge
17 form towards the actual freeway, which is I-5 over here.

18 MR. TIMMONS: Now we'll bring up
19 Exhibit 4021.

20 BY MR. TIMMONS:

21 **Q. And same drill. Can you explain this one for**
22 **the council?**

23 A. Yes, I can. This is an earlier version of the
24 same model that you were just viewing, but they decided
25 they didn't want to put colors on to it. We call it the

TIMMONS / GRADY

1 ghost model, but it still represents building envelopes
2 of what is anticipated to take place within this
3 development which is to emphasize that there's multiple
4 floors, multiple stories going up actually to even
5 perhaps taller than what we see at city hall, which is
6 in the background over there. And this also marks the
7 access point for -- this is the other access point from
8 Grant Street coming underneath the underpass.

9 MR. TIMMONS: I think we'll go to
10 Exhibit 4022.

11 BY MR. TIMMONS:

12 Q. Are there any particular features on this
13 rendering that you'd like to point out to council?

14 A. Yeah. This particular rendering you actually
15 now have a series of colors, which are not as -- it's
16 more brilliant to some of you, but the colors represent
17 different types of uses that they're contemplated in the
18 master plan for this project.

19 The small core in orange is retail buildings,
20 two stories in nature, and then the blues are all forms
21 of residential. And then we have office, which is in
22 the kind of chrome-colored orange, and these buildings
23 which are in between all that is another form of
24 residential, section senior housing which is complicated
25 here.

TIMMONS / GRADY

1 **Q. Can you point out where the rail line runs by**
2 **the BNSF and Port?**

3 A. The rail line is right to the top of these
4 buildings, and they're wrapping around them and it
5 terminates over here. So it wraps around within
6 probably 150 feet of ten blocks.

7 **Q. And for context, how many blocks total are in**
8 **the waterfront development?**

9 A. A total of 21 blocks in the waterfront
10 development.

11 MR. TIMMONS: We'll go to Exhibit 4024.

12 BY MR. TIMMONS:

13 **Q. Actually, I think we already basically showed**
14 **this one. This one has -- I'm not going to explain for**
15 **you.**

16 Can you just explain what the statistics are,
17 but not going into the details? I believe Eric Holmes
18 already sort of discussed that already.

19 A. I can. This particular artist's modeling of
20 this project site here shows a buildout of about
21 4.9 million square feet of building area, not including
22 any of the garages. And that incorporates about quarter
23 million square feet of hotel, quarter million square
24 feet of retail, and then it has about 3.2 million square
25 feet of residential, and 1.1 million square feet of

TIMMONS / GRADY

1 office.

2 **Q. So what is the current status of permitting for**
3 **the waterfront development?**

4 A. The master plan has been approved. We're
5 implementing a final subdivision plat. And we are
6 having the City review those final plans for the plat,
7 as well as for the road work and the utilities. And we
8 also have building permits in for these two blocks right
9 here and another block called Block 6 right here.

10 And we have building permits have been submitted
11 and under review with the City with intentions of
12 actually building some of the first foundations by
13 November 1st. And that's partly to keep up with the
14 City's intentions of commencing work on the pier area,
15 which will be right here on the park.

16 **Q. And when is the pier going to -- when is**
17 **groundbreaking for construction of the pier?**

18 A. Groundbreaking ceremony is this Monday for the
19 pier, and then the contract has already been released to
20 the contractor, so they expect to get going imminently
21 next week.

22 MR. TIMMONS: We'll go to Exhibit 4025.

23 BY MR. TIMMONS:

24 **Q. Can you describe what Page 1 of Exhibit 4025 is**
25 **showing?**

TIMMONS / GRADY

1 A. Yes. This one I'm going to speak by colors, so
2 that's why it's got a lot of colors on it.

3 The light blue is the road which has been
4 already built and discussed in some of the previous
5 testimony. We call it the Columbia Way along with
6 portions of Grant and Esther Street. That's already in.

7 The yellow color is the road work which is being
8 reviewed by the City, and we call that the Phase 1 road
9 development which will happen imminently.

10 And then we have some of the first blocks, which
11 are also shown in color, Block 4, 6, 8, 9 and 12. Eight
12 and 9 are green in color representing largely
13 residential or office uses. And this one is in for
14 permit as I said with the foundation, Block 6. These
15 two blocks are restaurants; they will be about 40,000
16 square feet combined between the two of them and the
17 permits are in for those in the building permit right
18 now.

19 Block 8 has yet to submit. They've been through
20 a preapplication, but there's been no application
21 formally submitted. And 4 is running behind that. I
22 think they had the preapplication so far.

23 **Q. So when do you expect to begin construction of**
24 **the first buildings starting in Phase 1?**

25 A. First buildings will be under construction by

TIMMONS / GRADY

1 November 1st of this year.

2 **Q. And when do you expect Phase 1 of the**
3 **development to be completed?**

4 A. Phase 1, which covers an area where my pointer
5 is, basically coming backwards towards this area here,
6 Phase 1 is probably about a ten-year buildout.

7 **Q. And what about the whole waterfront development?**

8 A. The whole development, which would include the
9 end pieces out here, the end blocks, would be in the
10 20-year timeframe.

11 **Q. Mr. Grady, are you familiar with the proposed**
12 **Tesoro Savage crude-by-rail oil terminal known as the**
13 **Vancouver Energy project?**

14 A. I am.

15 MR. TIMMONS: Can we go quickly back to
16 4022?

17 BY MR. TIMMONS:

18 **Q. So there's no rendering or there's no scale on**
19 **this rendering, but are you aware of the approximate**
20 **length of the Columbia Waterfront northern boundary that**
21 **abuts the rail line?**

22 A. I am. That northern boundary is roughly a
23 little over a half a mile in length.

24 **Q. And are you generally aware of the length of a**
25 **crude unit oil train?**

TIMMONS / GRADY

1 A. I'm told it's in the neighborhood of about a
2 mile long.

3 **Q. So if an oil train is coming into the Port of**
4 **Vancouver, if the front of the train was at the western**
5 **edge of the Columbia Waterfront property, so that's the**
6 **far left side of the rendering, approximately where**
7 **would the back end of the train be?**

8 A. I would think the back end would have to be
9 beyond I-5 or certainly very close to it.

10 MR. TIMMONS: We'll go to Exhibit 4023.

11 BY MR. TIMMONS:

12 **Q. Do you recognize this rendering?**

13 A. I do.

14 **Q. And what does this show?**

15 A. This is one of the center pieces of the park and
16 unique architecture of some of the restaurant buildings
17 that we have onsite, and it shows -- what you see
18 closest to you is the 90-foot pier which extends out
19 through the support of only cables and those piers into
20 the water. It then immediately behind it is what we
21 call Block 9, which is a two-story restaurant which will
22 house about 14,000 square feet of restaurants.

23 To the right of it is a very unique, large water
24 feature, interactive water feature. And that will
25 resemble the Columbia River Basin. It will be very

TIMMONS / GRADY

1 educational as well as fun for all the kids. And this
2 also is flanked on the left side by a 60-foot wide plaza
3 leading straight down from Grant Street. So it's going
4 to be a very big focal point. And again, that's got the
5 taller buildings in the back just like we've seen in the
6 previous models.

7 **Q. So this is the pier that construction**
8 **groundbreaking is scheduled for Monday?**

9 A. That is correct.

10 **Q. Do you believe that development of the Tesoro**
11 **Savage oil terminal is consistent with Columbia**
12 **Waterfront's vision for the redevelopment of the --**

13 MR. DERR: Objection. Calling for a fact
14 witness to offer an opinion about land use
15 compatibility. This witness was not offered as an
16 expert.

17 JUDGE NOBLE: Would you let him complete his
18 question so I can rule on that?

19 Could you complete your question,
20 Mr. Timmons?

21 BY MR. TIMMONS:

22 **Q. Is the development of the oil terminal**
23 **consistent with the vision of Columbia Waterfront or the**
24 **redevelopment of the -- I'm sorry.**

25 **Is the oil terminal consistent with Columbia**

BARTZ / GRADY

1 Waterfront's vision for development of the waterfront
2 project?

3 JUDGE NOBLE: I'll overrule the objection
4 and let the witness answer.

5 THE WITNESS: We do not believe it's
6 compatible.

7 MR. TIMMONS: Thank you. No further
8 questions.

9 JUDGE NOBLE: Cross-examination?

10 MR. BARTZ: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. BARTZ:

13 Q. Good afternoon, Mr. Grady. My name is Dave
14 Bartz, and I represent the Port of Vancouver USA. I've
15 got a few questions about your testimony.

16 You weren't there at the beginning when
17 Columbia -- or when Gramor started the Columbia
18 development we've just been talking about; correct?

19 A. I was in the company. I was not involved in the
20 project.

21 Q. You would agree with me then that the BNSF was
22 present when the company started this project; correct?

23 A. That is correct.

24 Q. Would you agree also with some of the testimony
25 you listened to, apparently, of Mr. Hughes that the Port

BARTZ / GRADY

1 of Vancouver took certain steps together with Columbia
2 Waterfront, the company you're with, and with the City
3 to help facilitate the development that you will break
4 ground on, on Monday; is that correct?

5 A. That's not quite correct.

6 Q. Okay. The Boise Cascade property had a rail
7 siding in it, didn't it?

8 A. That is true.

9 Q. And didn't the Port of Vancouver along with BNSF
10 and your company play a role in removing that siding so
11 that your company would have greater access to more
12 ground?

13 A. We did all participate in that, that's correct.

14 Q. And that made more ground available for your
15 development; correct?

16 A. Absolutely.

17 Q. Okay. And the Port of Vancouver also
18 facilitated through its Schedule 1 the development of
19 the Port entrance which facilitated BNSF building new
20 entrances and new bridges over Esther and Grant Street;
21 is that correct?

22 A. That is correct.

23 Q. And the Port of Vancouver also invested money
24 into new rail approaches to Lafarge and Albina Fuels
25 that again allowed more room on the south of the rail

BARTZ / GRADY

1 for the Columbia Waterfront Development; isn't that
2 correct?

3 A. I'm not familiar with that particular aspect, so
4 I can't agree or confirm your statement.

5 Q. Okay. You don't -- it's not incorrect, you just
6 don't know?

7 A. I don't know, yeah.

8 Q. The Port of Vancouver declared surplus some of
9 its property and sold it to Columbia Waterfront;
10 correct?

11 A. That is true.

12 Q. And we also leased some other property to you;
13 correct?

14 A. That is absolutely true.

15 Q. And have there been adjustments in the
16 commercial relationship between Columbia Waterfront and
17 the Port of Vancouver over the last several years to
18 help facilitate Columbia Waterfront's operations, a
19 slower schedule, those kinds of things?

20 A. There have been adjustments along the way,
21 you're correct.

22 Q. I see that you recently landed a premiere
23 tenant, the Murdock Trust; is that correct?

24 A. That is correct.

25 Q. Would you agree they're one of Vancouver's

BARTZ / GRADY

1 premiere organizations?

2 A. I'm -- I have no knowledge of that.

3 Q. Okay. I would like to ask you about -- you've
4 explained a little bit about Gramor and its relationship
5 to some of the other entities, and you described it as a
6 manager; is that correct?

7 A. That is correct.

8 Q. And so there's Gramor Investments, Inc.
9 Is that what you're talking about?

10 A. Gramor Development is what I refer to it. But
11 that may show up in written form as Gramor
12 Development -- I mean Gramor -- rephrase that again.
13 I'm not really sure of the exact relationships in this
14 hearing.

15 Q. Sure. So there's a Gramor Columbia Waterfront
16 LLC. Are you familiar with that?

17 A. Yes.

18 Q. And then there's a Gramor Investments, Inc. Are
19 you familiar with that?

20 A. Yes.

21 Q. And then there's a -- and there's a Columbia
22 Waterfront LLC also; correct?

23 A. That is correct.

24 Q. All right. Has the City of Vancouver ever
25 objected to working with Columbia Waterfront LLC in its

DERR / GRADY

1 format as an LLC?

2 A. They have not.

3 MR. BARTZ: I don't have any other
4 questions. Thank you.

5 JUDGE NOBLE: Redirect?

6 MR. DERR: Excuse me, Your Honor. Can we do
7 all the cross first? Remember, I represent the
8 commodity. (Laughter.)

9 CROSS-EXAMINATION

10 BY MR. DERR:

11 Q. Mr. Grady, my name is Jay Derr. I represent the
12 applicant, actually, in this project. And I just have a
13 couple questions.

14 Can you give me an estimate of how far away your
15 project is from the terminal site itself?

16 A. A little over two miles is my understanding.

17 Q. Okay. And just to clarify, I think you answered
18 this with Mr. Bartz.

19 Was the rail line, the rail main line there
20 before the project was permitted?

21 A. It was.

22 MR. DERR: And if you could pull up
23 exhibit -- it's still there, 4023.

24 ///

25 ///

DERR / GRADY

1 BY MR. DERR:

2 Q. Just so I understand this nice feature, is this
3 feature oriented to the river or towards the railroad
4 tracks?

5 A. No. It's cantilevered out over the water, so
6 it's all on the south side away from the tracks.

7 Q. So does the rail traffic interfere with the
8 ability to construct or operate this feature?

9 A. I don't believe it does, if it's operating
10 properly.

11 Q. And you testified, I believe, about length of
12 trains. You said you thought they were maybe a mile.

13 Do you know what the difference is between
14 lengths of a crude oil unit train and lengths of other
15 unit trains?

16 A. I do not.

17 Q. So you wouldn't know if other trains that might
18 enter the Port are of similar length?

19 A. I do not know that.

20 MR. DERR: Thank you. I have no further
21 questions.

22 JUDGE NOBLE: Now redirect, Mr. Timmons.

23 MR. TIMMONS: Yes, Your Honor.

24

25 ///

GRADY

REDIRECT EXAMINATION

1
2 BY MR. TIMMONS:

3 Q. Just one quick follow-up.

4 Was the Port of Vancouver regularly accepting
5 crude-by-rail unit oil trains when the waterfront
6 project was first proposed and considered?

7 A. Well, that was back ten years ago, and at that
8 point, I was not assigned to this project and I can't
9 answer that question for you.

10 MR. TIMMONS: No further questions.

11 JUDGE NOBLE: Council questions for
12 Mr. Grady?

13 Mr. Stone?

14 MR. STONE: Good afternoon. The shoreline
15 areas of the Columbia Waterfront Development, are they
16 accessible to the public?

17 THE WITNESS: They are.

18 MR. STONE: Including the pier?

19 THE WITNESS: Absolutely. Oh, yeah.

20 MR. STONE: And for public that doesn't live
21 in the immediate area, would they access the shoreline
22 using Esther and Grant Streets primarily?

23 THE WITNESS: They would, along with
24 Columbia as well. So three access points.

25 MR. STONE: And where those streets cross

GRADY

1 the railroad tracks, is that an at-grade crossing or
2 separated?

3 THE WITNESS: It's separated.

4 MR. STONE: All of those?

5 THE WITNESS: They are.

6 MR. STONE: Okay. Thank you.

7 JUDGE NOBLE: Mr. Paulson?

8 MR. PAULSON: A couple questions, if I may,
9 Mr. Grady.

10 Those are all three underpasses, aren't
11 they?

12 THE WITNESS: They are, correct.

13 MR. PAULSON: Secondly, the park itself is
14 actually a city park?

15 THE WITNESS: It is.

16 MR. PAULSON: Funded by the City?
17 Primarily --

18 THE WITNESS: Ninety percent.

19 MR. PAULSON: In terms of the rail
20 improvements behind, that was funded, as I recall, by
21 the Port and by BNSF?

22 THE WITNESS: I can't deny or confirm that.
23 I don't know.

24 MR. PAULSON: Did Gramor or Columbia
25 Waterfront LLC have any money in the actual improvements

GRADY

1 to the rail line?

2 THE WITNESS: We contributed to what's
3 called the access projects. We contributed money into
4 that, which was a total of 44 million, and there's
5 different pieces of it. And I believe our obligation is
6 roughly \$8 million in there.

7 MR. PAULSON: No other questions.

8 JUDGE NOBLE: Mr. Snodgrass?

9 MR. SNODGRASS: Thank you. A couple of
10 questions primarily focusing on the residential
11 development adjacent to the traction.

12 About how many units are envisioned?

13 THE WITNESS: That's a good question. It's
14 a tricky question because you don't know how many -- the
15 size of units.

16 MR. SNODGRASS: Ballpark.

17 THE WITNESS: But ballpark. If we're
18 approved for 3,300 residential units, roughly almost
19 half of those would be there. So 1,500 residential
20 units.

21 MR. SNODGRASS: Will they have either
22 balconies or windows observing the tracks?

23 THE WITNESS: They will. Oh, yeah. Windows
24 for sure and balconies very likely.

25 MR. SNODGRASS: You described Gramor as the

GRADY

1 manager. I believe the individual -- do you anticipate
2 one master developer building all three or separate?

3 THE WITNESS: It was originally conceived to
4 be a subdivision which we would then sell with building
5 envelopes and CC&Rs for each block. And then as we
6 progressed into it, we decided that we felt to set the
7 stage we needed to actually build some buildings out
8 here to get people out here.

9 So we are a master developer and we're
10 creating all the blocks and making it accessible for
11 people to come here and buy lots. And we're also then
12 participating in separate developments within the
13 waterfront project.

14 MR. SNODGRASS: How many of the lots do you
15 anticipate, ballpark again, will be ultimately for rent
16 as opposed to owner occupied? Ballpark.

17 THE WITNESS: You know, that's a tough one.
18 Right now apartments are a full-blown steam and then the
19 financing world will switch, the condominiums will come
20 back in. So the first units we're going to see, and I'm
21 just trying to get to your answer, but probably about
22 I'm thinking 40 percent will be home ownership.

23 MR. SNODGRASS: And I'm just curious either
24 in terms of perspective owners, renters or investors,
25 what has been -- what are you hearing regarding rail

GRADY

1 concerns?

2 THE WITNESS: I'm the wrong guy to talk to
3 on the rail concerns. People have shown a lot of
4 interest on blocks on the water, and that's where we're
5 getting interest with people giving us interest in
6 saying, hey, give us some plans, we want to do some
7 layouts, we want waterfront side blocks. I don't know
8 of any proposals that we have on any of the blocks to
9 the north abutting the railroad.

10 MR. SNODGRASS: You mentioned a ten-year
11 buildout. Was that for all of Phase 1?

12 THE WITNESS: That was Phase 1, correct.

13 MR. SNODGRASS: Nothing further.

14 JUDGE NOBLE: Anything further to my left?
15 No questions. Any questions based on council questions?

16 MR. DERR: None here. Thank you.

17 MR. BARTZ: None here, Your Honor.

18 JUDGE NOBLE: Mr. Timmons?

19 MR. TIMMONS: None, Your Honor.

20 JUDGE NOBLE: Mr. Grady, thank you for your
21 testimony. You're excused as a witness.

22 THE WITNESS: Thank you very much.

23 JUDGE NOBLE: We've come to the end of the
24 day again and successfully gotten through all the
25 witnesses listed. The next hearing session is starting

GRADY

1 Monday at 9:00 here in Olympia, so could I have a list
2 of the witnesses that are expected for Monday?

3 MS. BOYLES: Yes, Your Honor. For Monday,
4 July 18th, we anticipate calling Mr. Brett VandenHeuvel.
5 He is a Columbia Riverkeeper expert to talk about the
6 Mosier accident.

7 JUDGE NOBLE: Excuse me. Say his name
8 again, his last name.

9 MS. BOYLES: VandenHeuvel.

10 JUDGE NOBLE: Thank you.

11 MS. BOYLES: Well, whatever I said, the
12 Mosier accident.

13 Dr. Joseph Wartman, a Columbia Riverkeeper
14 witness, to talk about seismic, earthquake and
15 liquefaction hazards.

16 JUDGE NOBLE: Is there prefiled testimony?

17 MS. BOYLES: There is prefiled testimony for
18 Dr. Wartman, and he speaks in rebuttal to the testimony
19 of Mr. Rohrbach, Mr. Shanahan and Mr. Corpron.

20 We have Assistant Police Chief Michael
21 Lester, City of Vancouver witness, to address emergency
22 response issues for the City of Vancouver. He also has
23 prefiled testimony and will speak in rebuttal to the
24 testimony of Mr. Sawicki from the Port, and Mr. Rhoads
25 from Tesoro Savage.

GRADY

1 And then on deck, should we get there, we
2 have Dr. Elinor Fanning, who is a Columbia Riverkeeper
3 witness, to talk about air toxics and public health.
4 She has prefiled testimony and will speak in rebuttal to
5 the testimony of Mr. Henson.

6 JUDGE NOBLE: Thank you.

7 MR. JOHNSON: Your Honor, for clarification,
8 I think you said that VandenHeuvel is an expert witness.
9 Did you mean fact?

10 MS. BOYLES: I meant fact and I was reading
11 the word "accident."

12 JUDGE NOBLE: Is there anything further we
13 need to do on or off the record before we adjourn for
14 the day?

15 That being the case, we are adjourned until
16 9:00 on Monday morning, July 18th. Thank you all.

17 (Proceedings adjourned at 5:09 p.m.)
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GRADY

C E R T I F I C A T E

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3 STATE OF WASHINGTON)

4 COUNTY OF SNOHOMISH) ss.

5

6 THIS IS TO CERTIFY that I, Diane Rugh, Certified

7 Court Reporter in and for the State of Washington,

8 residing at Snohomish, reported the within and foregoing

9 testimony; said testimony being taken before me as a

10 Certified Court Reporter on the date herein set forth;

11 that the witness was first by me duly sworn; that said

12 examination was taken by me in shorthand and thereafter

13 under my supervision transcribed, and that same is a

14 full, true and correct record of the testimony of said

15 witness, including all questions, answers and

16 objections, if any, of counsel, to the best of my

17 ability.

18 I further certify that I am not a relative,

19 employee, attorney, counsel of any of the parties; nor

20 am I financially interested in the outcome of the cause.

21 IN WITNESS WHEREOF I have set my hand this 30th

22 day of July, 2016.

23

24 DIANE RUGH, RPR, RMR, CRR, CCR

25 CCR NO. 2399