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*August 16, 2023*

**Horse Heaven Wind Farm v.**

EF-210011

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BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

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In the Matter of the	)	
Application of:	)	
	)	
	)	
Scout Clean Energy, LLC, for	)	Docket No. EF-210011
Horse Heaven Wind Farm, LLC,	)	
	)	
	)	
Applicant.	)	

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ADJUDICATIVE HEARING  
VERBATIM RECORD OF PROCEEDINGS

VOLUME 3

August 16, 2023

Lacey, Washington

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Reporter. All other participants are  
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1 BE IT REMEMBERED that on Wednesday,  
2 August 16, 2023, at 621 Woodland Square Loop Southeast,  
3 Lacey, Washington, at 8:40 a.m., before the Washington  
4 Energy Facility Site Evaluation Council; Kathleen Drew,  
5 Chair; and Adam E. Torem, Administrative Law Judge, the  
6 following proceedings were continued, to wit:

7  
8 <<<<< >>>>>

9  
10 JUDGE TOREM: All right. Good  
11 morning, everyone. Apologize for the ten-minute delay.  
12 Just trying to catch up on the last of the homework  
13 assigned yesterday. So thank you for your patience on  
14 that.

15 You've seen at least one order come out so far,  
16 and there'll be a second one to follow. We'll have a  
17 discussion about the other motions to strike rebuttal  
18 testimony and also the motion for reconsideration.

19 The agenda, I think, for today is really just to  
20 talk about the schedule remaining for today and for  
21 next week.

22 Let me see if anybody's actually on and listening  
23 to me. I don't see any happy, smiling faces on the  
24 screen.

25 There's Mr. McMahan. Good morning.



1 Do we have Mr. Harper?

2 All right. Mr. Harper's there. Ms. Reyneveld I  
3 can see now. And I saw Mr. Aramburu. And I see  
4 Ms. Voelckers.

5 What do we know about scheduling today and other  
6 than Mr. Shook?

7 MR. McMAHAN: Okay. There we go.

8 MS. STAVITSKY: Hi, Your Honor. I  
9 can speak for applicant. So the parties had some  
10 discussions last night, and we -- the latest that we've  
11 heard from Ms. Perlmutter is that she's continuing to  
12 progress and feel better, so I think we are in good  
13 footing for next week.

14 I -- and so Ms. Voelckers distributed a proposed  
15 schedule yesterday.

16 And, Ms. Voelckers, please chime in if I get  
17 anything wrong, but I'm going to do my best to  
18 summarize that, and we can have a discussion about it.

19 So as Your Honor noted, I think -- so I should  
20 say, for today, I think we're all set to go with  
21 Mr. Shook. He's lined up to provide testimony at 9:00.

22 And then Monday, it seems like we're all set with  
23 the existing schedule to cover cultural, historic, and  
24 archeological resource impacts.

25 And then for Tuesday, as you noted, Judge Torem, I

1 think we can probably make up some time in that morning  
2 session, probably at least an hour, hour and a half.

3 And then we -- and so Ms. Voelckers proposed that  
4 applicant's wildlife witnesses, Mr. Jansen and  
5 Mr. Rahmig, would go in the afternoon on Tuesday. And  
6 so that's -- currently looks fine for us.

7 I think the schedule that we had circulated  
8 internally yesterday may have had a little bit of a  
9 compressed time frame. But in terms of the sequencing  
10 of the witnesses, that should work for us.

11 So just to reiterate, so for Tuesday, applicant  
12 could be prepared to have the initial sort of swearing  
13 in of uncalled societal and economic impacts witnesses  
14 in the morning from around 9 to 10:30, say. And then  
15 we could have Mr. Jansen go with his testimony, which  
16 is currently estimated to take about two and a half  
17 hours, between two and a half and three hours, possibly  
18 more with breaks, and then we could have Mr. Rahmig go  
19 after that.

20 And so I think the way I see it is we may not be  
21 able to finish Mr. Rahmig on that day. But, you know,  
22 to the extent that there's carryover, we could go into  
23 the next day or reschedule that for later in the week  
24 as well.

25 So I'll stop there. I don't know.

1 Ms. Voelckers, do you want to provide a response,  
2 or...?

3 MS. VOELCKERS: Good morning, Your  
4 Honor. Yeah, I did circulate a proposed schedule that  
5 flagged that same -- same issue about whether or not we  
6 needed all morning on Tuesday to swear in witnesses  
7 adopting testimony and had a helpful e-mail engagement  
8 with Stoel, but the other parties haven't weighed in  
9 yet, so I don't know and haven't heard from, you know,  
10 for example, Mr. Aramburu on whether TCC thinks that  
11 that is the best plan.

12 But that is what we propose, is that we  
13 essentially have likely the majority of Tuesday to --  
14 for Mr. Rahmig and Mr. Jansen's testimony.

15 JUDGE TOREM: Question for the  
16 afternoon for Mr. Dunn and Mr. Krupin: Would they be  
17 shifted to another day, it looks like? Perhaps using  
18 some of the time on the following day, on Wednesday,  
19 when Ms. Campbell and Mr. Click should be able to get  
20 on and off fairly quickly unless the Council has  
21 questions. It's entirely possible that they'll have  
22 questions for Mr. Click about the fire suppression  
23 issue at the BESS facility, so I don't know how quickly  
24 Mr. Click might go, but Ms. Campbell might be pretty  
25 fast.

1 MR. ARAMBURU: Mr. Torem, with  
2 regard to Mr. Click, we -- we've heard now that he's  
3 not available on the Wednesday but would be available  
4 Monday or Tuesday and prefers Tuesday. So that's just  
5 some recent news we've gotten.

6 JUDGE TOREM: Okay. That's helpful.  
7 So it's possible we could put him in the morning  
8 on Tuesday?

9 MR. ARAMBURU: That would be best  
10 from our side. Thank you.

11 JUDGE TOREM: All right. Well,  
12 let's see if we can circulate at some point later  
13 today, after the Council meeting, an updated schedule  
14 for next week.

15 And, Mr. Aramburu, did you have any concerns about  
16 moving of the witnesses that we had Jansen and Rahmig  
17 from next week over to next Tuesday, it sounds like,  
18 starting mid-morning and running into the afternoon?

19 MR. ARAMBURU: No, we -- we don't  
20 have concerns regarding those witnesses. Those are  
21 principally the witnesses for -- for the Yakamas.

22 JUDGE TOREM: Correct.

23 MS. VOELCKERS: Your Honor.

24 JUDGE TOREM: I just wanted to make  
25 sure that you would be ready with your cross or

1 friendly redirect, whatever we want to call it, for  
2 that -- those witnesses at the new date and time.

3 Okay. Ms. Voelckers.

4 MR. ARAMBURU: I will be.

5 JUDGE TOREM: Thank you,  
6 Mr. Aramburu.

7 Ms. Voelckers.

8 MS. VOELCKERS: Thank you, Your  
9 Honor. And sorry to interrupt. It was unintentional.

10 I do have the updated proposed schedule, so I can  
11 circulate that. And I can just respond to -- to your  
12 latest e-mail to the group and provide that draft  
13 updated schedule.

14 JUDGE TOREM: All right. Well, just  
15 to recap, then. Today ought to be pretty manageable,  
16 just Mr. Shook's testimony. And from there, if we pick  
17 up on Monday with as scheduled and then we start  
18 Tuesday with the tweaks that we had adding in Mr. Click  
19 Tuesday morning, it's possible we'll get done with  
20 Mr. Jansen and Rahmig, both, if we move the Dunn and  
21 Krupin testimony over to Wednesday.

22 I already see that Mr. Krupin would have carried  
23 over, so that may work out well. And I think given the  
24 additional flexibility we have on Wednesday prior to  
25 the public comment hearing, I'll talk with the Council

1 members and see one of two things: One, can we run a  
2 little bit late on Tuesday, if necessary, to finish the  
3 Jansen Rahmig; and Wednesday, can we take a late lunch  
4 so we can actually get through everything on Wednesday.

5 On Thursday, are there any changes, or on Friday?

6 MS. VOELCKERS: Your Honor, I did  
7 include in that proposed schedule I circulated to the  
8 parties Mr. McIvor's testimony now happening on Friday.  
9 So I can -- I can just circulate the whole schedule, or  
10 if you want, I could talk through the -- the time  
11 adjustments. And my math wasn't perfect the first time  
12 around, so I'm not sure that I have the exact time  
13 adjustments, but by my math --

14 JUDGE TOREM: Don't do public math.  
15 We're all lawyers. We're not going to do that.

16 What I've asked is what the estimate timing for  
17 finishing on Friday looks like now.

18 MS. VOELCKERS: Your Honor, and,  
19 yeah, so by my estimate, that the -- the timing to  
20 finish on Friday would be an early lunch, returning for  
21 testimony, ending around 1:30, except that that does  
22 not still account for Mr. Kobus's potential  
23 questioning, but that still does leave time, of course,  
24 if we -- again, the sum of my math is that we still are  
25 ending, right now, at 1:30 with all of the other

1 witnesses.

2 JUDGE TOREM: All right. And I'll  
3 give you some insight on the pending order that may  
4 come out even before we start at 9:00. I've got one or  
5 two more tweaks to it just to proof it.

6 But, Mr. Aramburu, I am going to grant the  
7 applicant's motion to allow the supplemental testimony.  
8 It's all of one page and the two- -- two-page  
9 attachment regarding BESS. And I'm going to limit  
10 cross-examination to just the supplemental testimony,  
11 not a re-examination of what's in the deposition,  
12 unless the Council members want to go there.

13 So it should be pretty short in scope for any  
14 Kobus cross. And I'm not going to allow the applicant  
15 to, you know, supplement further with trying to get in  
16 direct testimony by doing a redirect and expanding. So  
17 for any of the parties wishing to cross-examine  
18 Mr. Kobus, it will be limited to that one-page  
19 supplemental testimony and its two-page attachment.

20 And if you're limited, that will further limit  
21 what the applicant can say in response. So there may  
22 be no questions from you for Mr. Kobus unless there's  
23 something between Mr. Click and Mr. Kobus that you want  
24 to explore the -- the differences. That's what I'm  
25 anticipating. But I'll get you the written order on

1 that, and it'll essentially say what I've just told  
2 you, that it's a limitation.

3 Anything else on the schedule?

4 Go ahead, Mr. Aramburu.

5 MR. ARAMBURU: I don't know if I'm  
6 working with the most current schedule, but do we have  
7 a time potentially for Mr. -- Mr. Kobus to testify? I  
8 don't see one here.

9 JUDGE TOREM: No. It sounded like  
10 it might be inserted on Friday, but there was kind of a  
11 hold pattern from what Ms. Voelckers is saying. And I  
12 see Ms. Reyneveld nodding her head as well. So until  
13 you had my decision, there was no way to slot him in or  
14 know. Now you know. If it's going to be a couple  
15 minutes, maybe he could follow somebody on another day.  
16 But if he needs to be on Friday, the applicant's made  
17 it clear he'll be available any day.

18 MR. ARAMBURU: Okay. And Mr. Dunn,  
19 scheduled for Tuesday, I've got a communication from  
20 him. He has a Benton County commissioners' PUD  
21 commission meeting at 9, so he would not be available  
22 earlier than 10:30 on the Tuesday, but he would be  
23 available in the afternoon.

24 JUDGE TOREM: Okay. And as far as  
25 Mr. Dunn, Mr. Krupin, Mr. Simon, and Mr. Sharp, I'm



1 still working through the details of what's in the  
2 rebuttal and reply testimony, Mr. Aramburu. That was  
3 something, if you saw we sent one order regarding  
4 counsel for the environment after midnight, and I got  
5 it to Ms. Owens maybe at 11:30. So it's been late  
6 nights, and I didn't want to rush a decision on the  
7 rebuttal and reply testimony and be broad-brush. I  
8 want to go into it in more detail.

9 I will do that today and tomorrow and get it to  
10 you as quickly as possible. I do have another hearing  
11 in Moses Lake tomorrow morning, but I think Friday,  
12 after doing some name changes and maybe small claims  
13 court, will be the soonest I would get it to you. So  
14 those are some other things I'm carrying around. But  
15 depending what time I get back to Ellensburg tonight, I  
16 may be able to get that turned around to staff before  
17 departing for Moses Lake in the morning.

18 So just to be transparent with what the time  
19 constraints might be, and there's only so much I can go  
20 on four to five hours a night of sleep. I'm sure you  
21 guys feel the same way.

22 MR. ARAMBURU: I do have a question.  
23 Because the -- our motion for reconsideration is still  
24 pending. Exhibit 5303 is an exhibit from Mr. Krupin.  
25 And he -- and that is his exhibit that attaches some

1 correspondence supportive of TCC from interests in  
2 Benton County, including the Realtors, the tourism,  
3 chamber of commerce.

4 I am intending to use those letters this morning  
5 in the examination of Mr. Shook. And I just want to  
6 alert everybody. I don't know that -- if that creates  
7 a problem or not. I understand that exhibit is -- is  
8 kind of in the state of ambiguity at this point, but  
9 that's what I would like to do. And I -- I would  
10 intend to -- to address those letters or the content of  
11 those letters to Mr. Shook.

12 JUDGE TOREM: Well, Mr. Aramburu,  
13 unless Mr. McMahan wants to or Ms. Stavitsky wants to  
14 pop up and give their input, my thoughts from an  
15 evidentiary perspective are that, on cross-examination,  
16 that exhibit could be used, regardless whether it's  
17 admitted under Mr. Krupin's prefiled or rebuttal  
18 testimony. It's a cross-exam exhibit and what you're  
19 trying to use it for today and not proffered as  
20 Mr. Krupin's testimony, which is still in limbo.

21 Mr. McMahan, Ms. Stavitsky, any advance argument  
22 on my evidentiary thoughts?

23 MS. STAVITSKY: Yes, that makes  
24 sense to us, Your Honor. We would ask that it be  
25 resubmitted formally as a cross-examination exhibit as

1 quickly as possible since we need to provide that and  
2 get the stamping for our labeling done.

3 And, of course, I mean, we will likely object to  
4 its use, given on the same grounds that we -- that are  
5 in our motion to strike, given that that testimon- -- I  
6 would have -- I need to have a little bit of time to  
7 review the specific grounds again but will reserve the  
8 chance to do that during the examination.

9 JUDGE TOREM: And you may do that.  
10 I hope it will be different grounds than you would have  
11 given for Mr. Krupin to attach it at his testimony and  
12 find some way to give me something new to chew on than  
13 what I've already said regarding the rather permissive  
14 use of exhibits during cross-exam. So I'm giving you a  
15 full telescope and great view of what I'm intending to  
16 do, so be persuasive if you think the objection might  
17 be sustained.

18 So, Mr. Aramburu, I think you have what you need  
19 there.

20 MR. ARAMBURU: Would you like me to  
21 provide another exhibit number to that Krupin exhibit?  
22 Seems duplicative, but we can do it, if you like.

23 JUDGE TOREM: Yeah, I think -- I  
24 think just because, in sequence today, it makes sense,  
25 what Ms. Stavitsky said, that it's not yet admitted as

1 5303, whatever underscore letter it is. And it would  
2 be easier, and at some point -- you don't have to do it  
3 today. If it's going to be shown on the screen as 5303  
4 in its current state, you can just indicate on the  
5 record this will be remarked as a cross exhibit. Just  
6 in case the other one's excluded, that will take care  
7 of things for housekeeping. And don't worry about --

8 MR. ARAMBURU: Okay.

9 JUDGE TOREM: -- the timing -- don't  
10 worry about the timing on that. We can get that done  
11 after today's session.

12 Okay. I appreciate the --

13 MS. STAVITSKY: Your Honor, I'm  
14 sorry. I --

15 JUDGE TOREM: Ms. Stavitsky.

16 MS. STAVITSKY: -- have one more --  
17 I have one more --

18 JUDGE TOREM: Go ahead.

19 MS. STAVITSKY: -- note about the  
20 schedule I just wanted to flag.

21 Discussing -- so Mr. Krupin, Mr. Sharp, and  
22 Mr. Dunn's testimony -- and apologies, Ms. Voelckers,  
23 just a side note. I think we had accidentally  
24 omitted -- or the parties have omitted Mr. Dunn from  
25 the proposed schedule that we were circulating last

1 night, so we will need to add him back in.

2 And currently the proposed schedule doesn't have  
3 any time reserved for Scout, because we were operating  
4 under the assumption that those witnesses would not be  
5 providing live testimony, given the motion to strike.  
6 But if that motion is ultimately denied, then Scout  
7 will be reserving time to cross-examine those  
8 witnesses.

9 JUDGE TOREM: Okay. Understood.  
10 And I appreciate the ongoing flexibility and working  
11 together on this.

12 Why don't you work on the assumption that they'll  
13 have some ability to testify. Again, I did say I  
14 haven't made a decision yet, and you'll get it as soon  
15 as possible, but I did say I'd be fairly liberal on  
16 what I would allow for rebuttal and reply.

17 And, as I said, I'm trying to be more precise on  
18 exactly what might still need to be stricken and what  
19 definitely, if it's relevant, could come in so that  
20 Mr. Aramburu and TCC are permitted to make their case,  
21 particularly with the community interests, and we'll --  
22 I know we'll be hearing a lot more of that next  
23 Wednesday evening.

24 But some of that, because of what I said in the  
25 second prehearing conference order, needs to come in as

1 evidence. I just need to figure out exactly what's  
2 within the bounds. I was pretty careful, I thought, on  
3 the first order. That took quite a bit of time. So I  
4 want to put in the same level of detail if you agree  
5 with it or not. But from my perspective, I want to be  
6 able to sign that order and think it's -- everything is  
7 as it should be, as at least this judge thinks.

8 All right. We might as well stay on the line and  
9 begin at 9:00. I think, again, the agenda for today is  
10 I'm going to ask Council members about any ex parte  
11 communications they might have had since Monday. And  
12 I'm not expecting to hear any, but you never know.

13 And then we'll go over and swear in Mr. Shook when  
14 he appears, and we'll get rolling for the day.

15 All right. Good morning, everyone. We're now  
16 done with the housekeeping session for Day 3. It's  
17 August 16th, 2023. It's now 9 a.m. We're going to  
18 have, again, our third day of the adjudicative hearing  
19 in the Horse Heaven wind farm proposed project matter.

20 I'm going to ask that we call the roll of the  
21 Council members. Hopefully we have the Chair plus  
22 seven today. And, again, any Council member that  
23 misses part of the testimony can go back and review the  
24 video and/or look at the transcript when that is  
25 posted.

1 Can we call the roll of the Council, please.

2 MS. OWENS: Yes.

3 EFSEC Chair.

4 COUNCIL CHAIR DREW: Kathleen Drew,  
5 present.

6 MS. OWENS: Department of Commerce.  
7 Department of Ecology.

8 COUNCIL MEMBER LEVITT: Eli Levitt,  
9 present.

10 MS. OWENS: Department of Fish and  
11 Wildlife.

12 COUNCIL MEMBER LIVINGSTON: Mike  
13 Livingston, present.

14 MS. OWENS: Department of Natural  
15 Resources.

16 COUNCIL MEMBER YOUNG: Lenny Young,  
17 present.

18 MS. OWENS: Utilities &  
19 Transportation Commission.

20 COUNCIL MEMBER BREWSTER: Stacey  
21 Brewster, present.

22 MS. OWENS: For the Horse Heaven  
23 project: Department of Agriculture.

24 And Benton County.

25 Assistant attorney general.

1 MR. THOMPSON: Jon Thompson,  
2 present.

3 JUDGE TOREM: All right. Let me  
4 make sure all parties are on the line. I was able to  
5 connect with all of you previously during the  
6 housekeeping session.

7 For the applicant?

8 MR. MCMAHAN: Thank you, Your Honor.  
9 Tim McMahan here on behalf of applicant, Scout -- Scout  
10 Clean Energy, along with Ms. Stavitsky and Emily  
11 Schimelpfenig. And Ms. Schimelpfenig will actually  
12 handle the Morgan testimony this morning. Thank you.

13 JUDGE TOREM: All right. Thank you.  
14 Mr. Harper. Anybody else on for Benton County?

15 MR. HARPER: Ken Harper and Z.  
16 Foster. Thank you, Your Honor.

17 JUDGE TOREM: All right.  
18 Ms. Reyneveld, I see you there as counsel for the  
19 environment.

20 Do we also have a roll call of folks for the  
21 Yakama Nation today?

22 MS. VOELCKERS: Good morning. Thank  
23 you, Your Honor. Shona Voelckers for the Yakama  
24 Nation, also joined by Ethan Jones and Jessica Houston.

25 JUDGE TOREM: Thank you.



1 And, Mr. Aramburu, I see you there for TCC.

2 All right. Good morning, everyone.

3 Council members, before we get started, I know on  
4 Monday, I asked you about any ex parte communications  
5 you may have had. And I think we discussed that a  
6 little bit in our session after Monday's hearing just  
7 to go over procedural matters and how to handle things  
8 going forward and finding documents and the rest.

9 I didn't ask yesterday. I didn't think there'd be  
10 anything overnight given our discussions on Monday, but  
11 I think it's appropriate before we break until next  
12 Monday for the adjudicative hearing to remind you of  
13 the rules for ex parte. You have the written guide  
14 about it.

15 And I'll just ask now if anybody has something to  
16 disclose before we start today's proceeding. Just put  
17 an electronic hand up if you do.

18 All right. I'm not seeing any.

19 Again, I know that there are articles coming out  
20 of newspapers. The Tri-City Herald had a nice article  
21 about our public comment hearing for next Wednesday  
22 night. And we're getting phone calls based on that  
23 article that Lisa Masengale is working hard to create  
24 the sign-up list and confirm all of the statutory  
25 requirements for commenters.

1           So, parties, we're going to be working, I think,  
2   on that public comment hearing with the County.  
3   Mr. Wendt has indicated many of the locals that are  
4   going to want to comment will be gathered in one space,  
5   so we're working on that and hoping the technology goes  
6   well.

7           For today, Council, we're going to be calling and  
8   hearing the testimony of Morgan Shook. As we talked  
9   about yesterday, the exhibits to have up for testimony  
10   are going to be 1008, Sub T, revised; and then there  
11   are a sequence of other exhibits: 1009, 1010, -11,  
12   -12, -13, -14, -15, -16, -17, -18, -19, and -20. And I  
13   think I might be leaving out one other one.

14          Mr. McMahan, Ms. Schimelpfenig, is there any  
15   others after 1020?

16                   MS. SCHIMELPFENIG: Yes, Your Honor.  
17   It's 1051\_R, which is --

18                   JUDGE TOREM: All right. Thank you.

19                   MS. SCHIMELPFENIG: -- the reply  
20   testimony.

21                   JUDGE TOREM: Excellent. I knew  
22   there was one more. All right. Thank you.

23          Chair Drew, you have your hand up.

24                   COUNCIL CHAIR DREW: Yes, Your  
25   Honor. Given the conversation over the past couple of

1 days, particularly the interest of the Council in  
2 understanding more about the dryland wheat  
3 agricultural, I'd like to ask if we can recall a  
4 witness.

5 JUDGE TOREM: All right. So --

6 COUNCIL CHAIR DREW: Christo -- go  
7 ahead.

8 JUDGE TOREM: Which witness would it  
9 be?

10 COUNCIL CHAIR DREW: Christopher  
11 Wiley, Exhibit 1035\_R.

12 And I have specifics in that testimony that I  
13 think are especially pertinent: Page 5, Lines 3  
14 through 18. Page 8, Line 8, to Page 10, Line 25.

15 JUDGE TOREM: All right. If I  
16 recall, parties, we adopted, without any cross-exam  
17 from the parties, Mr. Wiley's testimony first thing  
18 Monday morning according to the schedule and my  
19 recollection, and there were no questions at that time  
20 posed by the Council members.

21 Chair Drew, what -- so what came up -- other than  
22 the specific pages and lines you just cited, if you  
23 have a general, what caused you to think that we needed  
24 some questions?

25 COUNCIL CHAIR DREW: There was not

1 sufficient information, in my view, from the Benton  
2 County witnesses about the use of that property and its  
3 relationship to the project and how that might be  
4 coordinated from the perspective of a landowner.

5 JUDGE TOREM: Okay. And if I'm  
6 understanding correctly, then, when you heard more  
7 testimony about that, now you have questions for that  
8 witness; is that right?

9 COUNCIL CHAIR DREW: Yes. That's  
10 right.

11 JUDGE TOREM: Got it.

12 So, parties, it sounds to me like Ms. Cooke's  
13 testimony, which was very informative yesterday on all  
14 of these aspects that Chair Drew just mentioned, raised  
15 some questions.

16 Let me ask the applicant first.  
17 Ms. Schimelpfenig, I don't know if you can speak to  
18 that, but would it be acceptable for the applicant to  
19 reach out to Mr. Wiley and see if there's a day next  
20 week we could fit him into that proposed schedule that  
21 everybody's working on?

22 Council members, we had an extensive discussion  
23 about how the schedule will shake out next week, so I  
24 think we'll be able to work this in. I may ask you for  
25 some flexibility on running a little late on Tuesday to

1 make sure we stay on target, and we may have a little  
2 bit of dancing around to do on Wednesday afternoon  
3 before our public comment hearing, but I still want a  
4 solid break in there.

5 So, Council members, if we're going to recall a  
6 witness -- and hopefully there won't be a lot more of  
7 that. We'll see as the evidence develops.

8 But, Ms. Schimelpfenig, with that long preamble,  
9 do you think we could find a spot for Mr. Wiley?

10 MS. SCHIMELPFENIG: Yes, Your Honor.  
11 We are reaching out to Mr. Wiley right now to see when  
12 he would be available next week.

13 JUDGE TOREM: Parties, I'd love to  
14 give great latitude to the Council on this. I know  
15 you've had your opportunities and didn't have questions  
16 for Mr. Wiley.

17 Does anybody have a concern about recalling a  
18 witness for this limited purpose?

19 MR. HARPER: Well, I do, Your Honor.  
20 Ken Harper for Benton County.

21 It strikes me as, I guess, somewhat irregular for  
22 one of the members of the Council to essentially ask  
23 one of the parties to develop the case further. The  
24 parties are litigating the case. Mr. Wiley's  
25 testimony, his prefiled testimony, was what he and

1 Scout chose it to be. We built our response testimony  
2 in relationship to that. If Mr. Wiley is recalled,  
3 we'd like an opportunity to provide rebuttal testimony.  
4 But that seems like that's a fairly inefficient issue.

5 I understand your point, Your Honor, the Council  
6 should have information. On the other hand, you know,  
7 we also are working within a judicial context here. So  
8 I -- if we go on this route, we would like an  
9 opportunity to provide rebuttal.

10 JUDGE TOREM: Understood,  
11 Mr. Harper. Is there -- I mean, you said it was  
12 irregular. Is there anything in the Administrative  
13 Procedure Act or some other rule of the Council you  
14 could point to about rebuttal testimony?

15 I obviously am hearing this now. I haven't looked  
16 at the Council rules. But my normal administrative  
17 procedure is to limit rebuttal testimony. But here, I  
18 think the sequencing of things may have, if I  
19 understand Chair Drew correctly, raised questions  
20 yesterday that just weren't in her mind on Monday.

21 MR. HARPER: Well, Your Honor, I  
22 guess I can't speak to the APA. I'd have to research  
23 it. But in ordinary trial practice, I think it would  
24 be reasonable to say that, at least on this topic,  
25 Scout rested its case with respect to the testimony

1 offered on land-use compatibility and consistency. We  
2 supplied our response. Scout didn't seek to rebut. So  
3 that -- that should be closed.

4 But, you know, I realize also we don't want to be  
5 that rigid. So I get it. And, again, Your Honor, if  
6 the ALJ, if you wish to accommodate Council Member  
7 Drew's request, which, again, I totally understand,  
8 we'd just like an opportunity to rebut.

9 JUDGE TOREM: I think that sounds  
10 fair, Mr. Harper. Let's wait and see what develops.

11 I do think it's best, and not because it's Chair  
12 Drew, but also because it's a Council member that's  
13 interested. Yesterday afternoon's questioning from  
14 Council members, I thought, shows you a lot where  
15 things are going, and I think it benefits not only the  
16 Council to get the best information, but for purposes  
17 of post-hearing briefs, the questions probably  
18 telegraph the issues that the Council wants to know  
19 more about. And I'd rather have both of those points  
20 well serviced by recalling Mr. Wiley.

21 It doesn't sound like Chair Drew has an expansive  
22 part of this testimony to delve into. And if Chair  
23 Drew, if you didn't write it before, why don't you  
24 recite those -- I appreciate you being specific as to  
25 what you want to look into. This will address, I hope,

1 Mr. Harper's concerns, and maybe Ms. Cooke can be  
2 available to listen. And if there's any rebuttal  
3 testimony from her or Mr. Wendt, we can again try to  
4 funnel things down.

5 COUNCIL CHAIR DREW: This is  
6 specifically about how Mr. Wiley would use the  
7 additional lease payments, which were answered very  
8 differently by Ms. Cooke, that -- so I -- that's why I  
9 would like to bring him into -- to recall his  
10 testimony. And it's Page 5, Lines 3 through 18;  
11 Page 8, Line 8, to Page 10, Line 25.

12 Ms. Cooke said she didn't know, and this testimony  
13 is specifically about that issue.

14 MS. STAVITSKY: Your Honor, if I may  
15 provide a response.

16 JUDGE TOREM: If you need to.

17 MS. STAVITSKY: Just to offer one  
18 other thought. Hi, everyone. This is Ariel Stavitsky.  
19 I'm sorry. We're shifting around here to try to  
20 minimize echo.

21 The way that we interpret the -- the rules, the  
22 applicable rules here under the APA and under the EFSEC  
23 adjudication rules is that, you know, all along we've  
24 reserved the right to provide rebuttal witnesses in  
25 response to live testimony that we heard today.



1           So to the extent that Chair Drew would like  
2   clarification on content that came out of Ms. Cooke's  
3   testimony, you know, another way to think about this is  
4   that Mr. Wiley is Scout's rebuttal witness in this  
5   back-and-forth, and that's the way that this would be  
6   handled typically under the EFSEC adjudication rules.

7                       MR. HARPER: Well, Your Honor,  
8   that's --

9                       JUDGE TOREM: Hold on, Mr. Harper.  
10           Ms. Schimelpfenig, you're referring to the rules  
11   in general. Do you have a specific one, or is this  
12   just sort of a, "We think that's how it runs in EFSEC"?

13           Because, as Mr. Harper said, in ordinary  
14   litigation might be one thing. I don't know that any  
15   of five parties in front of a large Council is possibly  
16   labeled as ordinary litigation.

17                      MS. STAVITSKY: Agreed. I can  
18   provide that citation to you. I'd need to look it up,  
19   but I can follow up with that, Your Honor.

20                      JUDGE TOREM: Okay. If it exists,  
21   I'll be happy to get it. And I think you can circulate  
22   that in an e-mail directly to me with the parties.  
23   Thank you.

24           Mr. Harper.

25                      MR. HARPER: I was just going to

1 say, Your Honor, if Mr. Wiley was intended as a  
2 rebuttal witness, he could have been designated as  
3 such. But nevertheless, I'm happy to, again, to  
4 accommodate and just ask that we be allowed an  
5 opportunity to provide surrebuttal.

6 JUDGE TOREM: All right. I --

7 MR. ARAMBURU: May I be heard?

8 JUDGE TOREM: -- don't want to --  
9 yes, I will get to you just in a moment, Mr. Aramburu.

10 I don't want to have the reserved right to present  
11 rebuttal testimony beyond what was submitted in that  
12 third round of prefiled testimony to go too far.

13 But, again, for the parties, you've all had the  
14 three rounds of prefiled testimony. We've been working  
15 on the schedule for that since March, April, and May,  
16 when it was decided at the third prehearing what the  
17 exact filing schedule would be.

18 The Council, of course, is getting those on the  
19 fly as they come in and really preparing in the last  
20 couple of weeks, so I want to give deference to the  
21 ultimate fact finders here who would be making the  
22 recommendation to the governor.

23 And I appreciate what, Mr. Harper, what you've  
24 said about, well, he could have been designated  
25 rebuttal; he's not. He was the first-round prefiled

1 testimony. This is a limited recall of that  
2 first-round testimony of what I'm granting. So I just  
3 want to be clear with the parties what accommodations  
4 I'm saying yes.

5 Yes, Chair Drew, this is good. It was the --  
6 frankly, it was the first day of the hearing as well.  
7 And this is a new Council. This is a new question of  
8 what's our role and how do we ask questions. And after  
9 yesterday, I think they're warmed up. So this may be  
10 just another thought of, "Oh, I wish I had," and this  
11 time I can be the genie in the lamp and grant the wish,  
12 but there's only two left in the lamp.

13 Mr. Aramburu.

14 MR. ARAMBURU: With all due  
15 deference and respect to the Chair, I'm not sure -- I  
16 think I will object to the testimony about what an  
17 individual person might do with individual monies that  
18 they receive.

19 You've been very strict with us to talk about  
20 economic feasibility of the project, and this is what a  
21 private owner would do with his money. I'm not sure  
22 how relevant that is to any individual person, and  
23 persons may decide to use the money to buy farm  
24 equipment. Others may buy a new RV. Others may take  
25 vacation. And I don't know that that's -- that's

1 necessarily relevant to the proceedings.

2 But I will also note that if we're going to start  
3 to talk about what individuals are going to do with  
4 their money, I just want to alert everyone that I'm  
5 going to be asking him about how much money he's  
6 getting. I'm going to ask him about what he knows  
7 about the project. I'm going to ask him a bunch of  
8 those questions. So I think those are fair questions  
9 to ask. But I just want to alert everyone, if -- if  
10 this individual's going to come up, I'm going to ask  
11 those kind of questions.

12 But I do believe that the -- the testimony of an  
13 individual as to what they will do with their money is  
14 not relevant.

15 JUDGE TOREM: I'll only say,  
16 Mr. Aramburu, that Ms. Cooke went into quite a bunch of  
17 detail of what she thought individual family members  
18 might do. That's my recollection of yesterday's  
19 testimony, as much as she didn't talk about individual  
20 dollar amounts. I'll have to think about that, but it  
21 could be quite relevant just to take a look at things.

22 But the testimony yesterday, as I remember it, has  
23 a lot to do with whether restoration could occur. I  
24 asked specifically about the costs that might be  
25 involved in a more governmental-body trust fund about

1 that.

2 So there's -- yeah, financials may very well be  
3 relevant, Mr. Aramburu, depending on the questions that  
4 Chair Drew asks. So let's -- we'll definitely see if  
5 it raises any additional questions for the parties.  
6 That's a fair preview of, again, where TCC stands on  
7 this. I appreciate it.

8 All right. Chair Drew, we will recall Mr. Wiley.  
9 We'll find out what day. The parties are actually  
10 working on an update to next week's schedule. And once  
11 it's circulated to me and I take a look at it, we'll  
12 have Ms. Masengale post it on the Council's version of  
13 the SharePoint website so you can take a look and see  
14 what, if any, changes.

15 I can tell you that Monday, while you're preparing  
16 for that over the weekend, won't change. So Monday's  
17 schedule is -- is kind of locked in from what was  
18 already on the website, and we'll go from there.

19 Chair Drew, anything else on the -- on the Wiley  
20 recall as you can see how the procedural discussion  
21 that followed?

22 COUNCIL CHAIR DREW: No. Thank you,  
23 Judge.

24 JUDGE TOREM: All right. Well,  
25 we'll see when Mr. Wiley is available. Thank you,

1 Ms. Schimelpfenig and Ms. Stavitsky, for looking into  
2 that. And, again, for the parties, less latitude on  
3 the reserves, rebuttal witnesses, or any concept the  
4 applicant has of their reservations. We've got  
5 prefiled testimony. This is a limited -- a limited  
6 recall.

7 Council members, this is your reminder to ask your  
8 questions as soon as possible. So as things develop,  
9 we'll see how things go. But try to ask the questions  
10 you have up front, and we'll definitely finish on time  
11 next Friday. That's the projection.

12 All right. I think now at 9:19 a.m., we are ready  
13 to call Morgan Shook. And I'll see if Mr. Shook can  
14 appear on one of my screens so I know who I'm swearing  
15 in.

16 (Witness Morgan Shook  
17 appearing remotely.)  
18

19 JUDGE TOREM: Good morning,  
20 Mr. Shook. Now I can see you.

21 **THE WITNESS: Good morning, Your**  
22 **Honor.**

23 JUDGE TOREM: Can you hear me all  
24 right?

25 **THE WITNESS: I can hear you. And I**

1     **take it you can hear me as well?**

2                     JUDGE TOREM:    I can.

3                     **THE WITNESS:   Excellent.**

4                     JUDGE TOREM:    The court reporter's  
5     going to appreciate both of us if we don't speak over  
6     each other, and particularly if Mr. McMahan gets  
7     involved, if he doesn't speak over you.  So we'll see  
8     how Ms. Schimelpfenig's training is at Stoel and yours  
9     as well.

10                    The other parties are going to be starting with  
11    questions.  If I look at what's expected today from  
12    what was lopped off from the original Tuesday schedule,  
13    it looks as though -- it looks as though, Mr. Aramburu,  
14    I think you're going to start the cross-exam.  Is that  
15    correct?

16                    MR. ARAMBURU:   I think that's what  
17    the schedule says.  Yes.

18                    JUDGE TOREM:    Yeah, I'm just trying  
19    to read it.  It's in a slightly different order.  But  
20    because this is Scout Clean Energy's witness, you would  
21    do that.

22                    And then, Mr. Shook, you can expect that I'll ask  
23    the other parties if that raises any cross-exam for  
24    them.  And then we'll come back for Ms. Schimelpfenig  
25    and eventually at some point go to the Council members,

1 as I've encouraged if they have questions, they may  
2 have some things for you as well.

3 The -- Ms. Schimelpfenig, I'm going to ask you to  
4 go through that list of documents and exhibits and ask  
5 Mr. Shook if those are the ones he adopts. It's a  
6 little bit long for me to do. But I'll swear him in  
7 and let you do the adoption.

8 Mr. Shook, if you raise your right hand.

9  
10 MORGAN SHOOK, appearing remotely, was duly  
11 sworn by the Administrative  
12 Law Judge as follows:

13  
14 JUDGE TOREM: Do you, Morgan Shook,  
15 solemnly swear or affirm that all the testimony you'll  
16 adopt in the course of today's proceeding, as well as  
17 your answers to any other questions, will be the truth,  
18 the whole truth, and nothing but the truth?

19 **THE WITNESS: I do.**

20 JUDGE TOREM: All right. Thank you.

21 Ms. Schimelpfenig's going to give you a list of  
22 the documents that have been presubmitted, include your  
23 rebuttal or reply testimony, and have you adopt those,  
24 and then they will be admitted to the record.

25 Ms. Schimelpfenig.



DIRECT EXAMINATION

BY MS. SCHIMELPFENIG:

Q Good morning, Mr. Shook. Do you adopt Exhibit 1008\_T, 1009 to 1020, and -- it's way easier to do "1051"; I'm sorry -- 1051\_R? Those are the three.

**A I adopt those.**

MS. SCHIMELPFENIG: Thank you.

JUDGE TOREM: All right. We'll make those part of the record.

(Exhibit Nos. 1008\_T\_Revised, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, and 1051\_R admitted.)

JUDGE TOREM: And there may be also some cross-examination exhibits for you, Mr. Shook. One of them may have a number on it that was previously designated, and so Mr. Aramburu might refer to it as that, but we'll be assigning a new cross-exam exhibit as needed.

All right. Are we ready for Mr. Aramburu's questions?

MR. ARAMBURU: I'm ready.

JUDGE TOREM: I'll go mute on this

1 end and, Mr. Aramburu, defer to you.

2 Ms. Schimelpfenig, if there's an objection, please  
3 unmute on your end, and Mr. Aramburu will listen to  
4 what you have. And then I'll go back to him for any  
5 response before I make a ruling.

6 Mr. Shook, if you hear an objection, please stop.  
7 Mercy on the court reporter. And we'll go from there.

8  
9 CROSS-EXAMINATION

10 BY MR. ARAMBURU:

11 Q Good morning, Mr. Shook. I'm Rick Aramburu. I  
12 represent the local citizens organization Tri-City  
13 C.A.R.E.S. in this proceeding. And Tri-City C.A.R.E.S.  
14 is an intervenor.

15 I have a number of questions to you about your  
16 testimony, background, experience, and those kinds of  
17 things.

18 And, Mr. Shook, if you don't understand my  
19 question, please do not hesitate to ask me to rephrase  
20 it. And as Judge Torem has indicated, let's try,  
21 whenever possible, not to talk over one another, even  
22 though you may anticipate my question, and I won't  
23 anticipate your answer as well.

24 Are those good ground rules, Mr. Shook?

25 **A Sounds great.**

1 Q And have you testified previously in trials or  
2 administrative proceedings?

3 A I have.

4 Q Over ten times?

5 A No.

6 Q Okay. So I want to talk a little bit here about your  
7 background to begin with. And I have your testimony  
8 and references to the kinds of work you do.

9 And it's indicated you're a research and policy  
10 consultant with ECONorthwest.

11 Is that -- is that correct?

12 A That's correct.

13 Q Okay. And would you consider yourself to be an  
14 appraiser?

15 A I am not an appraiser.

16 Q And so the testimony you're giving today is not based  
17 upon appraisals of property; is that correct?

18 A I'm not sure I understand.

19 Appraisal. What property?

20 Q Of the properties that you're discussing down in the  
21 Tri-Cities.

22 A I'm not aware of any appraisal, specific property  
23 appraisals in the Tri-Cities that I've reviewed.

24 Q Okay. And I've looked over your list of projects  
25 you've worked on, and they're very -- a very extensive

1 list, even a couple that I've been involved in on the  
2 periphery.

3 I am gathering that the principal amount of your  
4 work is to work for project proponents as opposed to  
5 project opponents.

6 Do I have that right?

7 **A I'm not sure I understand that. If I had to clarify,**  
8 **my work is, I would say, on a range of different**  
9 **issues. If we're talking about specific administrative**  
10 **projects, I think it's been fairly balanced in --**  
11 **particularly in the SEPA environment in the state for**  
12 **working for both oppo- -- for both pro- -- sorry --**  
13 **applicants and opponents of those applications.**

14 **Q Okay. And can you just name a couple of opponent**  
15 **projects where you've represented opponents?**

16 **A Yeah. So I've represented a -- the client is the**  
17 **Seattle Mobility Coalition that is opposing a set of**  
18 **comprehensive plan amendments to impose impact fees in**  
19 **the city of Seattle in 2018 and also again here in**  
20 **2023.**

21 **Q Any others?**

22 **A That's the only two that come to mind.**

23 **Q Okay. Okay, Mr. Shook.**

24 And I want to talk about your experience over in  
25 the Tri-Cities.

1                   When was the last time you were in the Tri-Cities?

2   **A   I was there about a month ago.**

3   Q   Okay. And what was the purpose of your trip?

4   **A   We were working for my company, and a project I'm**  
5       **engaged with is working for the City of Pasco on its**  
6       **housing action plan.**

7   Q   Okay. And when were you in the Tri-Cities before your  
8       assignment with Pasco?

9   **A   I don't recall specific dates, but probably a few**  
10       **months before. I'd been there for a couple times as**  
11       **part of that project and then was also there as part of**  
12       **another project, working for the City on its downtown**  
13       **revitalization plan.**

14   Q   City of Pasco?

15   **A   City of Pasco.**

16   Q   Okay. Okay. Have you ever been to the Tri-Cities to  
17       look at the site for the project under question here?

18   **A   When I was there about a month ago, I did make a point**  
19       **to sort of look at the site, or at least where I**  
20       **thought the site was, based on my sort of recollection**  
21       **of the maps, while I was in Pasco.**

22   Q   And did you have a map in front of you to tour the  
23       site, that kind of investigation?

24   **A   No. It was simply, simply driving in.**

25   Q   Okay. And did you attend or look at any of the views

1 that might be available of the Horse Heaven Hills from  
2 residences or businesses in the Tri-Cities?

3 **A Yeah, I mean, I would say I -- specifically as I drove**  
4 **in, kind of contemplated the views of the site from --**  
5 **from the -- from my -- from my perspective.**

6 Q Driving along I-82?

7 **A Yeah.**

8 Q Okay. Okay.

9 Tell me about what your understanding of the  
10 project is.

11 **A My understanding of the project is an application to**  
12 **site a wind energy facility as well as potentially a**  
13 **solar facility on those -- on that property.**

14 Q And could you tell me how big it is?

15 **A I don't have the details right off the top of my head.**

16 Q So you don't know how many turbines are in the project?

17 **A Not specifically. But I know it's a -- it's a large**  
18 **number.**

19 Q And do you know what the length of the turbine rows are  
20 along the landscape in Benton County?

21 **A The length of the turbines?**

22 Q Yeah. The turbine rows.

23 There's rows of turbines in this project; isn't  
24 that right? Is that what your understanding is?

25 **A That's my understanding.**

1 Q Okay. And can you tell me how long those turbine rows  
2 are in a linear sense?

3 A I don't have the --

4 MS. SCHIMELPFENIG: Objection, Your  
5 Honor, on relevance grounds.

6 Mr. Shook's work is not site-specific. His  
7 testimony is about the scholarship generally related to  
8 property values. We submitted testimony from Mr. Lines  
9 that provides a site-specific analysis and would  
10 recommend questioning him on site-specific questions.

11 JUDGE TOREM: It sounds to me,  
12 though -- Mr. Aramburu, hold on.

13 Ms. Schimelpfenig, it sounds to me that  
14 Mr. Aramburu is asking not about specific sites but the  
15 overall project and the roads. So this might be  
16 project-specific, but that's what's in front of the  
17 Council.

18 Mr. Aramburu, is that where you were going with  
19 this witness, a more general question about the roads?

20 MR. ARAMBURU: About the roads and  
21 the project, yes.

22 JUDGE TOREM: So, Ms. Schimelpfenig,  
23 the objection is overruled. If Mr. Shook does not know  
24 the answer, it's not within his personal knowledge,  
25 that would be an appropriate response.

1 But, Mr. Aramburu, if you want to re-ask the  
2 question in the context of the objection and my ruling.

3 Q (By Mr. Aramburu) So with regard to your -- your  
4 knowledge of the project, do you know how -- how long  
5 the turbine strings, the turbine lines are in the  
6 project?

7 A No. So I reviewed the project description, but I don't  
8 have that committed to memory. So I can't tell you  
9 specifically what it is. And most of my -- my focus on  
10 this was really looking at the academic literature  
11 related to the analysis that was done as part of the  
12 application.

13 Q Okay. So you can't tell me right now how many miles of  
14 turbines there are?

15 A I can't tell you that right now.

16 Q And I was looking at the pages of the app- -- of the  
17 updated application for site certification. And -- and  
18 you've indicated you've read those pages?

19 A Which -- which document are you referring to?

20 Q In your testimony, you indicated that you had reviewed  
21 section 4.4 of the site certification application.  
22 That's on Page 3, Lines 13 to 15, of your testimony.

23 Is that correct?

24 A Can you -- can you recite which part of my testimony  
25 you're referring to again?



1 Q Okay. So I'm looking at your direct testimony and  
2 looking at question and answer on Page 3, Lines 10 to  
3 15.

4 JUDGE TOREM: And for the Council  
5 members, I think this is Exhibit 1008 --

6 MS. OWENS: You're unmuted.

7 JUDGE TOREM: Sorry.

8 For the Council members, this was Exhibit 1008\_T;  
9 is that correct, Mr. Aramburu?

10 MS. SCHIMELPFENIG: Morgan, do you  
11 have --

12 MR. ARAMBURU: That's correct.

13 JUDGE TOREM: Yeah.

14 MS. SCHIMELPFENIG: My apologies.  
15 Mr. Shook, do you have Exhibit 1008 up, or would you  
16 like us to pull it up for you?

17 **THE WITNESS: I have it up.**

18 MS. SCHIMELPFENIG: Okay.

19 **THE WITNESS: And I'm looking at**  
20 **Page 3 of 15.**

21 Q (By Mr. Aramburu) So in any case there that you're  
22 sponsoring portions of Section 5.5 of the updated  
23 application for site certification; is that correct?

24 **A I'm sorry. I still don't quite understand your**  
25 **question. What --**

1 MR. ARAMBURU: Perhaps we -- so we  
2 don't have confusion here, may I ask that this portion  
3 of the testimony be brought up on the screen?

4 JUDGE TOREM: Ms. Masengale, are you  
5 available to do that today?

6 It looks like she is.

7 MR. ARAMBURU: Ms. Masengale,  
8 Page 3, Lines 10 to 15.

9 I'm sorry. That's not the same pages that I have.  
10 Can you move further into the testimony, please?

11 Okay. There we go. I guess it's Page 6 here. I  
12 have the wrong version.

13 Q (By Mr. Aramburu) Okay. Up at the top of the vision  
14 on the screen is Page 6 of your direct testimony.

15 Pages -- Lines 10 to 15 indicate that you are  
16 sponsoring aspects of Section 4.4 of the site  
17 certificate application; is that right?

18 A Yes. So on Line 13, yes, sponsoring aspects of the  
19 4.4, specifically discussions of property value impacts  
20 and information supporting that discussion.

21 Q And on those pages, you cite to the -- to various  
22 studies that were included in the testimony, but you  
23 did not write any of that yourself, did you?

24 A That is correct. That's not my work.

25 Q And Pages 4-235 to 2-228, there's a citation to a

1 number of studies that -- principally ones done by  
2 Mr. Ben Hoenig.

3 Do you recall that?

4 **A I don't recall specifically all those studies in that**  
5 **section, but it does -- I do recall they're referring**  
6 **to a variety of different academic research.**

7 Q And in that academic research that's cited in the site  
8 certificate application that you're sponsoring, did you  
9 compare the current project with the projects that are  
10 discussed in -- on those pages of the site certificate  
11 application?

12 **A No. There's -- I have no formal comparison. As part**  
13 **of that work, I was asked to review that section,**  
14 **review the studies that were the basis of those**  
15 **considerations, and provide my best professional**  
16 **judgment on sort of the adequacy and veracity of that**  
17 **for decision-makers.**

18 Q Okay. And have you done any investigation as to the  
19 preferences of residences in the Tri-Cities with  
20 respect to preferred views and preferred vistas?

21 **A I've done no such research.**

22 Q Okay. Have you spoken at all with the Benton County  
23 prosecutor -- excuse me -- Benton County assessor  
24 regarding aspects of residential value related to views  
25 and vistas?

1   **A   I have not.**

2   Q   Okay.  You'd be surprised to learn that -- let me  
3       strike that question.

4               In your review, have you examined the -- the  
5       differing views that might be available to residences  
6       in the Tri-Cities area of the Horse Heaven Hills  
7       compared to other properties?

8   **A   I'm not sure I follow that question.  Can you --**

9   Q   Have you seen the Horse Heaven Hills?

10  **A   I mean, as I -- as I testified earlier, yes, as part of**  
11       **a drive in, I've -- I've looked at what I think the**  
12       **site is based on my recollection of those maps.**

13  Q   Do you have an opinion as to whether or not residents  
14       of the Tri-Cities area would prefer to have a view of  
15       the Horse Heaven Hills as opposed to the other vistas?

16  **A   I don't have an opinion on that matter.  I've conducted**  
17       **no original research on this, on that specific**  
18       **question.**

19  Q   Have you at any time in your work -- well, let me ask  
20       this question first.

21               How many other wind turbine projects have you  
22       worked on?

23  **A   This is the only project specifically looking at wind**  
24       **turbines.**

25  Q   Okay.  Have you worked on any solar array projects?

1    **A    I have not worked on any solar array projects.**

2    Q    So this is your first wind turbine project, correct?

3    **A    This is the first time I've been asked to look at this**  
4       **issue related to wind turbines, yes.**

5    Q    Thank you.

6           Are you familiar with the concept of place  
7    attachment in valuation of properties?

8    **A    I -- probably -- maybe you should explain what place**  
9       **attachment is.**

10   Q    My understanding of place attachment from my reading  
11       indicates that in certain circumstances there's a bond  
12       between residences and familiar locations and  
13       topography.

14           Are you familiar with that concept?

15   **A    I would say it's -- doesn't seem like a foreign --**  
16       **foreign idea, yeah, that people would be attached to**  
17       **the places they live, yeah.**

18   Q    Is it a subject matter that you've ever investigated?

19   **A    I've done no original research on place attachment**  
20       **specifically.**

21   Q    Are you aware that it's a -- that it's a subject matter  
22       in research concerning property values?

23   **A    I would assume that that issue potentially could be,**  
24       **yes.**

25   Q    Okay. But you haven't studied it in relation to this

1 project?

2 **A No, I have not.**

3 Q Would you consider that -- that many residents of the  
4 Tri-Cities could consider the Horse -- Horse Heaven  
5 Hills as an iconic feature of the landscape?

6 **A I wouldn't doubt that some people do, no. That seems**  
7 **like a reasonable position to have.**

8 Q Okay. Have you consulted with any interest groups in  
9 the Tri-Cities area to try to ascertain their concerns  
10 with respect to property values?

11 **A No. That was not part of my engagement here.**

12 MR. ARAMBURU: Okay. Ms. Masengale,  
13 could you put up Exhibit 5303, the last several pages,  
14 please.

15 Okay. Let's -- and this is fine. Thanks,  
16 Ms. Masengale.

17 Q (By Mr. Aramburu) I'm putting up the -- I think it's  
18 the last page of 5303. And that -- that exhibit, per  
19 our prior instructions, has been -- will be remarked as  
20 a cross-examination exhibit. And what has been put up  
21 here is a letter dated June 7, 2023, and written on  
22 behalf of the Tri-City Association of Realtors.

23 Have you consulted the Realtors with regard to  
24 their opinions regarding the impact of this project on  
25 property values?

1   **A   No.   Like I said, that's not part of the scope of my --**  
2       **my engagement here.**

3   Q   Okay.   Would you just take a moment to read the letter?  
4       Can you read it on your screen?

5   **A   Can you make it a little bigger, please?**

6   Q   There we go.

7   **A   One more for me.   I'm on a small laptop.**

8       **Thank you.**

9                               MS. SCHIMELPFENIG:   Objection, Your  
10   Honor.   This is --

11                              JUDGE TOREM:   To and what grounds?

12                              MS. OWENS:   Now you're off "mute."

13                              JUDGE TOREM:   On what grounds?

14                              MS. SCHIMELPFENIG:   This is -- yeah.

15   Thank you.   This is not -- the witness has already  
16   stated this is not within the scope of their review.

17                              JUDGE TOREM:   Overruled.   He can --  
18   he can read it, and then we'll determine what his scope  
19   of knowledge might be or whether he's in a position to  
20   offer his opinion.

21       So I'll ask Ms. Masengale to continue to work --

22                              MS. SCHIMELPFENIG:   Thank you.

23                              JUDGE TOREM:   -- her magic as she  
24   scrolls through this.

25       Once you're done with the last paragraph on the

1 page, Mr. Shook, if you'll let her know, she'll scroll  
2 down so you can complete it, and we'll go forward in  
3 that manner.

4 **THE WITNESS: Can you scroll down?**

5 **Can you scroll down one more?**

6 **Thank you.**

7 Q (By Mr. Aramburu) Okay. Have you had an opportunity  
8 to read that letter?

9 **A I -- I have.**

10 Q Do you consider it important in assessing property  
11 values and impacts of projects on property values to  
12 consult with and seek the views of the realty community  
13 in a -- in a location?

14 **A Yeah, I'll read -- so, in general, I would say, yeah,**  
15 **it's important to have a good sense of the issues, and**  
16 **you get a good sense of those issues by talking to a**  
17 **lot of stakeholders and other sort of professionals.**

18 **And then I think we always want to then try to**  
19 **marshal the evidence as best we can, because these are**  
20 **complicated systems we're talking about, and so what**  
21 **can we else look at with respect to rigorous**  
22 **examination of the issues to sort of determine what we**  
23 **think the direction and size of effects are.**

24 Q But it would be fair to say that the -- the realty  
25 community in Tri-Cities has expressed great concerns



1 about the impacts of this project; is that correct?

2 **A According to this letter, they have.**

3 MR. ARAMBURU: Okay. And,  
4 Ms. Masengale, would you roll up just to the prior  
5 page? I think this is the last page of the exhibit.

6 Let's go up a bit farther, past the -- past that  
7 letter to the next letter.

8 Q (By Mr. Aramburu) Okay. I'm putting up on the screen  
9 another letter from Exhibit 5303, which is the letter  
10 from the Tri-City Regional Chamber of Commerce.

11 Do you see that letter on your screen?

12 **A I can see it.**

13 Q And have you worked in the past, in your economic  
14 development projects, for chambers of commerce?

15 **A I have.**

16 Q And what, in general, do chambers of commerce, what are  
17 their interests in a community?

18 **A They vary, depending on their charter and mandate, but**  
19 **generally I would say a specialized economic**  
20 **development.**

21 Q Okay. And would their views of a project be of  
22 importance in assessing the impact of the project on a  
23 community?

24 **A Their view would be one of many important perspectives**  
25 **to be incorporated.**

1 Q Okay. And do you know what the position of the  
2 Tri-City Regional Chamber of Commerce is on this  
3 project?

4 **A I do not.**

5 Q Okay. I'd ask -- this is a little shorter letter,  
6 Mr. Shook, and I regret having to have you read this  
7 all the way through.

8 MR. ARAMBURU: But if you --  
9 Ms. Masengale, if you can allow Mr. Shook to read the  
10 letter.

11 THE WITNESS: You can scroll to the  
12 next paragraph.

13 All right. Scroll down.

14 Okay.

15 Q (By Mr. Aramburu) In your economic development  
16 projects, do you consider it important to consider what  
17 the local chambers of commerce have to say about that  
18 project?

19 **A It's pretty wide. I would say, in some cases, yes;  
20 some cases, no. Depending on the issues.**

21 MR. ARAMBURU: Okay. And let's see.  
22 Roll up one more, if you would, Ms. Masengale. Thank  
23 you for your assistance.

24 Q (By Mr. Aramburu) In economic development projects  
25 you've worked on, do you consult with local governments

1 from time to time?

2 **A We do.**

3 Q And do you work for local governments?

4 **A I do.**

5 Q And are you working for the City of Pasco currently?

6 **A I think currently that contract is finished, so I do**  
7 **not currently have an engagement.**

8 Q But you recently worked for the City of Pasco, did you  
9 not?

10 **A Correct.**

11 Q Okay. And so in terms of assessing impacts of a  
12 project, would you consult with local governments?

13 **A It would depend on what we were assessing. But in many**  
14 **cases they are a important stakeholder because of their**  
15 **role in land-use regulation.**

16 Q Are you familiar with the city of Richland?

17 **A I -- yes, I'm familiar with it.**

18 Q I'm sorry. Say that again, please.

19 **A Yeah, I'm familiar. I've done work for the City in the**  
20 **past, yes.**

21 Q You have. Okay.

22 And is the city of Richland nearby this project?

23 **A I understand that it is.**

24 Q Do you know that as a matter of fact?

25 **A Yes.**

MR. ARAMBURU: Okay. Okay. Let's  
move up to the next exhibit, please, if we can.

Ms. Masengale, you've been very helpful to us  
here.

Q (By Mr. Aramburu) Okay. We're, again, looking at  
Exhibit 5303.

And, Mr. Shook, have you ever worked for a  
organization that promotes tourism in the communities?

**A I'm trying to think. We've worked with the state RCO  
office, which does some tourism promotion. We've  
worked with many cities that also take hotel tax  
funding to do economic development, tourism funding.  
So -- but, you know, so various ones in that capacity.**

Q And what's "RCO"?

**A Sorry. The recreation/conservation office for the  
state of Washington.**

Q Okay. But it's a State agency, correct?

**A Correct.**

Q All right. And assessing the economic impact of a  
project on the community, would it be important to you  
to consider what the impacts would be on tourism in  
that community?

**A Can you repeat that question again?**

Q I said, in assessing economic development and impacts  
of a project --

1    **A    Mm-hmm.**

2    **Q    -- would you consider it to be important to -- to**  
3       consult with representatives of the tourism community  
4       in that vicinity?

5    **A    I said it -- it would depend on the issues, but, yeah,**  
6       **tourism is an important sector within our state**  
7       **economy, and typically depending on what the issue is,**  
8       **we more or less consult with those -- those agencies.**

9    **Q    Okay. And did you consult with those agencies with**  
10       regard to your review of this project?

11   **A    Again, the review of my project is limited to the**  
12       **impact on property values and the academic studies.**  
13       **I've done no further analysis or consultation with any**  
14       **of these groups, including Tri-City -- Visit**  
15       **Tri-Cities, Washington.**

16                               MR. ARAMBURU: Okay. And,  
17       Ms. Masengale, if you'd just roll up this exhibit,  
18       please, for me and allow the witness to read it.

19               This will be the last reading exercise, Mr. Shook.

20                               **THE WITNESS: Hopefully I'm passing**  
21       **here.**

22               Okay. You can scroll to the next paragraph.

23               All right.

24   **Q    (By Mr. Aramburu) So the Tri-City tourism organization**  
25       supports the work of my client.

1 Do you see that from the letter?

2 **A I -- I do see that.**

3 Q Okay. And do you know what Tri-Cities C.A.R.E.S.'  
4 position is in this litigation, or in this  
5 adjudication?

6 **A I don't know specifically its main points, no.**

7 Q Okay. Now, let me just get back to your -- your  
8 testimony a bit here.

9 And I understand that your testimony is  
10 essentially supportive of the work that was done by  
11 others in the site certificate application; is that  
12 right?

13 **A Yeah. My -- the -- my engagement was I was asked to**  
14 **review that section of -- of -- of the application as**  
15 **well as the number of exhibits of academic studies and**  
16 **make an opinion on whether that information reflected**  
17 **the best available science and information on the**  
18 **question of property value impacts.**

19 Q And you reached some conclusions on that point,  
20 correct?

21 **A I have.**

22 Q Okay. I notice a lot of your testimony and some of the  
23 excerpts from the site certificate application deal  
24 with work by Mr. Ben Hoenig -- I hope I'm pronouncing  
25 his name right -- H-o-e-n. H-o-e-n.

1                   Is that correct?

2   **A   Yes, he is.**

3   Q   Okay?

4   **A   His work is featured prominently, given his expertise**  
5       **in this.**

6   Q   Okay. Do you know Mr. Hoenig?

7   **A   I do not.**

8   Q   Okay. Did you consult with him on this project?

9   **A   I did not.**

10   Q   So you've simply read his academic papers; is that  
11       correct?

12   **A   That's correct.**

13   Q   Did you read all his papers?

14   **A   I read all the ones that are part of the exhibits.**

15                   MR. ARAMBURU: And I may have the  
16       wrong page numbers on my exhibit. But, Ms. --  
17       Ms. Masengale, if you could go over to the exhibit --  
18       the testimony exhibit, which is -008\_T [sic].

19                   Okay. If you'd go down a bit, please.

20                   Farther, please.

21                   Keep going down, if you would, please.

22                   Let's stop there for a moment.

23   Q   (By Mr. Aramburu) This is -- on this page -- I don't  
24       have the page number here -- Page 9 on the PDF, Page --  
25       yes, Page 9 of the application --

MR. ARAMBURU: If you'll scroll back up, please.

Q (Continuing by Mr. Aramburu) -- you indicated a reference to the Lawrence Berkeley National Laboratory, Page -- or Line -- Line 9 through 14 on Page 9; is that correct?

**A Yes, I do reference that.**

Q And have you consulted -- have you worked with the Berkeley National Laboratory before?

**A I have never worked with them.**

Q Do you know who they are?

**A I -- outside of their -- reading about them on their "about" -- "about" page, that's it.**

Q Okay. Okay. Thank you.

MR. ARAMBURU: Now, if we scroll down just a bit more, please.

Keep going, please.

**A bit more, please.**

**And a bit more.**

**Okay. We'll stop here.**

Q (By Mr. Aramburu) Bottom of Page 10 of Exhibit 1008, you indicate that you've read the studies from the Berkeley National Laboratory.

And then you say you have not conducted an exhaustive and comprehensive literature search of --



1 literature review of research involving impacts of wind  
2 turbines; is that right?

3 **A That's correct.**

4 Q Have -- have you read anything about the impacts on  
5 property values of the siting of wind turbines other  
6 than what you've talked about here?

7 **A Just what I have here.**

8 Q Okay. And did you attempt to search out whether or not  
9 there are studies that indicate an opposing view to  
10 what -- to the studies mentioned in your report?

11 **A I did not. But all those studies reference a mix of --**  
12 **some mix of findings related to the issue of property**  
13 **value impacts. So -- so I was aware of the fact that**  
14 **not all studies find there's no long-term or consistent**  
15 **impact on property values.**

16 MR. ARAMBURU: Now, Ms. Masengale,  
17 could you roll up just a few lines for me so we can  
18 look at the next page?

19 I want between -- can you roll up just a little  
20 bit more for me so I get -- so we get the two pages  
21 together?

22 Just a tiny bit more.

23 Q (By Mr. Aramburu) Okay. So I want to look at the top  
24 of Page 11 here. And on the preceding page, you say,  
25 "I am not aware" --

1 MR. ARAMBURU: There we go.

2 Wonderful. Thank you, Ms. Masengale.

3 Q (By Mr. Aramburu) Page 10 and 11, there's a sentence  
4 there. Says, "Based upon my general knowledge of  
5 disamenity research, I am not aware of other studies  
6 with conclusions that conflict with the conclusions of  
7 the Berkeley National Laboratory studies."

8 Is that -- is that what you said?

9 A Yeah, that's what it says.

10 Q I think your testimony just now said that there is --  
11 there are conflicting views, aren't there?

12 A So the way I -- we look at this stuff from an economic  
13 research perspective is trying to weigh the totality of  
14 the evidence. And in reading the research, it's been  
15 very clear that there are small studies that indicate  
16 that there are potentially some different findings  
17 which all then warrants more robust and thorough  
18 examination of the issues.

19 And so that was really the undertaking, as I  
20 understand it, of the Berkeley National Laboratory  
21 study just to say, Well, we see some different effects  
22 here, and these -- in some places, but we don't see  
23 them in these other places.

24 The -- the sort of consensus of that information  
25 seems to suggest that there are no effects, and so

1 let's take a look at that in -- with much more sort of  
2 statistical power and rigor.

3 And so that analysis, I would say, of the -- of  
4 the level of quality and comprehensiveness of the  
5 Berkeley report, there's no sort of study at that  
6 level -- right? -- that has a conflicting sort of  
7 viewpoint conclusion on -- on the -- on the property  
8 value impacts of a potential disamenity. Does that  
9 make sense?

10 So think of it as basically they're -- there are  
11 different studies at different powers, right? And from  
12 a research perspective, you're trying to evaluate, you  
13 know, did this one have enough power to be strongly  
14 suggestive and then -- and build upon that? And so  
15 what the Berkeley analysis is trying to do is take that  
16 information and say, Well, we've seen some potential  
17 sort of conflicts here, but like when we examine it  
18 much more robustly, we can't find any of those effects.

19 Q Well, that's all fine, Mr. Shook. But your -- your  
20 testimony here is pretty unequivocal. "I am not aware  
21 of any other studies with conclusions that conflict  
22 with the conclusions of the Berkeley...studies."

23 That testimony isn't correct, then, is it?

24 MS. SCHIMELPFENIG: Objection, Your  
25 Honor.

1 MS. STAVITSKY: He just clarified.

2 MS. SCHIMELPFENIG: Mr. Shook just  
3 clarified and explained his statement made here.

4 MR. ARAMBURU: Judge Torem, we're  
5 asking him on cross-examination of statements that he  
6 made, and I want to clarify what's in his -- his direct  
7 testimony. I think it's a fair question.

8 JUDGE TOREM: As do I.

9 Ms. Schimelpfenig, we need an evidentiary basis as  
10 to when you make an objection. This is  
11 cross-examination, and I think the point being made by  
12 Mr. Aramburu is what's in Pages 10 to 11 and what his  
13 subsequent testimony has been. If you think that needs  
14 to be rehabilitated on direct exam to give fuller  
15 context, you're more than free to do so. But the  
16 objection's overruled. We'll take this testimony.

17 **THE WITNESS: I appreciate the**  
18 **chance to clarify this. Because from the reading of**  
19 **all those reports, it's very clear within the academic**  
20 **literature that there are other studies that find some**  
21 **level of property value impact, which is why the**  
22 **Berkeley Laboratory undertook a study of this nature**  
23 **and comprehensiveness and robustness to try to settle**  
24 **this issue.**

25 And so when we weigh those levels of evidence,

1        what I'm trying to say in this statement is there's  
2        nothing at that level of quality that would, from my  
3        knowledge, that would conflict with that conclusion,  
4        right?

5                So -- so that -- I guess what I'm trying to say,  
6        at that par of -- of analysis, there's no sort of  
7        similar analysis that was done that shows that there's  
8        impacts. But it's very clear in all those research --  
9        with even within the Hoenig report -- right? -- of  
10       saying, like, Look, there's this study, this study,  
11       this study. This is why we're doing this big study to  
12       try to help settle what we think the actual effects  
13       are.

14    Q    (By Mr. Aramburu) Okay. But there -- but there are  
15       some other studies out there that disagree with what  
16       Berkeley filed, correct?

17    A    From my recollection of that study -- right? -- they're  
18       very clear in saying the preponderance of the evidence  
19       they've seen is that there's no effects, but there are  
20       other studies that have shown some effects. So, thus,  
21       let's look at this issue more robustly and more  
22       comprehensively.

23                        JUDGE TOREM: Mr. Shook, I don't  
24       think you're answering the attorney's question.

25                        THE WITNESS: Okay.

1 JUDGE TOREM: Are there any other  
2 studies -- yes or no? -- that disagree --

3 THE WITNESS: Yes.

4 JUDGE TOREM: -- with Berkeley?

5 THE WITNESS: Yes. And that's --  
6 and that's clear within the -- within Hoenig's own  
7 research, in those papers.

8 JUDGE TOREM: Okay.

9 THE WITNESS: Yeah.

10 JUDGE TOREM: Mr. Aramburu, I think  
11 you got your answer there.

12 THE WITNESS: Yeah.

13 Q (By Mr. Aramburu) So essentially what Berkeley says is  
14 that, We're smarter than these other guys, and we know  
15 better, and don't pay attention to those reports.

16 Is that the -- what you're saying?

17 A I don't think they said that anywhere in their report.

18 Q To the import of your testimony, Mr. Shook.

19 A If I had to try to characterize in the best available  
20 light of doing this kind of science is that it's  
21 difficult, it's challenging, is these -- these effects  
22 are complicated. But we do have tools that are at our  
23 disposal to try to understand them more deeply.

24 And so what the researchers at Berkeley are trying  
25 to do is say, Look, there's some -- there's a small

1 study over here. There was a small study over here.  
2 Nobody's really looked at it in totality with large  
3 data sets in lots of different jurisdictions, lots of  
4 different settings, and tried to understand that effect  
5 size.

6 So what they're trying to say is, like, Can we do  
7 this slightly better and provide more insight to this  
8 important issue?

9 Q And, Mr. Shook, did you attempt to identify what --  
10 those reports that disagree with Berkeley's conclusions  
11 and review them in preparation of your testimony?

12 A I did not review them in preparation of my testimony.

13 Q So you don't know how comprehensive or not they are, do  
14 you?

15 A No, I've not reviewed those, so I can't make that  
16 determination.

17 MR. ARAMBURU: Okay. Thank you.

18 I just submitted cross-examination -- I  
19 apologize -- late this -- this morning. And I think we  
20 marked it as 5903. And I apologize for that coming in  
21 late, but my examination of this witness was moved up a  
22 week.

23 So do we have that document, Ms. Masengale? It  
24 was just this morning.

25 Q (By Mr. Aramburu) Okay. And I realize this has come

1 in a bit late, Mr. Shook. But have you had a chance  
2 through your counsel to look at this document?

3 **A I had a chance briefly this morning to take -- to take**  
4 **a look at it.**

5 Q Okay. And I wanted to ask you. These are excerpts  
6 from a larger report. And I wanted to -- to sort of  
7 hone in, not upon here, but about the work of  
8 Mr. Hoenig.

9 So this is -- this is a report done by Mr. Hoenig  
10 in 2017.

11 Do you recognize that?

12 **A I don't see the date on this.**

13 Q Well, take it from me. It's at the very bottom of the  
14 page.

15 **A Okay.**

16 MR. ARAMBURU: Okay. If you go over  
17 to the next page, please, in the exhibit.

18 Q (By Mr. Aramburu) And I brought up Pages -- I think  
19 this is Page -- it's Page 2 of the PDF, but I think  
20 it's Page 12 of the document.

21 And Mr. Hoenig discusses positive economic impacts  
22 of wind energy.

23 Do you see that?

24 **A I can see that.**

25 Q Okay. And then if we scroll down the page a bit, under



1 5.1.2, he talks about negative economic impacts.

2 Do you see that?

3 **A I can see that.**

4 Q And he talks about a number of studies actually that  
5 Mr. Hoenig did in that paragraph at the bottom of  
6 Page 12.

7 Do you see that?

8 **A Which -- which -- which -- which part are you referring**  
9 **to specifically?**

10 Q Under "Negative Economic Impacts."

11 I see that Mr. Hoenig seems to be citing himself  
12 in a number of these -- of these references; is that  
13 right?

14 **A I see that. It's "Hoen" -- "Hoen," or not "Hoenig."**

15 Q I don't know how he pronounces his name.

16 **A Okay. All right.**

17 Q Okay. At the very bottom of the page, Mr. Hoenig,  
18 who's the author of this document, says there is  
19 evidence that home value effects might exist in the  
20 United States and in Canada, in Canadian context, cites  
21 reports.

22 Do you see those?

23 **A I can see that.**

24 Q Have you read those reports?

25 **A I have not.**

1 Q Okay. Then he says there's growing evidence that  
2 effects -- that is, negative economic impacts from wind  
3 turbines -- exist in the European context.

4 Do you see that?

5 **A I can see that.**

6 Q And if we scroll down a little bit --

7 MR. ARAMBURU: Thank you.

8 Q (Continuing by Mr. Aramburu) -- he's got research by a  
9 number of persons regarding the economic about the  
10 European context.

11 Do you see that?

12 **A I can see that.**

13 Q Okay. Have you read those documents?

14 **A I have not.**

15 Q Okay. Then Mr. Hoenig -- this is his -- this is his  
16 paper -- says more research in the area could not only  
17 untangle conflicting results but increase  
18 understandings about how perceptions of property value  
19 impact, influence acceptance.

20 You see that?

21 **A I can see that.**

22 Q Okay. So he's suggesting more work be done and that  
23 things aren't resolved, right?

24 Take that from that sentence?

25 **A I don't know about the resolution part, but he is**

1       **talking about more research --**

2   Q   Okay.

3   **A   -- how it could untangle conflicting results.**

4                   MR. ARAMBURU:   Okay.   Now, let's --  
5       if we turn now, please, to the next page, where we  
6       have -- keep going, Ms. Masengale.

7           Appreciate your help here very much.   Thank you.

8   Q   (By Mr. Aramburu)   Let's go down here.   And so this is  
9       Table 1, summary of economic impacts on [sic] their  
10      relationship to wind energy acceptance.

11           Do you see that?

12   **A   Yes.**

13                   MR. ARAMBURU:   Okay.   Now, if we  
14      scroll down the page a little bit, please,  
15      Ms. Masengale, to the section on property value  
16      impacts.

17   Q   (By Mr. Aramburu)   Would you just take a moment,  
18      Mr. Shook, to review what Mr. Hoenig says about  
19      property value impacts?

20   **A   Yes.   I'll just read it.**

21           **"Some large-scale" --**

22   Q   No.   No.   You don't -- you can read it to yourself.  
23      Read it.   Read it.

24   **A   Oh.   Sure.**

25           **Sorry.   You just want me to read it?**

1 Q Yes. If you would please. I want to ask you a  
2 question or two about it.

3 **A (Witness complies.)**

4 **Okay.**

5 Q Okay. So Mr. Hoenig, in this report, says that there  
6 are -- robust longitudinal studies have not found  
7 evidence of impacts on home values, but other studies  
8 show reduction.

9 Is that -- do I have that correctly?

10 **A Other case studies.**

11 Q Other case studies show a reduction.

12 And then he -- he cites again to some of his own  
13 work, but cites to a number of reports.

14 Do you see that?

15 **A I can see that.**

16 Q Have you read any of those reports?

17 **A Off the top -- I haven't cross-checked whether any of**  
18 **those are also the ones that are any part of our**  
19 **exhibits, but I would maybe think the 2016 study**  
20 **perhaps. I don't know. But I wouldn't -- I don't**  
21 **know, but -- because I haven't cross-checked any of**  
22 **those against our -- the -- the reports that I've**  
23 **reviewed.**

24 Q Okay. In your review of the academic literature here,  
25 have you explored whether there's any relationship

1 between the number of turbines and property value?

2 **A I'm not aware of any of the research that looks at**  
3 **that. Doesn't mean that there isn't. It's not right**  
4 **at the tip of my fingers in any of the reports that**  
5 **I've looked at.**

6 Q Does the research discuss any impact between -- or any  
7 impact on property values from the size of the wind  
8 turbines?

9 **A I believe some of the -- they do in some of the -- in**  
10 **the Hoen report, they look at different sizes of**  
11 **facilities.**

12 Q Okay.

13 **A If I recall correctly.**

14 Q Are any of those wind turbine facilities mentioned in  
15 the Hoenig reports as big as the ones in the Horse  
16 Heaven wind project?

17 **A I don't know off the top of my head.**

18 Q Do you know how big the turbines in the Horse Heaven  
19 wind project are?

20 **A As stated previously, I don't have that at my disposal.**

21 Q Do you have any idea what a typic- -- the height of a  
22 typical wind turbine is from the ground to the tip of  
23 the rotor --

24 **A I -- I --**

25 Q -- fully?

1   **A   I don't know precisely, but I believe it's in the**  
2       **hundreds of feet.**

3   Q   Okay. And there is some testimony, particularly at  
4       the -- at the top of Page 7 of your testimony, about --  
5       there we go. I guess I'm working from a different set  
6       of page numbers as you are.

7               This would be on Page 10 of 15. There we go.

8                       MR. ARAMBURU: At the top of the  
9       page, please.

10   Q   (By Mr. Aramburu) And the -- you're mentioning some  
11       2023 research by Berkeley Lab on property values of  
12       solar facilities.

13               Do you see that?

14   **A   I do see that.**

15   Q   Okay. And are there solar facilities connected with  
16       this project?

17   **A   There are.**

18   Q   Do you know -- do you know what the extent of them is  
19       in acres, square miles, whatever?

20   **A   I do not have that at -- at my -- at my easy recall.**  
21       **Sorry. I don't.**

22   Q   Okay. Thank you.

23               And -- and from your trip along I-82 to go over to  
24       Pasco, do you know if any of these large-scale solar  
25       projects which are in connection with the Horse Heaven

1 project are visible from I-82?

2 **A I don't know from my trip to the extent that that's**  
3 **true or not.**

4 Q Have you tried to figure that out?

5 **A I have not. That's not part of my engagement.**

6 Q Have you asked the lawyers about that, whether or not  
7 you can see the solar arrays from residences in the  
8 Tri-City area?

9 **A Again, my engagement was not to do an independent**  
10 **evaluation of the effects on property values of the**  
11 **project. It was to review the information that was**  
12 **presented and comment on its applicability and for the**  
13 **decision -- for decision-making.**

14 Q Okay. Let me ask this question in terms of the  
15 analysis here.

16 Did your analysis include a consideration of the  
17 number, the absolute number of persons or residences  
18 that might be -- that might see wind turbines?

19 **A No, my analysis did not include that. Again, it's**  
20 **limited to the information that's presented.**

21 Q Well, the information presented contains a number of  
22 analysis of impacts on -- of wind turbines on  
23 residences, does it not?

24 **A Again, my review is related to the socioeconomic**  
25 **section specifically on property values.**

1 Q No, I understand that.

2 But do any of those studies represent a impact on  
3 property values of the number of peoples who -- people  
4 who might view this project?

5 A I guess I'm not -- I'm not following the question.

6 Are you asking me, like, do I know how many people  
7 will have views of the facility?

8 Q Yes.

9 A I don't know that off the top of my head.

10 Q Is that a relevant consideration?

11 A For what?

12 Q For analysis of the impacts on property values of a  
13 wind turbine project.

14 A Yes. Views, proximities to the facility are the  
15 typically key variables, and we look at sort of  
16 disamenity impacts of a facility. So, yeah, that's --  
17 that is an important consideration as part of the  
18 re- -- research that is done in this space.

19 Q So -- so have you compared the impacts of this project  
20 with any of the specific circumstances involved in the  
21 other research?

22 A In what regar- -- I'm -- I'm struggling. Sorry. I'm  
23 not trying to be difficult here. I'm not quite sure I  
24 understand. Like, what are you -- what are you -- what  
25 are you asking that what I compared to?



1 Q Have you compared -- and I understand Mr. Hoenig has  
2 done various reports, and he's done some somewhat  
3 obscure statistical analysis about the impacts of the  
4 project on property values. And he's done that on some  
5 specific projects, has he not?

6 A He's -- he's what? I'm sorry.

7 Q I said, he has done -- he has done that, made that  
8 analysis on some very specific projects, has he not?

9 A My understanding of his -- his data set for  
10 particularly his large study looking at wind turbine  
11 effects on property values is kind of both multistate  
12 with hundreds of thousands of real estate transactions,  
13 so across multiple settings.

14 Q Well, I don't -- I don't want to belabor the point too  
15 much. But on Page 4-236 of the amended site  
16 application, a couple of Hoenig studies are -- are  
17 discussed. And Page 236, one of them involves 24 wind  
18 turbines. Another one involves 12 wind turbines.

19 Have you done the research to see whether or not  
20 those studies are relevant to a project that has many  
21 more wind turbines than this, than those?

22 A I belie- -- I believe those are relevant in the same  
23 way all the scholarship in this issue is relevant, I  
24 guess. And from a -- sort of as you adjudicate sort of  
25 the nature and quality of the evidence -- right? -- and

1 I think this is kind of related to the point around  
2 the -- the large-scale Hoen study that said, Well,  
3 those are very small facilities. We have very few  
4 transactions. Can we look at a whole wealth of -- of  
5 facilities and transactions around them in much  
6 different settings and determine whether or not we see  
7 effect sizes?

8 Q Did you reach out at all to the Benton County assessor  
9 to get his -- his take on what the impacts of the wind  
10 turbines would be on residential or commercial home  
11 values -- or residential or commercial facilities in  
12 the Tri-Cities area?

13 A As I answered previously to that question, I have not  
14 reached out to Benton County assessor.

15 Q And you're right. I think that was a reframe of the  
16 question. Okay.

17 JUDGE TOREM: Mr. Aramburu, how long  
18 further are you going? I know we had an hour-plus, but  
19 I want to make sure if we're targeting 10:30 perhaps  
20 for a break.

21 MR. ARAMBURU: Well, let me just  
22 have one moment here, if I may. And just let me look  
23 through my questions, if I could. I think I'm just  
24 about done, Mr. Torem. So let me just see if there's  
25 any cleanup questions here.

1 JUDGE TOREM: Thank you.

2 MR. ARAMBURU: Timely update,  
3 Mr. Torem. I -- I don't have any further questions of  
4 this witness.

5 Thank you, Mr. Shook, for your testimony today.  
6 Nice to meet you.

7 **THE WITNESS: Nice to meet you as**  
8 **well. Thank you, Mr. Aramburu.**

9 JUDGE TOREM: Let me ask other  
10 parties, if they have questions in cross-examination,  
11 to let me know. We'll take them after a break, but I  
12 want to know if we're coming back to Ms. Schimelpfenig  
13 or if we're coming back to questions from other  
14 parties.

15 Mr. Harper, did you have any questions on this you  
16 wanted to ask?

17 MR. HARPER: I have no questions for  
18 this witness.

19 JUDGE TOREM: Ms. Voelckers?

20 MS. VOELCKERS: Not at this time.  
21 Thank you, Your Honor.

22 JUDGE TOREM: Thank you.

23 And Ms. Reyneveld.

24 MS. REYNEVELD: I don't have any  
25 questions for this witness. Thank you, Your Honor.

1 JUDGE TOREM: All right. Let's come  
2 back a little -- let's come back right at 10:30, and  
3 we'll resume, Ms. Schimelpfenig, with your redirect, if  
4 anything.

5 And then, Council members, this will give you time  
6 to think if you have any other questions as well.

7 All right. We'll be at recess for the next seven  
8 minutes.

9 (Pause in proceedings from  
10 10:23 a.m. to 10:35 a.m.)  
11

12 JUDGE TOREM: All right, everyone.  
13 We had to take a little bit longer of a break. The  
14 project, we were starting to get you yesterday's  
15 transcript except of my ruling during the housekeeping  
16 session. We needed to make sure we had everything  
17 right with that. But it's been sent to the  
18 court-reporting agency, and we expect it will come back  
19 to all of you later in the morning.

20 All right. Ms. Schimelpfenig, if everybody's  
21 back -- and it looks to me that they are -- we're ready  
22 for any redirect that you need to do with Mr. Shook.

23 MS. SCHIMELPFENIG: Thank you, Your  
24 Honor.

25 ////

REDIRECT EXAMINATION

BY MS. SCHIMELPFENIG:

Q Mr. Shook, I think a great place to start is with your qualifications.

You kind of mentioned that you're not an appraiser. Can you explain your specific role and expertise?

A Yes. So I -- I think the relevant expertise here really has to do with land development and understanding the effects of that. And in that space, I kind of have a unique perspective, because I kind of wear three different kind of hats.

I wear one as a basic researcher doing basic research reports on questions.

I also have a regulator hat where I work with local governments on land-use regulation.

And I also kind of have a land development hat, working for a number of housing and private entities doing land development. And in that space, we work on issues of particularly sort of the intersection of sort of market impacts, market research, so basically understanding the potential sort of market opportunities to execute on land development.

We also work on the sort of financial liability of those things. But then we also work on sort of the

1 sort of, we'll call it entitlement process, where we  
2 try to understand the unique set of impacts that these  
3 projects may have and work with agencies to disclose  
4 those things.

5 So have a very robust and comprehensive view of  
6 the land development process and its different features  
7 given the different roles I play for clients on those  
8 kind of projects.

9 Q Yeah, you're kind of mentioning these projects  
10 generally. And, you know, Mr. Aramburu asked you if  
11 you'd worked on any wind projects before.

12 Have you worked on other large-scale or industrial  
13 projects, even if they might not be wind or solar?

14 A Yes, I have worked on particularly siting of  
15 large-scale data center facilities as well as  
16 large-scale distribution and logistics centers.

17 Q Great. Thank you.

18 A Yeah. And also part of those related also work on a  
19 range of government-related siting facilities related  
20 to transportation, either roads and transit, all the  
21 way to jails and recycling and disposal transfer  
22 stations.

23 Q Thank you.

24 So, you know, there might be some confusion about,  
25 you know, the basis of your view here today and a

1 typical property appraisal assessment that goes on.

2 Why do you think that economic analysis is maybe  
3 more accurate than appraisal information? How are  
4 those different?

5 **A Yeah, I would say they're not distinctly different.**

6 **Remember, the appraisal is simply a process that uses**  
7 **different kinds of tools. And economics is another way**  
8 **of understanding those effects. So many appraisers are**  
9 **actually economists, and they employ robust statistical**  
10 **tools, right?**

11 So within an appraiser's toolbox, they do lots of  
12 different things to sort of understand value on whether  
13 a specific property, a set of properties, or properties  
14 more generally.

15 So, for example, an assessor -- right? -- might  
16 appraise a specific property and look at comparable  
17 sales, but then they also may run automated mass  
18 appraisals where they're running really complex  
19 statistical and regression models to estimate what they  
20 think the valuation of properties are.

21 **Q And on the economic side, you know, what kind of**  
22 **analyses are they doing in these Hoen articles that you**  
23 **cite to?**

24 **A Yeah, and so maybe to kind of back up. So in reviewing**  
25 **the pieces -- right? -- I think the Hoen research is**

1     trying to say they're these small studies. They have  
2     some consensus of what they think the impact is, but  
3     there are some differences. And they're saying, Well,  
4     what we can do potentially to help provide more clarity  
5     is to do things in a much more robust fashion by  
6     looking at multiple settings, looking at multiple  
7     transactions, and saying we have a large sample size  
8     that we can infer from.

9             And when you have those large sample sizes in the  
10    economic research, particularly when the question is  
11    around property values, there are really specific and  
12    appropriate tools for the treatment of those to  
13    understand what the effect is.

14            And appraisers use these tools. Economists use  
15    these tools. They're typically called hedonic  
16    regress- -- they're basically called hedonic analyses  
17    or regression analyses. They're the same thing.

18            But a regression analysis is really just trying to  
19    disentangle the dependent variable: What is the price  
20    relative to a set of independent factors that are both  
21    endogenous to the property, itself -- like, how big is  
22    the home, how big is the lot, what its characteristics,  
23    what kind of amenities does it have -- as well as  
24    exogenous factors around, like, what happens within  
25    time, what's happening within sort of the -- the local



1 economy, that they can sort of then assess how all  
2 those independent factors relate back to the price, so  
3 what is really sort of the -- that sort of explains the  
4 sort of components of -- of -- of how people make their  
5 decisions and value things on either residential or  
6 commercial site.

7 Q And after completing that hedonic analysis, where does  
8 Hoen land in terms of property value impacts from wind  
9 turbines and solar facilities?

10 A Yeah, so he did a number of different studies, and each  
11 one of them, I would say, ratcheted up both the data  
12 set and economic pow- -- economic sort of statistical  
13 power to examine the value, the impact of property  
14 values in -- in North America, so looking at multi  
15 states, multi county, multi facility, tens of thousands  
16 of transactions. They conclude that there is no  
17 consistent or longitudinal impact on property values  
18 from proximity to these wind turbine facilities.

19 Q So that's, like -- that's a broad analysis.

20 Did Scout complete a site-specific analysis and  
21 submit it as testimony?

22 A Yes. And I'm aware of a report that was done by -- I'm  
23 forgetting -- CohnReznick to examine this issue.

24 Q You can continue. Sorry.

25 A Yeah, no, in that study, I think they really did three

1 different pieces.

2 The first piece was to really actually review the  
3 academic literature and provide a consensus view of  
4 what they think the impacts are.

5 The second piece was actually to look at specific  
6 properties -- or sorry -- specific wind farms -- I  
7 believe there are 11 of them -- and the impact on sales  
8 of res- -- adjacent residential properties, and they  
9 determined that the wind facilities had not caused any  
10 consistent or measuring negative impacts on property  
11 values.

12 And then the third piece was actually to do a set  
13 of market participant interviews where they spoke with  
14 a range of county assessors and provided their  
15 perspective on what they thought the impact of those  
16 facilities were on home values in their respective  
17 counties.

18 Q And is that report --

19 MR. ARAMBURU: I want to object to  
20 the -- to the testimony that characterizes other  
21 testimony in the proceeding.

22 We have a witness to testify about those things.  
23 I think that the testimony from this witness  
24 essentially trying to rehabilitate his own testimony  
25 through a reference to what other people have done is

1 inappropriate and should be stricken.

2 JUDGE TOREM: Ms. Schimelpfenig, any  
3 response?

4 MS. SCHIMELPFENIG: Yes, Judge  
5 Torem.

6 Mr. Aramburu asked extensive questions about local  
7 impacts and concerns of this project, and we just  
8 wanted to highlight that there is additional testimony  
9 on the record that provides that site-specific analysis  
10 that Mr. Aramburu was asking about, and Mr. Shook has  
11 reviewed that in advance of this hearing today.

12 JUDGE TOREM: Mr. Aramburu, I agree  
13 that --

14 MS. SCHIMELPFENIG: And we are  
15 happy -- sorry.

16 JUDGE TOREM: Mr. Aramburu, I agree  
17 that this was a little bit of referencing other  
18 testimony. But, again, it'll go to weight. I'm going  
19 to overrule the objection and allow it.

20 I hope, Ms. Schimelpfenig, now that we've  
21 established there's some other testimony the Council  
22 will read or hear on this topic, that we can move ahead  
23 and just focus on what Mr. Shook said or what else  
24 needs to be responded to from Mr. Aramburu's  
25 cross-exam.

MS. SCHIMELPFENIG: Yes. Thank you,  
Your Honor.

Q (By Ms. Schimelpfenig) Mr. Aramburu asked you about  
your familiarity with the area and with the specifics  
of the project.

Was revealing the de- -- was reviewing -- my  
apologies -- the details of the application part of  
your expert review?

**A It was not part of my expert review.**

Q And was that necessary to complete your analysis on  
property impacts?

**A It was not necessary, because there's no independent  
sort of prospective analysis within the analysis that  
says the -- that would estimate the effect of property  
values in, like, in a very sort of technical sense.**

What the socioeconomic analysis does is review the  
literature -- right? -- and the level of that to sort  
of disclose the decision-makers what they think the  
likely impacts would be in this case.

Q And Mr. Aramburu also asked you about visual  
assessments.

Was a visual impact assessment part of your  
review?

**A It was not part of my review.**

Q And why might the data that you did review show no

1 negative property value impacts when, you know, when  
2 some people maybe don't want to look at turbines on  
3 their property?

4 A Yeah, so -- so it's important to understand what these  
5 analyses are trying to do, right? They're trying to  
6 find consistent measurable impacts. It does not  
7 necessarily mean that -- that a single property or  
8 single property buyer may be impacted, right?

9 Some people obviously would have a strong  
10 preference one way or the other. Some people may have  
11 a preference for them, for -- you know, for reasons  
12 that may have to do with sort of the consciousness  
13 around clean energy. Some people may be completely  
14 agnostic or ambivalent to those views.

15 And this is why, when you look at the totality of  
16 those perspectives with respect to the revealed  
17 decisions that people make with -- in terms of how much  
18 they are paying for property, this is why the analysis  
19 don't find any of those measurable impacts. Not the  
20 fact that some people may be, but when you look at it  
21 in totality, they don't find any large-scale impacts  
22 on -- on property values.

23 Q And Mr. Aramburu also discussed place attachment.

24 Is that a concept relevant to your economic  
25 review?

1    **A    That is not something I was asked to review.**

2    Q    And would consulting with local interest groups or an  
3        assessor or reading letters from local interest groups  
4        or tourism be part of academically accepted economic  
5        analysis?

6    **A    No, it would not.**

7    Q    And can you explain why?

8    **A    Yeah.    So I would say the letters I reviewed all**  
9        **provided a set of opinions and/or support but did not**  
10       **point to any specific evidence or empirical claims to**  
11       **support some of those pieces.**

12           And so I think, as I sort of stated earlier to  
13        Mr. Aramburu, when we're doing research, that kind of  
14        perspective is -- is important, because we're trying to  
15        understand what the issues are, but we still have to  
16        then sort of marshal forward a sort of research  
17        program, test it against the evidence, and see what the  
18        effects are.

19           And I think that's what -- when I'm looking at the  
20        Hoen work in particular -- right? -- what we see is  
21        basically them weighing those perceptions, right?  
22        There's a reason they're looking at this property value  
23        question, and there's -- and then that's why they are  
24        going to great lengths to actually do the investigation  
25        and to -- and to look at it exhaustively and robustly

1 to see if there's any effects.

2 Because I think there obviously is, you know, some  
3 perception out there, but when we look at it in  
4 totality, those perceptions don't actually turn into  
5 sort of material effects.

6 Q Thank you.

7 Mr. Aramburu also focused on the fact that there  
8 may exist other studies that conflict with the Berkeley  
9 Lab reports. You stated that you hadn't specifically  
10 reviewed all of those other studies.

11 Did the research you reviewed contain any, you  
12 know, literature review or meta-analysis of those  
13 studies?

14 A Yes, they did. And that review -- typically research  
15 studies are always focused around why is there a  
16 controversy, why is this a question of interest, and  
17 particularly in this case, to public policy. And so in  
18 that, they typically document, hey, in this case, some  
19 folks found no impacts. In some of these cases, some  
20 folks found some effects, negative effects.

21 So what should we do with that conflicting  
22 information, right? We should try to conduct a much  
23 better and much more strong -- to deal with the  
24 deficiencies of some of those other studies and try to  
25 look at this more robustly.

1           And so -- so not -- I would say it's, one, not --  
2       it is not uncommon -- right? -- and it is expected that  
3       that level of review to set up the import of the  
4       research question is included in these research  
5       reports.

6   Q   And do you agree with their, you know, literature  
7       comprehensive review?

8   A   I have no -- I have no reason to believe that it is  
9       inaccurate. These are all peer-reviewed articles, and  
10      they must, you know, obviously -- they obviously get  
11      passed through the review stage for both accuracy and  
12      veracity.

13   Q   What does that review look like?

14   A   The peer-review process?

15   Q   Yeah.

16   A   The peer-review process typically involves working with  
17      the publication. And the publication maintains sets of  
18      other researchers as part of its editorial and  
19      peer-review board. And so -- and so I publish -- my --  
20      my experien- -- I've -- I've worked as a basic  
21      researcher and have gone through the peer-review  
22      process, but typically you prepare a document for a  
23      draft for submittal to a publication. It is sent to  
24      these review panels. They'll either make the decision  
25      to, you know, to publish your paper or not to publish



1       your paper.

2               But within that publish process, those reviewers  
3       may have some questions around evidence you're citing,  
4       applications you're doing, and they may ask for  
5       additional information, and in some cases, ask for  
6       other kinds of robustness checks to make sure that the  
7       analysis is correct.

8               And so the peer-review process is meant to be kind  
9       of a quality assurance, quality control check on the  
10       research that is ultimately published in those  
11       journals. And so there's always --

12   Q   And --

13   A   -- typically some back-and-forth between the authors  
14       and the -- and the peer-review board.

15   Q   Thank you. My apologies for almost cutting you off  
16       there. I'm trying very hard to not talk over you.

17               Based on your review and analysis of the Hoen  
18       articles and the other things submitted in your  
19       testimony, was it necessary from an academic  
20       perspective to review those studies yourself?

21   A   The ones that they cited?

22   Q   Yeah. The ones that you --

23   A   Yeah.

24   Q   Yeah.

25   A   Yeah.

1 Q Yeah. Sorry. The ones cited in the articles --

2 A Yeah, the ones typically cited in the article, as you  
3 can see, most of them, they'll make a specific point,  
4 like, "We found this," and then they'll include where  
5 those findings were included. So typically, you know,  
6 we take that at face value that those -- those cites  
7 are correct.

8 MS. SCHIMELPFENIG: And one sec.  
9 Let me look and make sure I've answered all of my  
10 questions here, or you've answered all of my questions.

11 Judge Torem, can I have a minute or two just to  
12 confer with counsel? I don't think I have any further  
13 questions.

14 Oh, just kidding. I am receiving confirmation  
15 that they don't need a moment to confer. So at this  
16 time, I -- I end my questioning.

17 JUDGE TOREM: All right. I'm going  
18 to come to the Council members for questions. But in  
19 listening to all of this, Mr. Shook, I have a couple of  
20 my own.

21 There's a lot of technical terms -- as a lawyer, I  
22 hate to accuse another professional of jargon, but  
23 there's a lot of high-level words going on that are  
24 well outside my own expertise.

25 THE WITNESS: Mm-hmm.

1 JUDGE TOREM: And I just wonder, for  
2 the issues in front of the Council, these are great  
3 high-level explanations, but I think the bottom line  
4 that Mr. Aramburu is trying to make is, if one of the  
5 members in the community sells their house, they're  
6 afraid the property value's going to go down.

7 Does your study address the sale of any individual  
8 houses with a view of the Horse Heaven Hills?

9 THE WITNESS: Again, I've done no  
10 independent analysis, right? And so --

11 JUDGE TOREM: Right. So that's a  
12 "yes" -- it's really a "yes" or "no."

13 THE WITNESS: Yeah. No, nothing  
14 I've done there.

15 JUDGE TOREM: Okay. So I'm trying  
16 to figure out, as the Council makes its decision on  
17 what to recommend to the governor, when they take into  
18 account what's happening in the local area, we're going  
19 to hear plenty of public comment next Wednesday  
20 evening. I don't think it's going to follow the  
21 high-level jargon that we got in your report.

22 But how can your testimony help this Council  
23 understand what impact or not this renewable energy  
24 facility is going to have in Benton County and the  
25 Tri-Cities area?

1 THE WITNESS: Mm-hmm.

2 JUDGE TOREM: Can you summarize that  
3 in a couple sentences? What should they take -- what's  
4 the takeaway?

5 THE WITNESS: Yeah. I would say a  
6 lot of times there is -- perception outweighs sort of  
7 reality with respect to the impact on property values.  
8 Not that these things aren't important, but other  
9 things are much more important -- right? -- with  
10 respect to why people buy their homes, right? The  
11 quality of the home, the school district perhaps.

12 And so -- and so the question that researchers are  
13 trying to say is, well, can we find an effect around  
14 how people -- how close you are or your views to these  
15 facilities? And when we look at this robustly, we find  
16 that they find is that there really is no consistent  
17 effect or long-term effect of it.

18 And so I think the -- the guidance that the  
19 research tells us related to the public conversation on  
20 this is that the -- you know, is that some people may  
21 not prefer it, other people are agnostic to it, and  
22 some people actually might actually prefer it --  
23 right? -- in some cases because of the -- the issues  
24 around clean energy. And so when we look at that in  
25 totality, we don't see any strong impact on how people

1 are paying -- how that materializes in -- in -- in  
2 property value.

3 So, for example -- right? -- you could have one  
4 person who says, "I -- I will never live next to a wind  
5 turbine facility. I'm not going to pay any money for  
6 it," but you can have another buyer who says, "I -- I  
7 don't really care," right? "I'll pay -- pay whatever  
8 the market price is for it," so we see no effect on  
9 that sale.

10 So that's maybe a good way to understand sort of  
11 that counterfactual around, even though some people may  
12 choose not to, there are a lot more buyers and people  
13 who are agnostic to it that we don't see it actually  
14 impact what homes actually sell for.

15 JUDGE TOREM: Okay. I appreciate  
16 the takeaway there.

17 You talked a little bit about your studies with  
18 logistics centers and data centers and jails.

19 Would you agree with me those are qualitatively  
20 different in at least their appearance and their  
21 proximity to individual houses than an energy facility  
22 that's spread out over multiple miles like this one?

23 THE WITNESS: Yeah, I would agree.  
24 A wind facility is not a large warehouse building, yes.

25 JUDGE TOREM: Okay. I just

1     wanted -- when I heard you talking about those things,  
2     I know out in our Columbia Basin, there are plenty of  
3     data centers in Grant County and Adams County and the  
4     rest along the river.

5             This is along a different portion of the river.  
6     But I just wanted to confirm with you, this -- would  
7     you agree this would have a different sort of market  
8     impact?

9                     **THE WITNESS:**   I mean, yes and no.  I  
10    mean, the complicated part here, related to some of  
11    those industrial facilities.  So we've looked at  
12    jails -- right? -- which have a perception of having a  
13    big public safety impact, right?  Nobody wants to live  
14    next to a jail.  Turns out one of the safest places to  
15    live is actually next to a jail, when you actually look  
16    at the data.  This is the kind of, like,  
17    counterintuitive side of it.

18             We have looked at the siting of a transfer  
19    station, right?  And so nobody wants to live next to a  
20    transfer station, right?  And so -- so I would say, in  
21    the sense that -- in that there are a perception around  
22    disamenities -- right? -- so things that give less  
23    value in terms of perception, but then when you  
24    actually look at them from a property value impacts,  
25    like, the -- you know, the -- the actual revealed

1 behavior of market participants is a little different  
2 than you might expect.

3 So I think that would be the way I would say that  
4 obviously they're similar. And obviously the ways that  
5 they're different, they're just different structures,  
6 and they -- they interact with people's thinking about  
7 how they might want to sort of buy or live in a home  
8 differently.

9 JUDGE TOREM: All right. I will  
10 take that there are alternate perceptions of reality  
11 for buyers, sellers, and for others.

12 THE WITNESS: Mm-hmm.

13 JUDGE TOREM: For academics and then  
14 what I guess what I would call people in the -- the  
15 real world. So we'll take it from there, from my  
16 understanding, and now really the people that matter  
17 are the Council.

18 Chair Drew, members of the Council, any questions  
19 for Mr. Shook?

20 I see Eli Levitt is ready from the Department of  
21 Ecology.

22 Go ahead, sir.

23 COUNCIL MEMBER LEVITT: Yeah. Thank  
24 you.

25 I'm just curious, as sounds like kind of an

1 economist, in your general expertise, are you aware of  
2 the terms "climate adaptation," "climate resiliency,"  
3 or "climate mitigation"?

4 **THE WITNESS: I am -- I am aware of**  
5 **those, yes.**

6 COUNCIL MEMBER LEVITT: Okay. In  
7 your general expertise, it sounds like you've done some  
8 work in the Tri-City area.

9 Are you aware if the City, County, Tri-City  
10 C.A.R.E.S., or other organizations are doing things to  
11 prepare for future impacts, such as extreme heat days,  
12 increased flooding, increased risk of wildfire?

13 **THE WITNESS: I'm not aware of**  
14 **anything specifically in the Tri-Cities, but we work in**  
15 **many communities where these issues are important and**  
16 **increasingly topics of public policy conversation.**

17 COUNCIL MEMBER LEVITT: And as an  
18 economist or someone studying, you know, the valuation  
19 of homes and communities, is it fair to say that these  
20 sorts of risks in the future will impact property  
21 values, depending on the assessment and which risks are  
22 the most significant?

23 **THE WITNESS: You mean -- yes, I**  
24 **mean, there's already data to suggest, particularly in**  
25 **places that might be prone to wildfire incidents --**



1 right? -- that there is less willingness to pay in  
2 those homes. I think I've seen some research out of  
3 the northern California experience that suggest that  
4 might be the case.

5 COUNCIL MEMBER LEVITT: Yeah. In  
6 this particular community, sea level rise is not an  
7 issue, but I imagine Oregon, Washington, California.

8 And can I have one more question? Just let me see  
9 if it's -- yeah, I guess -- I guess one thing I'll --  
10 I'll point out is my understanding of the University of  
11 Washington climate impact tools and recent reports is  
12 that extreme heat days in eastern Washington will  
13 double between the 2050s and 2080s, so going from --  
14 going to about an average of 20 to 48 extreme heat days  
15 for west -- western Washington and 23 to 47 extreme  
16 heat days for eastern Washington.

17 Do you think extreme heat days could potentially  
18 impact the value of homes in the Tri-City areas?

19 THE WITNESS: Certainly, right? So  
20 when these hedonic analyses are done -- right? --  
21 they're trying to look at the totality of these  
22 factors; like I said, endogenous ones around the  
23 property, itself, and exogenous factors, right? And so  
24 things like extreme heat days and quality of the  
25 environment all show up, and they would show up

1 consistently across properties, right?

2 And I think this is part of the challenge, I would  
3 say, with these property value impacts, right? They're  
4 very -- it's a very narrow, in my opinion, examination  
5 of the issues related to residents, right? So just  
6 looking at that sort of home value piece.

7 And so on -- and so and what is -- what is kind of  
8 showing is trying to say, like, with these facilities,  
9 are there, you know, potentially positive impacts --  
10 right? -- of the -- of the project? It's hard to know  
11 what those are and how they accrue, right? And that's  
12 cited in some -- some of the literature. But then  
13 there's obviously just the sort of what people perceive  
14 as sort of the negative impacts around views, and  
15 they're trying to weigh those two things.

16 But the things that you're talking about would be  
17 kind of in that sort of, like, exogenous things, like,  
18 well, are there things that we can't see, can't  
19 measure, that are actually, you know, potentially  
20 boosting -- right? -- or -- or mitigating those  
21 effects? And that's why you don't see the property  
22 value impacts, and I believe there's some discussion in  
23 those reports that talk about those things.

24 COUNCIL MEMBER LEVITT: Okay. Maybe  
25 the last question. On a very general level, your

1 general expertise, for those communities that do less  
2 to prepare for a changing future, do you believe  
3 there's increased risk at least economically for those  
4 communities in terms of the value of commercial or --  
5 or, you know, residential properties?

6 **THE WITNESS:** Yeah, so this is  
7 actually something I do spend some time in my practice  
8 working on, is on community resiliency and making  
9 particular sort of infrastructure investments to make  
10 communities more resilient.

11 And we just see -- and when we look at this  
12 question from a basic research question -- right? --  
13 the level of sort of -- you know, not talking about  
14 sort of on the environmental side, but just simply  
15 understanding kind of the amount of infrastructure that  
16 is meant to sort of promote sort of the adequacy of  
17 roads, the adequacy of utilities, those all show up in  
18 sort of property value impacts.

19 **COUNCIL MEMBER LEVITT:** Okay. Thank  
20 you. That's it.

21 **THE WITNESS:** Mm-hmm.

22 **JUDGE TOREM:** Mr. Livingston, I see  
23 you have your hand up as well.

24 **COUNCIL MEMBER LIVINGSTON:** Thank  
25 you, Judge.

1           Hi, Mr. Shook. So I'm a wildlife biologist in --  
2           in my past. Administrator now. I really appreciated  
3           all the literature you provided. And I -- I have to  
4           admit, I've only read the abstracts for everything, but  
5           I certainly want to go back and -- and dig into those a  
6           little bit more deeper as time allows.

7           My question is -- and the one exhibit that we  
8           spent quite a bit of time on, 1011, showed -- had a  
9           table, and it showed study areas, and it showed Nine  
10          Canyon. It was -- there was a couple sites,  
11          southeastern Washington and Oregon, for some of these  
12          studies.

13          But I'm curious if there's other, of those -- of  
14          that literature you provided, study areas that are  
15          similar to what we're looking at in eastern Washington  
16          so that, you know, we can compare apples to apples.

17          'Cause some of these -- you know, nationwide these  
18          projects are happening all over in various different  
19          land covers, different types of communities, and so the  
20          relevance of those studies to the very site-specific  
21          conditions in the Tri-Cities seems to be an important  
22          question in my mind anyway, so I'm hoping that you can  
23          help me understand that. And then I think I'll have  
24          one more after this.

25                                   **THE WITNESS: Yeah, no, I think it's**

1 a great question actually. So, like, of that -- of the  
2 literature and the analysis that's been done, like,  
3 what's the relevance to this specific issue, right?  
4 And obviously there's no kind of, like, here's -- oh,  
5 here's the perfect facility that's just like the Horse  
6 Heaven site, and it's in, you know, Franklin County,  
7 kind of thing, right? Like, that is not something that  
8 one can point to.

9 And so the way to think about the research that's  
10 been provided is there is, my understanding, the  
11 literature, looking at, reading this, is that there are  
12 all these different small studies, like, oh, there's  
13 one here of, you know, 50 turbines, and we have 500  
14 transactions. What did we find, right? kind of thing.  
15 And then you see that all across the -- the -- the  
16 country.

17 And so what the Hoen work is trying to do is bring  
18 all that together and say, can we look at that mix of  
19 settings from sort of a ruralness -- right? -- relative  
20 to urbanness and say, do we see consistent effects  
21 across those settings?

22 And I think the research shows that basically.  
23 It's not saying, like, oh, hey, you have -- if you're  
24 in this setting, you have a different effect; if you're  
25 in this setting, you have a different effect.

1           They're seeing fairly consistent effects across  
2     those multiple settings. Are any of these things  
3     really exactly like the Tri-Cities piece? No. I mean,  
4     they just don't have that level of resolution --  
5     right? -- to do kind of, like, here's, you know,  
6     hundreds of -- hundreds of turbines right next to, you  
7     know, a large metropolitan area in the -- in south  
8     central Washington, right?

9           But they do have sort of places across the  
10    country, if you look at that map and that exhibit --  
11    right? -- that have similarities to those settings with  
12    respect to sort of urbanness, you know, metro areas  
13    close to -- in more rural settings perhaps or more  
14    isolated settings. And I think that's the -- the best  
15    level of confidence one can draw from those -- those  
16    pieces, which is better than nothing.

17                   COUNCIL MEMBER LIVINGSTON: Yeah.  
18    Exactly. I mean, we hear this -- this question and  
19    concern all the time, and it's always in the back of my  
20    mind: You know, what is the validity of that, and how  
21    much should we be weighing of those concerns?

22           The other -- the other question is -- and it was  
23    brought up earlier -- is just the scale of this project  
24    relative to some of the others, and you mention close  
25    to a metropolitan area.

1           How does that -- you know, how did the studies,  
2           the literature you provided, compare to our  
3           site-specific nature in that regard too?

4                       **THE WITNESS:**   Yeah, I can't remember  
5           exact sort of all the references, but I remember them  
6           having kind of a few large ones but many kind of  
7           midsize ones as part of their data set in terms of the  
8           number of turbines in many of these studies.

9           And so -- so all to say it's -- it's mixed in  
10          there, but in the control check, I remember them not  
11          really finding a direct -- any strong relationship  
12          between sort of increasing numbers of -- of turbines in  
13          that. I'll have to -- you know, but that would be  
14          something I -- we'd have to sort of double-check. But  
15          off the top of my -- my memory, I don't recall that.

16                       **COUNCIL MEMBER LIVINGSTON:**   Okay.  
17          Thank you.

18                       **JUDGE TOREM:**   Any other Council  
19          questions?

20          All right. I see, Ms. Voelckers, you have your  
21          hand up.

22                       **MS. VOELCKERS:**   Thank you, Your  
23          Honor.

24          If I may, I have a question prompted by actually  
25          what you were asking earlier, if I may ask it now.

JUDGE TOREM: Let me --

Mr. Aramburu, would you indulge me coming to Yakama Nation before I come back to you for any recross?

MR. ARAMBURU: That's perfectly fine with me.

JUDGE TOREM: All right.  
Ms. Voelckers, go ahead.

MS. VOELCKERS: Thank you.

CROSS-EXAMINATION

BY MS. VOELCKERS:

Q Good morning, Mr. Shook. I represent Yakama Nation in this proceeding, and I will readily admit that I, myself, have -- have read more of the abstracts than -- than all the literature that you have provided. But I really appreciate your answers to Judge Torem that kind of distilled this down.

So I think what you said in response to one of those questions was that there's no consistent long-term effect expected based upon the research that you've reviewed; is that fair?

**A That's a fair characterization.**

Q Okay. So what about the short-term effect? Are you speaking today about the short-term effect? And actually also, how do you -- when you say short-term



1 and long-term effect, how are you looking at that?

2 A Oh, yes. And so I'll be clear. One of the Hoen  
3 studies -- I can't remember which one -- was -- I think  
4 it might have been the 2016 one, most recent one, where  
5 they did the large-scale one -- actually was trying to  
6 look at time effects and to see, like, well, you can't  
7 just look at it from whether after cons- -- like,  
8 where -- where is the point in time that you try to say  
9 where does the effect start, right? And basically is  
10 it at construction? Is it the end of construction? Is  
11 it at the announcement of the facility?

12 And so what they did was to try to look at the  
13 effects at those different sort of time intervals. And  
14 what they found is that there was no -- when they say  
15 long-term effect, they didn't see any effect sizes  
16 showing up at those different kind of time benchmarks  
17 that they -- that you might want to evaluate sort of  
18 when to start kind of, like, do we see a property  
19 impact, right?

20 Because people in this -- in the literature is  
21 basically saying, Hey, we don't see any property  
22 impacts once the facility is constructed, but then  
23 they -- if you look back and say, Oh, it was announced,  
24 like, five years ago. Then you saw a property value  
25 impact. And so what they -- what they did in the

1 research was to try to be aware of those at issue and  
2 to look at that research question.

3 And so as best of my understanding from their  
4 research is they weren't finding any consistent effect  
5 across those different announcement or time -- time  
6 periods.

7 Q And for this project, are you monitoring those  
8 different time periods to see if specifically for this  
9 project there -- there has already been an effect or  
10 there might be if the project were permanent? Is there  
11 a plan to monitor that?

12 A My -- my -- my -- my engagement was really just to look  
13 at the materials and research that's in here, but I  
14 don't have an answer or understanding of that, and  
15 maybe somebody else might be better suited to -- to  
16 answer that question.

17 Q Okay. And maybe my final question is -- is better  
18 suited for someone else, but I don't want to miss this  
19 opportunity, because you don't have an opportunity  
20 to -- to recall everyone.

21 What -- what does -- what is the plan, then, if  
22 the project is permitted and it does impact property  
23 values? What's the plan for -- for that possibility?  
24 I understand that you -- your testimony is that that's  
25 not what you think is going to happen, but what's the

1 plan if -- if that does happen?

2 **A I don't know. Probably not the best person to answer**  
3 **that question.**

4 MS. VOELCKERS: Okay. Thank you.  
5 And that's all for me, Judge Torem.

6 JUDGE TOREM: Thank you.

7 Mr. Aramburu, did you have any recross?

8 MR. ARAMBURU: Oh. Yes. Just a  
9 couple of questions.

10 And I do want to observe, Judge Torem, that some  
11 of the questions seem to be attempting to make a tie  
12 between this project and climate change, which was  
13 something that you ruled out of order during -- during  
14 the course of particularly PHO No. 2. I just want to  
15 make that observation. There seems to be --

16 JUDGE TOREM: Let me -- let me just  
17 respond -- let me respond that the Council members are  
18 not privy to all of our prehearing orders necessarily,  
19 Mr. Aramburu. And, again, the scope of what's before  
20 them for the adjudication we'll certainly go over in  
21 deliberations, but I appreciate where Mr. Levitt's  
22 questions were coming from. And certainly if you want  
23 to inquire within the scope of those, if that's where  
24 you're going, totally permitted, given the development  
25 of the record today.

1 But, again, I don't want to open that can of worms  
2 beyond what I've ruled with the parties. I'm not going  
3 to again limit the fact finders on what might influence  
4 their findings on what is appropriate for the  
5 adjudication.

6 I do believe also, Mr. Aramburu, in the context  
7 we've put it, the information for SEPA may do some of  
8 that analysis. And the Council members are looking at  
9 that, the entire record, before the recommendation that  
10 goes to the governor. So, again, the adjudication is  
11 limited, as I've said. Some of those comments might  
12 inform their decisions on the SEPA documents and the  
13 long-awaited FEIS.

14 MR. ARAMBURU: And it's a point I  
15 don't want to belabor, but we continue to believe that  
16 the FEIS should be available to the parties in this  
17 adjudication. I made that point before. I won't  
18 belabor it. I think that is error on your part not to  
19 require that.

20 JUDGE TOREM: Noted.

21 MR. ARAMBURU: Okay.

22  
23 RECROSS-EXAMINATION

24 BY MR. ARAMBURU:

25 Q Now, Mr. Shook, have you seen any tie between the

1 building of this project and the reduction of the  
2 number of -- of hot days in the Tri-Cities?

3 **A Are you thinking about specific analysis? I've not --**

4 Q Yes.

5 Have you seen anything to support that?

6 **A I have not seen any analysis.**

7 Q Have you seen any analysis that would suggest that  
8 property values may be affected by the -- whether or  
9 not a property owner might approve the project if they  
10 thought it was going to reduce the number of heat days?

11 **A Consistent with my previous statement, I haven't seen**  
12 **any analysis that went into Tri-Cities generally or a**  
13 **specific property owner in this case.**

14 Q Okay. And in looking at the Hoenig studies, the  
15 various ones that were done, how many of those were  
16 done in the state of Washington for state of Washington  
17 properties?

18 **A I'd have to -- I don't have the list of -- of those**  
19 **properties. Maybe there was one at the**  
20 **Washington-Oregon border, but I can't recall now.**

21 Q Okay. And do you remember whether there were any done  
22 for Oregon?

23 **A I don't recall.**

24 Q Would you agree that property values and values of  
25 property owners differ between the state of Washington

1 and, say, central Nebraska?

2 A I mean, pro- -- I mean, that's true for any property.

3 Are you talking about whether or not -- whether  
4 the -- the state effect, there's an effect related to  
5 the state when we control for all the other factors  
6 there's an impact on price?

7 Q Yes.

8 A I'm not aware of any research that says, for a  
9 similar-conditioned house, that it should sell less  
10 because you're in a specific state. But, yeah, I think  
11 your point is, do our var- -- do our different homes  
12 price differently depend on where they are? Yes,  
13 because they all have either specific site  
14 characteristics that are similar, different, but they  
15 also have different exogenous things that they're  
16 related to, like what's the quality of your school  
17 district, what's your taxation like, what's your public  
18 safety like, and those all vary by location.

19 Q Would it not be the case that the impact on property  
20 values from wind turbine project would relate to the  
21 specific resource that's being damaged by the wind  
22 turbines? I'll take the word "damaged" out. I'll say  
23 impacted by the wind turbines.

24 A Which -- which resource are we talking about?

25 Q The -- the -- the impact -- wind turbines don't exist

1 in a -- in a vacuum, do they? They have impact on a  
2 certain thing, correct?

3 A Well, that's -- in the property value analysis, that's  
4 exactly what they're trying to understand, is whether  
5 or not the location proximity of the wind turbine is  
6 having property value impacts.

7 Q So would you agree with me that -- that just looking at  
8 a wind turbine next door would be different than  
9 looking at a wind turbine on a piece of iconic  
10 topography that might exist in a community, such as the  
11 Horse Heaven Hills?

12 A There are for certain differences -- right? -- with  
13 respect to the facility, where it is, what those views  
14 look at, right? And that's -- and that's -- that's a  
15 confounding thing in this issue and also for all the  
16 research that's been done -- right? -- is to say, like,  
17 we don't have kind of the exact thing that one can  
18 point to definitively, so we have to kind of look at  
19 all the evidence where there's mixes and matches of it,  
20 right? And because you have mixes and matches and  
21 confounding things, you need appropriate statistical  
22 tools to hone in on specifically what the -- what --  
23 what the, in your case, the impact is, right? In this  
24 case, the proximity to the wind turbine.

25 And when they've done this, like, the Hoen

1 research, when they do this robustly, you know, to  
2 repeat their finding -- right? -- they just don't find  
3 that there's property value impacts.

4 Q But does the -- does the Hoen research separate out the  
5 impacts of wind turbines on particular features in a  
6 community as opposed to just being next door in a flat  
7 plane, something of that nature?

8 Is that -- are those kinds of distinctions made?

9 A I'd have to double-check on the specificity, but I know  
10 in their data records, they have information about the  
11 property and -- and some characteristics that are in  
12 there. But, you know, to the extent that you're  
13 talking about very specific and precise information, to  
14 the extent that that is not, like, recorded as part of  
15 your assessor or part of your -- you know, the  
16 administrative data, typically then that is not  
17 reflected in the analysis.

18 Q So for the most part, the Hoenig studies are really  
19 large-scale studies, are they not, considering a  
20 variety of circumstances and a variety of locations put  
21 into a single study?

22 A Correct.

23 Q That's a "yes"?

24 A Yes.

25 MR. ARAMBURU: Okay. Thank you.



1 Thank you.

2 So, Ms. Masengale, I hate to impose upon you  
3 again, but could you put Exhibit 5903 back up on the  
4 screen?

5 And the first page, please.

6 So if you could just scroll down a bit so I have  
7 the first full sentence.

8 Q (By Mr. Aramburu) So I gather you've talked a great  
9 deal about Mr. Hoenig and the research that he's done,  
10 but isn't really what Mr. Hoenig is doing is trying to  
11 figure out ways to make wind turbine -- wind turbines  
12 more acceptable to the community?

13 A I would think that he's trying to understand the  
14 effects of it. And public acceptance seems to be a  
15 controversial issue which his research is dedicated to,  
16 is my understanding here.

17 Q But his research is really dedicated to figuring out  
18 ways that wind turbines can be more -- made more  
19 acceptable to the public so more wind turbine  
20 facilities can be installed.

21 Isn't that the case?

22 A On what basis am I supposed to make that determination?

23 Q In the abstract of the article that we -- 5903, that we  
24 put up.

25 Would you take a look at the last sentence,

1 please?

2 **A "With continued research efforts and a commitment**  
3 **towards implementing research findings into developer**  
4 **and policymaker practice, conflict and perceived**  
5 **injustices around proposed and existing wind energy**  
6 **facilities might be significantly lessened."**

7 **Q** So he's working on ways to figure out how -- how  
8 objections to wind turbines can be -- can be  
9 significantly lessened.

10 Isn't that the point of this article?

11 **A I -- I think the point of the article is just a**  
12 **meta-analysis of the key issues with respect to what**  
13 **the -- what the academics know about the siting of**  
14 **these facilities.**

15 **Q** Should we look at Mr. Hoenig's research in light of his  
16 desire that objections to wind turbines should be  
17 significantly lessened?

18 MS. SCHIMELPFENIG: Objection.

19 Asked and answered.

20 JUDGE TOREM: Well,

21 Ms. Schimelpfenig, I'm not sure that the witness has  
22 really answered it.

23 But, Mr. Aramburu, I think you've made your point  
24 that this is a professional study looking to mitigate  
25 consumer and community feelings against being located

1 next to a wind facility. I think you've made that  
2 point.

3 MR. ARAMBURU: Thank you.

4 JUDGE TOREM: Any other questions?

5 While you're thi- -- okay. Go ahead.

6 Q (By Mr. Aramburu) There was -- you answered a number  
7 of questions regarding the apparent deficiencies in  
8 other studies that have been done that are inconsistent  
9 with the Hoen conclusions, did you not?

10 A I don't believe I testified to the specific  
11 deficiencies of any individual report.

12 Q Well, it's been identified that there are problems with  
13 these -- these other reports and that Hoen seems to  
14 conclude that -- that the -- that his research supports  
15 the reduction or the lessening of impacts from wind  
16 turbines on property values.

17 Do you have in mind what's -- what's wrong with  
18 those other reports? What -- how come we can't rely on  
19 those other reports and use them in our analysis of  
20 property values?

21 A So I would say -- right? -- science is a process trying  
22 to understand these things. And they are always a  
23 feature of our understanding, and that evolves, right?  
24 And so -- so what Hoen is trying to do -- right? -- is  
25 people -- obviously this is a controversial issue, and

1 people are trying to understand it. And they have  
2 done -- commissioned reports or researchers have taken  
3 a look at this.

4 And there seems to be a preponderance, at least at  
5 the time -- right? -- a preponderance of the evidence  
6 that they don't, but there are these other studies --  
7 right? -- that are disclosed right front and center  
8 in -- in these analysis that maybe they -- there are  
9 some negative effects.

10 And so what researchers are trying to do, they  
11 say, like, Well, why are we seeing conflicting things?  
12 And if we sort of basically build a better analysis,  
13 can we sort of understand why those things are  
14 happening or adjudicate some of those pieces?

15 And so that -- think that -- think of it as  
16 basically not necessarily to say anybody necessarily is  
17 wrong, but it's just to evolve our thinking on these  
18 things by considering more information, doing stronger  
19 technical work on those things so that we can get  
20 closer to sort of better information.

21 And that's how I -- I look at the research that's  
22 been done in this. Like, it's hard to do these --  
23 these very complex studies. And particularly when you  
24 have kind of one side over here, one side over here --  
25 right? -- there -- there's so many idiosyncratic issues

1 that are related to either the availability of data,  
2 the timing of when they were done, right?

3 And so -- so as a researcher, you want to kind of  
4 step back and say, like, Well, if we're going to say  
5 what the big -- what we think the consensus is, can we  
6 take a look at this in multiple settings, multiple  
7 characteristics, with a much more statistical power to  
8 sort of arrive at a conclusion? which he does in his --  
9 in his work.

10 So, I mean, so that's -- that's -- I don't  
11 necessarily see him as basically saying those studies  
12 were deficient, right? It's really just say, like, we  
13 all have all these projects are -- have their  
14 limitations, but -- but the best thing we can do is  
15 marshal the evidence that we have to sort of provide  
16 that information to the decision-makers.

17 Q Well, that was not my question.

18 My question was: There -- there are dissenting  
19 reports, there are dissenting studies that have been  
20 presented, and -- and Mr. Hoen, in his report,  
21 Exhibit 5903, says, yes, there are conflicting reports.

22 What's wrong with those reports? Did these people  
23 fail the math part of SAT? What -- what's wrong with  
24 these reports that we can't -- we can't use them?

25 I understand the idea we're going to throw it all

1 into some big -- big pot and stir it around. But --  
2 but I want to know what your perception is as to why  
3 the report, for example, from Mr. Fast, on Page 14 of  
4 5903, or Heintzelman, what's wrong with those reports?

5 **A Yeah, I mean, I'm going to go back and look, but I**  
6 **recall --**

7 MS. SCHIMELPFENIG: Objection.

8 My apologies, Mr. Shook.

9 Objection. Asked and answered. The witness  
10 stated that there was nothing wrong with those reports  
11 and that this was an evolving science and that they  
12 built upon the previous reports. And so he's answered  
13 the question.

14 MR. ARAMBURU: I think it's fair to  
15 ask him. He says, perhaps in general, the reports are  
16 fine. It's -- it's just that, I think, to help the  
17 Council and the parties, what's wrong with those  
18 reports? Some specifics would be helpful here.  
19 Generalities don't help.

20 JUDGE TOREM: Mr. Shook, are you  
21 able -- before I rule on the objection to see, are you  
22 able to answer that concisely report by report?

23 **THE WITNESS: I can't answer it**  
24 **report by report. The only thing I was going to add is**  
25 **that the Hoen study, I think, in one of them, talks**

1 specifically about why they're doing this. Because  
2 previous studies suffered from small sample sizes, is  
3 kind of the -- one of the big issues of why to take a  
4 look at this more exhaustively.

5 JUDGE TOREM: All right.

6 Ms. Schimelpfenig, I guess I'm just going to, looking  
7 back, just to allow it and overrule the objection.

8 Mr. Aramburu, I don't know if it's worth  
9 belaboring this point with this particular witness.

10 MR. ARAMBURU: I agree with that.

11 Q (By Mr. Aramburu) But I would still like an answer to  
12 my question as to what -- if you can identify specific  
13 omissions, errors, deficiencies in these -- in these  
14 contrary reports.

15 A Like I said, I have not reviewed any of those reports  
16 and evaluated their robustness, right? All I can  
17 recall is, in one of the Hoen reports, is one of the  
18 reasons they were doing this and looking at that  
19 conflicting research was that a lot of the times  
20 they -- those reports really kind of suffer from small  
21 sample sizes, which means you have very large error --  
22 standard errors around your estimates, and so -- so  
23 that's probably one of the reasons why you undertake  
24 more robust, more thorough investigation.

25 Q You're speculating as to -- as to these factors, are

1       you not?  You're saying they're probably a small sample  
2       size.  Is that the problem with this specific report?

3   **A   I believe --**

4                       MS. SCHIMELPFENIG:  Objection, Your  
5       Honor.  The witness has answered this question many  
6       times now.

7                       JUDGE TOREM:  Mr. Aramburu, I -- I  
8       think he has answered it to the best that you're ever  
9       going to get out of him and best assistance we're going  
10      to get to the Council.  It's vague, and it's -- he just  
11      hasn't done the -- the specific reading that apparently  
12      you have.  So let's either move on or --

13                      MR. ARAMBURU:  Okay.  I thought my  
14      question was a yes-or-no, but it turned out to be much  
15      more than that, so -- so I --

16                      JUDGE TOREM:  I thought it was yes  
17      or no --

18                      MR. ARAMBURU:  -- I understand --

19                      JUDGE TOREM:  -- too, for the  
20      record.  I just don't think you're going to get a "yes"  
21      or a "no."  We just haven't had that with this witness,  
22      and I don't think either of us are going to get any  
23      better luck.

24                      MR. ARAMBURU:  Okay.  I think that's  
25      all the questions I have.



1 JUDGE TOREM: All right.

2 MR. ARAMBURU: Thank you --

3 JUDGE TOREM: Mr. Aramburu, I have  
4 two questions for you.

5 Are you moving the admission of Exhibit 5903\_X?

6 MR. ARAMBURU: I am.

7 JUDGE TOREM: All right. Any  
8 objections to that in context --

9 MS. SCHIMELPFENIG: Judge Torem?

10 JUDGE TOREM: -- of cross-exam?

11 Yes, Ms. Schimelpfenig?

12 MS. SCHIMELPFENIG: Yes, we have no  
13 objection, but we would like the -- Mr. Aramburu to  
14 provide us the entire report since this was only a  
15 small section of it.

16 JUDGE TOREM: I think Mr. Aramburu  
17 probably has access to it. So in the collaborative  
18 nature, the parties have been working behind the  
19 scenes. If he has it, he'll send it to you.

20 (Exhibit No. 5903\_X  
21 admitted.)

22  
23 JUDGE TOREM: And one other point,  
24 Mr. Aramburu. Maybe, again, like you said, you weren't  
25 sure on the pronunciation. There was a Hoen, H-o-e-n,

1 and we saw that name on the screen. And then a few  
2 times it sounded as though you said "Hoenig." Is that  
3 the same person?

4 MR. ARAMBURU: I'm more used to  
5 the -- the second name. So every time I said "Hoenig,"  
6 I meant "Hoen," H-o-e-n. And I apologize for  
7 misspeaking.

8 JUDGE TOREM: No worries. I just  
9 wanted to make sure I hadn't missed a report of my own.  
10 And then as long as the Council members are all clear  
11 that H-o-e-n or H-o-e-n-i-g, as it might appear in the  
12 transcript, are referring to the same expert.

13 Okay. Were there any other questions we needed to  
14 pose to Mr. Shook?

15 Ms. Schimelpfenig has her hand up. Yes, ma'am.  
16 If it's really concise, I'll allow it.

17 MS. SCHIMELPFENIG: Yes. Judge  
18 Torem, we just have one question, based on questions  
19 from the Council, that we'd like to ask Mr. Shook.

20 JUDGE TOREM: Please do.

21 MS. SCHIMELPFENIG: Okay. Thank  
22 you.

23 ////

24 ////

25 ////

FURTHER REDIRECT EXAMINATION

BY MS. SCHIMELPFENIG:

Q Judge Torem asked you about your actual local impacts from the project. In addition, Council Member Livingston also asked you a similar question about region-specific impacts and the scale of the project.

Are those things that a project-specific report of analog- -- of -- sorry -- of analogous project impacts like Mr. Lines' CohnReznick reports would answer?

**A Yes, that report would shed some light on those issues.**

MS. SCHIMELPFENIG: Thank you.

No further questions.

JUDGE TOREM: All right. Thank you, Ms. Schimelpfenig.

Mr. Shook, thank you for your time this morning and taking us into a place that many of us maybe never have been. But I appreciate the -- the angle you bring to this and the information you provided to the Council. We'll let you go.

(Witness excused.)

JUDGE TOREM: And I'm going to ask the parties if there was anything else that we had scheduled on the record today.

Ms. Schimelpfenig, are you aware, as you look

1 around your office there, if anybody's flagging and  
2 saying there's more to do today?

3 MS. SCHIMELPFENIG: None, Your  
4 Honor. Thank you.

5 JUDGE TOREM: Mr. Harper?

6 MR. HARPER: Nothing, Your Honor.

7 JUDGE TOREM: Ms. Reyneveld?

8 MS. REYNEVELD: Nothing, Your Honor.  
9 Thank you.

10 JUDGE TOREM: All right.  
11 Ms. Voelckers.

12 MS. VOELCKERS: Thank you, Your  
13 Honor. I do have one point, while we're still on the  
14 record with the Council, I'd like to ask for  
15 clarification on.

16 JUDGE TOREM: Certainly.

17 MS. VOELCKERS: Counsel for Yakama  
18 Nation would like clarification on something that has  
19 been discussed over the last couple years: The Nine  
20 Canyon project. It featured prominently in land-use  
21 testimony and in questions from the Siting Council. We  
22 are concerned that this is being brought into the  
23 adjudication without foundation, without evidence in  
24 the record to orient ourselves or other parties to the  
25 questions and answers, and without support in Benton

1 County's land-use laws, which doesn't actually  
2 contemplate comparison of new conditional uses with  
3 previously permitted conditional uses.

4 So we would appreciate instruction and  
5 clarification from Your Honor before the adjudication  
6 hearing proceeds next week.

7 JUDGE TOREM: Thank you. That's a  
8 good point, Ms. Voelckers. And I think, as I said this  
9 morning, the questions of Council members give you an  
10 idea what they're interested in.

11 We did have in Ms. McClain's testimony a number of  
12 supporting exhibits that referenced the Nine Canyon  
13 project, so those are in the record as support for her  
14 testimony.

15 Any of the other documents that come -- there  
16 won't be any other documents coming in unless there's  
17 something introduced by the parties. And between  
18 Mr. Thompson and I instructing the Council members on  
19 what the limits of the record are, you can be assured  
20 that if it hasn't been entered as an exhibit, it won't  
21 be a basis for the decision, findings, conclusions, or  
22 the recommendation.

23 There were some testimony also, I think, from  
24 Mr. Wendt on what a board of adjudication, I think it  
25 was, something along those lines, how they were

1 permitting that project. And definitely his testimony  
2 reflected it was on a different standard, a different  
3 set of approaches, than are currently before the Benton  
4 County Code that exists when this project was applied  
5 for.

6 So clearly the law we're operating under for the  
7 land-use topics and the development of what conditional  
8 uses, if any, would be recommended by this Council  
9 interpreting Benton County's code, that's the rules,  
10 not anything that was before with Desert Canyon.

11 I hope that sets aside any worries as to  
12 perceptions and maybe helps the Council members put  
13 this week's testimony in context.

14 MS. VOELCKERS: Nothing further from  
15 Yakama Nation. Thank you, Your Honor.

16 JUDGE TOREM: All right.

17 Mr. Aramburu?

18 MR. ARAMBURU: Nothing for today.  
19 And -- and not to put pressure on you, Mr. Torem,  
20 but -- but in preparation for witness testimony next  
21 week, it will be very helpful for me to know your  
22 rulings on the various issues, so -- that are  
23 outstanding.

24 JUDGE TOREM: Right. And for the  
25 Council, I have a number of motions that I've been

1 deciding, some on the fly, here in the last couple of  
2 days to catch up. And I do still owe the Council -- or  
3 the parties a ruling on some community member testimony  
4 and other witnesses that are speaking before the  
5 community as a whole that Mr. Aramburu has submitted,  
6 particularly those witnesses you might have seen some  
7 of their prefiled testimony from Mr. Krupin, Mr. Sharp,  
8 Mr. Dunn, and Mr. Simon.

9 Those are a work in progress as to what portions  
10 will or won't be admitted, and I'm still working on  
11 some motions there. So as you read for next week, keep  
12 that in mind. There may be some red-lined versions or  
13 revised versions coming that limit, or perhaps in some  
14 cases, based on a motion for reconsideration, expand  
15 what's in the SharePoint files for you to review.

16 And, again, Mr. Aramburu, I'm going to make sure  
17 when we talk about those community impacts for  
18 deliberations that we re-emphasize and re-review the  
19 ultimate evidentiary rulings that bring information and  
20 evidence in front of the Council. I do owe it to you.  
21 I'm running late. My apology is on the record.  
22 Perhaps today, like I say, when I'm back in Ellensburg,  
23 it will be another late night, but the last one until  
24 next week.

25 MR. ARAMBURU: Okay. Thank you,

1 Your Honor.

2 JUDGE TOREM: Okay. Council  
3 members, any questions that you have about where things  
4 stand before we come back into adjudicative hearing  
5 next Monday at 9 a.m.?

6 All right. We'll take a recess of the hearing  
7 going forward until next Monday. Council members, you  
8 can expect to see a revised schedule at some point as  
9 to telling you what -- Monday's Monday; it's what you  
10 already have -- and what's coming the rest of the week.

11 Please indulge me if we need to go late on Tuesday  
12 or add a little bit of time on Wednesday. We might  
13 take an early lunch and have a short session and then  
14 still have time before the public comment hearing that  
15 evening. But as you look at your personal and work  
16 schedules, if you can accommodate that and be here for  
17 the sessions, all the better.

18 Also, parties members, parties, I think there's  
19 been -- our Department of Agriculture rep is going to  
20 have to review the two and a half days we've done this  
21 week. My understanding is that he had a conflict this  
22 entire week and hopefully can get up to speed between  
23 now and Monday, but we expect him to be here all of  
24 next week, is what I've been informed, so in case  
25 anybody's wondering.



1 All right. That's all I have for you, so we'll  
2 adjourn the hearing for today. I imagine I'll hear or  
3 see most of you on the Council's monthly meeting at  
4 1:30. Thank you.

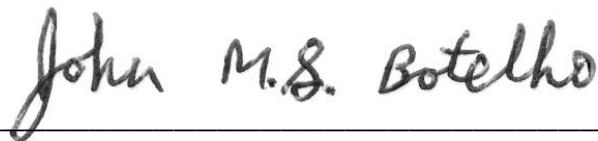
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2 ) ss a certified court reporter  
County of Pierce ) in the State of Washington, do  
hereby certify:

3  
4 That the foregoing proceedings were taken in my  
5 presence and were adjourned on August 16, 2023, and  
6 thereafter were transcribed under my direction; that the  
7 transcript is a full, true and complete transcript of the  
8 said proceedings and was transcribed to the best of my  
9 ability;

10 That I am not a relative, employee, attorney or counsel  
11 of any party to this action or relative or employee of any  
12 such attorney or counsel and that I am not financially  
13 interested in the said action or the outcome thereof;

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 this 11th day of September, 2023.

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