PLANNING DEPARTMENT

2705 East Second Street • The Dalles, OR 97058
p: [541] 506-2560 • f: [541] 506-2561 • www.co.wasco.or.us

Pioneering pathways to prosperity.

WASCO COUNTY PLANNING COMMISSION AGENDA PACKET

FOR

Hearing Date: December 6, 2016

Hearing Time: 3:00 pm

Hearing Location: Public Works Conference Room
2705 East 2nd Street
The Dalles, Oregon 97058

Action Item(s):

Adoption of past meeting minutes

COMP PLAN WORKSESSION:

Review and discuss public outreach materials. Identify stakeholders and public meeting targets for 2017. Discuss pu8blic input metrics and alternatives analysis.

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Date: December 9, 2015

To: Wasco County Planning Commission

From: Wasco County Planning Office

Subject: Submittal for Hearing dated December 16, 2015

LEGISLATIVE HEARING:

PLALEG-15-11-0001

The December 16, 2015 hearing will explain the proposed text amendments to the Wasco County Land Use and Development Ordinance to establish Time, Place, and Manner regulations including, but not limited to, Chapter 1 (Definitions), Chapter 3 (Basic Provisions), Chapter 11 (Marijuana Production, Processing, and Retailing), Chapter 12 (Application for a Farm or Forest Related Dwelling (Primary Structure) on a Non-Conforming Lot-of-Record in the A-1 or FF Zones), Chapter 20 (Home Occupation), to create consistency with state regulations and make other amendments appropriate for Wasco County. The December 21, 2015 hearing will be a continuation of the first hearing to ensure adequate discussion prior to providing the Board of County Commissioners with a formal recommendation.

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Memo

TO: Wasco County Planning Commissioners

FROM: Kelly Howsley-Glover, Long Range/Special Projects Planner

DATE: November 29, 2016 Planning Commission Meeting

SUBJECT: Comprehensive Plan Update

In preparation for our presentation to the Land Conservation and Development Commission in January, we would like to spend December's Planning Commission meeting on the following items:

- Reviewing the Comprehensive Plan Update logo
- Identifying key stakeholders/groups for public outreach
- Discuss any ideas for metrics/alternatives analysis
- Revisit proposed work plan and make any tweaks.

To enrich our conversation at the meeting, I have included the following items in your packet: a stakeholder analysis sheet and proposed workplan. Please take a minute before our meeting to jot down any ideas or recommendations you have for stakeholders using the provided table. Review the additional documents and please bring any additions/subtractions or notes you may have.

I am happy to answer questions in anticipation of the meeting, so please feel free to schedule office hours, drop by or reach out by email/phone.

1. **Project Management:**
   This task includes oversight and direction of the entire update process, including each of the below state tasks. This task ensures consistent coordination and communication throughout the project, and provides for the public interface for the update. This task will be on-going through adoption of the updated plan.

2. **Needs Assessment/Audit**:
   This task will identify specific needs for the Comprehensive Plan update. This team approach to reviewing the existing comprehensive plan will:
   a. Identify issues, gaps, and formulate recommendations with regard to the tasks below, including but not limited to goals and policies, buildable lands, code development and revisions, Community Plans, and economic development.
   b. Identify target audiences (public, special interests, elected, etc)
   c. Establish goals and objectives for the project and design the process, collect data (demographic, transportation, economic, etc), record and analyze data, and establish data management system.

   Main Deliverable: Needs Assessment Report/Report to PC
   Other Deliverables: Buildable Lands Survey Update, Public Information Flyers/Infographics/Collateral

3. **Public Outreach**:
   This task will develop a public participation plan including strategies for identified audiences, specific tasks and timeframes, and key messages. This task also includes collecting and reviewing public input, developing a stakeholder database, developing communication materials, and creating a project website. Public outreach will include citizens not typically involved in the planning processes, and innovated methods to gather public input.

   Main Deliverables: Public Participation Plan/Report to PC
   Other Deliverables: Website, Social Media, Press Releases, Flyers, Postcards/Mailers, Contact Database, Database for analyzing input, Surveys, input materials/comment cards

4. **Goals and Policies**:
   This task is a subset of the broader needs assessment (task 2), and includes review of all existing goals and policies to ensure that each of the goals and policies included in the updated plan are meaningful. The resulting document will be readable and structure for efficient implementation of goals and policies.
   Main Deliverables: Goals and Policies

5. **Rural Service Area Plans**:
   Any adjustments to maps, including rural service boundaries, as well as updated visioning for unincorporated places are covered by this task. Any updates should not only reflect a community vision for the future, but also support and strengthen broader County goals and policies.

   Main Deliverable: Rural Service Area Reports (including any proposed map amendments)

6. **Site Specific/Land Reclassification Requests**:
   Review potential rezoning requests or other map amendments. Potential rezones should reflect goals and policies identified through broader process and be vetted by the CAG (Planning Commission). Once approved, all revisions need to be forwarded to GIS to update maps.

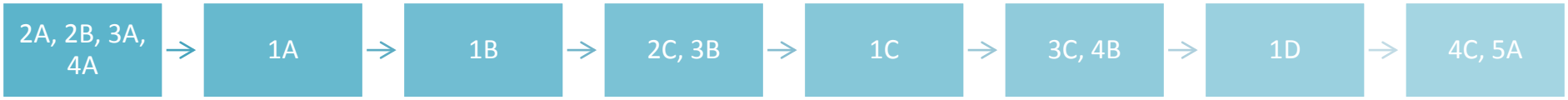
   Deliverables: Revised Comprehensive Zoning Map

7. **Final Draft Comprehensive Plan**:
   This final task synthesizes all previous tasks into a final document/deliverables for presentation before the Planning Commission and Board of Commissioners.

Group #	Task #	Work Program Group	Goal	Tasks	Product(s) Description	Key Dates
1	A	Community Involvement	Notice all Wasco County citizens about update	• Develop outreach materials for multi-mediums • Identify key stakeholders, public targets	• Measure 56 notice (Postcard) • Webpage launch • Flyer/Onesheet • News media press releases • Public Participation Plan • Radio spots	
1	B	Community Involvement	Visioning for Goal Policies and Implementation	• Solicit feedback via online and other channels • Hold Townhalls and workshops in strategic locations (Roadshow) • Create mechanisms for handling, maintaining and measuring input • PC Workshops (Charrettes and Roadshow)	• Informal surveys (online and print) • Staff report on input from events • Community value themes • Report from workshops/ roadshows	
1	C	Community Involvement	Proposals for alternative policy	• Draft policy alternatives and invite public discussion/participation • Invite input from key stakeholders • PC Workshops	• Recommendations for policy alternatives • Collect feedback notes into report	
1	D	Community Involvement	Final vetting of policies and implementation	• Prepare recommendations for final evaluation/discussion • PC Workshop	• Final recommendation of policies and implementation	
2	A	Inventory/ Analysis	Research and analysis necessary to provide a solid factual base for plan update	• Evaluate current inventory of non-resource lands for potential development/ redevelopment	• Buildable Lands Survey Update • Needs Assessment/Audit	
2	B	Inventory/ Analysis	Forecast future trends to identify challenges/ opportunities	• Coordinate with Population Center for Wasco forecasts	• Population Forecast	
2	C	Inventory/ Analysis	Identify opportunities for alternative policy/ implementation	• Identify where Wasco County policy is more restrictive than state regulation • Identify thematic community values and potential policy/ implementation strategies • Build out potential development results from alternatives (ie buildout of nonfarm dwellings if restrictions lessened, etc)	• Alternatives analysis (eg buildout analysis)	
3	A	Policy Choices	Current Comp Plan policies, based on inventory and analysis, provides basis for evaluation/audit	• Evaluate current policies/ effectiveness or relevance audit	• Prepare staff report on goal policies • Make recommendations on amendments, additions, removal based on	
3	B	Policy Choices	Policy choices are decisions informed by the alternatives analysis and public input	• Synthesize policy objectives from public input on alternatives analysis/visioning	• Policy recommendations staff report	

3	C	Policy Choices	Utilize public input to craft actionable policies that map to state land use planning goals	• Develop final policy recommendations • Suggest implementation strategies for policy that operationalize broad and specific goals	• Final Draft Policies	
4	A	Implementation	Current Com Plan implementation strategies, mapped to policy and outcomes, provides basis for evaluation	• Evaluate current implementation strategies/effectiveness audit	• Implementation audit report	
4	B	Implementation	Implementation strategies should be appropriate/ effective to policies	• Based on policy recommendations, draft proposed implementation strategies • Evaluate potential rezones/map amendments	• Proposed implementation strategies based on recommended policy • Proposed map amendments	
4	C	Implementation	Policies must be supported by sufficiently robust implementation measures.*	• Develop final implementation strategies • Map to relevant policy	• Final draft Comp Plan	
5	A	Adoption	Final Process and Adoption	• Hearing, sent final drafts to state	•	

** It is important to emphasize that not all these measures are regulatory.*



Stakeholder Identification

Comprehensive Plan Update Goal Targets:

1) Economic Development
2) Housing
3) Transportation
4) Public Facilities and Services
5) Agricultural Lands
6) Forest Lands
7) Recreation

Please help identify stakeholders that you know, work with, or otherwise think might be impacted or interested in the Comp Plan Update.

Stakeholder	Contact Details	Region Representing	Interest (Relevant Goals, etc)	Impact (How much does the project impact them? Low, Medium, High)	Influence (How much influence do they have? Low, Medium, High)	Involvement (How can they contribute? I

WASCO COUNTY PLANNING COMMISSION
November 23, 2015
Meeting begins at 3:00 p.m.
Wasco County Public Works Building
Conference Room
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Vicki Ashley
Jeff Handley
Andrew Myers
Brad DeHart (arrived late)
Mike Davis

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Kenneth McBain
Taner Elliott
Russell Hargrave

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*.

None

III. CONTINUTATION OF PLANNING COMMISSION WORKSESSION:

Director Brewer gave an update on the Long Range Planning Project.

MARIJUANA REGULATIONS WORK SESSION:

- Dlcd m56 notice sent out on Tuesday
- Post draft online
- Shared the current draft with department heads, on nov 13, heard back from sheriff he had questions but no text changes , water dept had comments language added requiring applicant to submit proof of a water right, and proof of a legal water source.

DRAFT

- Went over the draft ordinance chapter 11
  - except for prohibition in Residential zones, language was closely modeled after Clackamas County's marijuana ordinance amendments
  - addresses both medical and recreation marijuana businesses;
  - prohibits all marijuana businesses from residential and rural residential zones;
  - prohibits marijuana related home occupations in all zones;
  - provides 1,000 foot setbacks from schools, public parks, daycares preschools, and churches;
  - provides a 200 foot setback from all residential zoned properties;
  - requires the growing of marijuana on EFU lands to comply with the setbacks and requirements of new Chapter 11;
  - requires the growing of marijuana on non-EFU lands to provide a Type I application for review and approval with Chapter 11 and any other requirements of the zone;
  - addresses odor, water, lighting, waste management, access, and several other significant issues; and
  - provides applicants with a two-year time frame to implement the business they've been approved for, consistent with existing permit timelines for the County Planning Department.

IV. OTHER BUSINESS:

None

V. PLANNING DIRECTOR COMMENTS:

None

Adjourned at 5:41pm

_____	_____
Vicki Ashley, Vice Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

DRAFT

WASCO COUNTY PLANNING COMMISSION
November 9, 2015
Meeting begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russell Hargrave
Vicki Ashley
Jeff Handley
Brad DeHart
Andrew Myers
Mike Davis

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Kenneth McBain
Taner Elliott

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*.

None

III. PLANNING COMMISSION WORKSESSION (continued):

MARIJUANA REGULATIONS WORK SESSION:

Task List was created for the update process.

(1a) establish a timeline
(1a) is Critical Path -
(1) Collect and share draft ordinances
(1) Share information with County Departments and Sherriff's Office
(2) Draft proposed ordinance

a. Definitions
b. Land use zones
   - EFU (can't opt out in this zone)
   - Non-EFU (can opt out in these zones)
c. General setbacks – from specific uses (e.g. schools, daycares, parks, residential development, public spaces, other commercial uses, and other marijuana business).
d. Procedure requirements

(2) Facilitate public process

DLCD 35 day pre-notice and 45 day post-review
BOCC Adoption date: Goal is December 31st
Pre-Meeting 1:

- Director Brewer will create draft ordinance (week of 9th) (a part right now)
- Director Brewer will create strategic plan (feedback from Rus and Mike)
- Director Brewer will meet with Wasco County Department Heads for written feedback (strikes and underlines) (week of 16th)

Meetings

1. Review draft Wasco County Ordinance

Timelines needs:

- Solicit feedback from department heads and draft language between 11/9-11/23
  - Department feedback via meetings and notes by 11/17
  - Incorporate edits/suggestions
  - Share first draft with Planning Commissioners 11/23
- DLCD Notice 11/10
- Planning Commission work session to review draft ordinance – 12/1
  - TUP on agenda; work session will follow
  - Public comment
- Post first draft online for public review 12/9
- Planning Commission Public Hearing – 12/16 (requires 20 day notice)
  - Have draft for public review online
  - Public comment
- Planning Commission hearing and recommendation 12/21 (Monday) (continued hearing)
  - Public comment
- Board Hearing 12/28 (ask for adoption) (Monday)
  - Public comment
- DLCD – 45 days notice starts 12/28 (request emergency review)
- Measure 56 Notice – DLCD may reimburse funds (notice 30 days prior to adoption)
  - Ask legal counsel to confirm whether or not this is necessary

Vice Chair Ashely continued the work session to a date and time certain, said date and time being November 23, 2015 at 3:00 pm, at the Public Works Conference Room, 2705 East 2nd Street, The Dalles OR 97058.

IV. OTHER BUSINESS:

There was no other business.

Worksession adjourned: 5:15 pm

Vicki Ashley, Vice Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

WASCO COUNTY PLANNING COMMISSION
November 3, 2015
Meeting begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Vicki Ashley
Taner Elliott
Jeff Handley
Brad DeHart
Mike Davis

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Russell Hargrave
Andrew Myers
Kenneth McBain

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Dustin Nilsen, Senior Planner
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*.

None

III. PLANNING COMMISSION WORKSESSION:

MARIJUANA REGULATIONS WORK SESSION:

Director Brewer presented a PowerPoint presentation on HB 3400 & Marijuana Regulations (See Attachment A), She also presented a document titled Marijuana uses under current zoning in Wasco County (See Attachment B). She reviewed the matrix in the above document to illustrate the current zoning and potential uses allowed in each zone of Wasco County.

Director Brewer then led a discussion on the process for creating the time, manner, and place ordinance updates for the marijuana uses.

There was a brief review of Clackamas County proposed ordinance changes which Director Brewer hopes to use as a template guide for Wasco County's proposed ordinance.

There was also discussion on regulating lighting and smells of commercial grow operations. Director Brewer reminded the Commission that residential uses are secondary to agriculture uses, and therefore Wasco County's nuisance and compliance ordinance cannot be used to protect the residential use from the smell. The State of Oregon protects agriculture uses from interference by residential uses.

Director Brewer stated that she would send the following information to the Commission:

- Clackamas and Deschutes counties ordinances
- Link to the OLCC regulations on recreational marijuana
- Link to the Association of Oregon Counties PowerPoint with images of backyard grow operations
- Link to HB3400
- The PowerPoint presentation presented to the Commission at today's session
- Wasco County links
- Timeline information for the update process, including Department of Land Conservation & Development notices

Vice Chair Ashely continued the work session to a date and time certain, said date and time being November 9, 2015 at 3:00 pm, at the Public Works Conference Room, 2705 East 2nd Street, The Dalles OR 97058.

LONG-RANGE PLANNING PROJECT WORK SESSION:

Director Brewer gave an update on the hiring process for new positions being added to the Planning Department staff.

IV. OTHER BUSINESS:

DISCUSSION OF OTHER BUSINESS / PLANNING DIRECTOR COMMENTS:

- Outreach for new commissioners to fill the soon to be vacant alternative positions.
  Vice Chair Ashley suggested recruiting for commission representation from the recreation use providers such as river recreation and Mt Hood recreation services.

- Discussion of potential request to rezone a portion of scenic area from agriculture to commercial zoning to allow the construction of a new high school.

Worksession adjourned: 5:37pm

Vicki Ashley, Vice Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

WASCO COUNTY PLANNING COMMISSION
March 1, 2016
Meeting begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL
Hearing began at 3:10

WASCO COUNTY PLANNING COMMISSIONERS PRESENT
Russ Hargrave
Vicki Ashley
Jeff Handley
Brad DeHart
Mike Davis
Andrew Myers

WASCO COUNTY PLANNING COMMISSIONERS ABSENT
Taner Elliott

WASCO COUNTY PLANNING OFFICE STAFF PRESENT
Angie Brewer, Planning Director
Kelly Howsley Glover, Long Range Planner
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*.
None

Vice Chair Ashley asked Director Brewer if the Commission needed to look at replacing Commissioner Elliot due to his missing more than 3 meeting/hearings. **Director Brewer** stated that she had spoke with Commissioner Elliott about his absences. **Chair Hargrave** instructed Director Brewer to speak with Commissioner Elliott again on his ability to attend upcoming hearings.

III. LONG RANGE WORKSESSION:
Director Brewer gave a recap of "where we are" in the long range update process.
(See Attachment A – Comp Plan Update; Attachment B – Comp Plan Update Schedule; and Attachment C – Long Range Planning Proposed Projects

IV. OTHER BUSINESS:
DISCUSSION OF OTHER BUSINESS / PLANNING DIRECTOR COMMENTS:

Director Brewer gave an update on the Marijuana Ordinance updates. She explained that the ordinance was adopted unanimously by the Board of Commissioners as an emergency ordinance. This means the ordinance is now in effect.

Work session adjourned: 5:14 pm

Vicki Ashley, Vice Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

DRAFT

LONG RANGE PLANNING

PROPOSED PROJECTS

LONG RANGE NEEDS/ PROPOSED PROJECTS

LUDO Reformat

Comp Plan Update

LUDO Update

LUDO REFORMATTING

Benefits:

1. No major public input as not substantive (cost and time)
2. Create a more accessible, user friendly document (public and staff)
3. Align with state efforts for model code (lays good foundation for larger update)

LUDO REFORMATTING

- Moving all definitions to Chapter 1
- Moving all procedure/process related items to Chapter 2
- Adding indexes to each Chapter/Section
- Hyperlinking references to other sections of the code
- Includes adding linked references to OARs and ORS

COMPREHENSIVE PLAN

DATA UPDATES	
Buildable Lands Survey Update	Collect data for each section of Comp Plan from partners, etc

PUBLIC OUTREACH AND VISIONING	
Stakeholder Meetings	Public Forums

FINALIZING AND ADOPTION	
Synthesizing input	Prepping for how feeds into LUDO Update

LUDO UPDATE

ONGOING	
LUDO Audit	Staff Input

POST COMP PLAN UPDATE	
Stakeholder Meetings	Public Input

FINALIZING AND ADOPTION	
Synthesizing all feedback	Rolling out to public, partners

Comp Plan Data Update Schedule - WORKING DRAFT

Target Completion

OWNER	ASSISTED BY	TASKS	March	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
	Wasco County H	**History Chapter**										
		Physical Characteristics										
		General Location										
	GIS Maps?	Topography										
		Climate										
	Watermaster, C	Water Resources										
		Geology										
		Natural Hazards										
	DOGAMI	Mineral and Aggregate Resources										
		Soils										
		Vegetation										
		Natural Areas										
		Forest Resources										
		Land Use and Ownership										
	ODFW	Fish and Wildlife Resources										
		Environmental Considerations										
		Energy										
	PSU	**Population**										
		Political Structure										
		Community Facilities and Services										
	Sheriff, PD	Police Protection										
	RFDs	Fire Protection										
		Medical Services										
		Schools										
	USPS	Postal Services										
		Television and Radio										
		Telephone										
		Newspapers										
		Libraries										
		Parks and Recreation and Scenic Areas										
		Cultural Resources										
		Social Services										
		Utilities										
		Transportation										
	Public Works, O	Road Systems										
		Other Modes of Transportation										
		Freight, Pipeline, and Transmission Facilities Needs										

Comp Plan Data Update Schedule - WORKING DRAFT

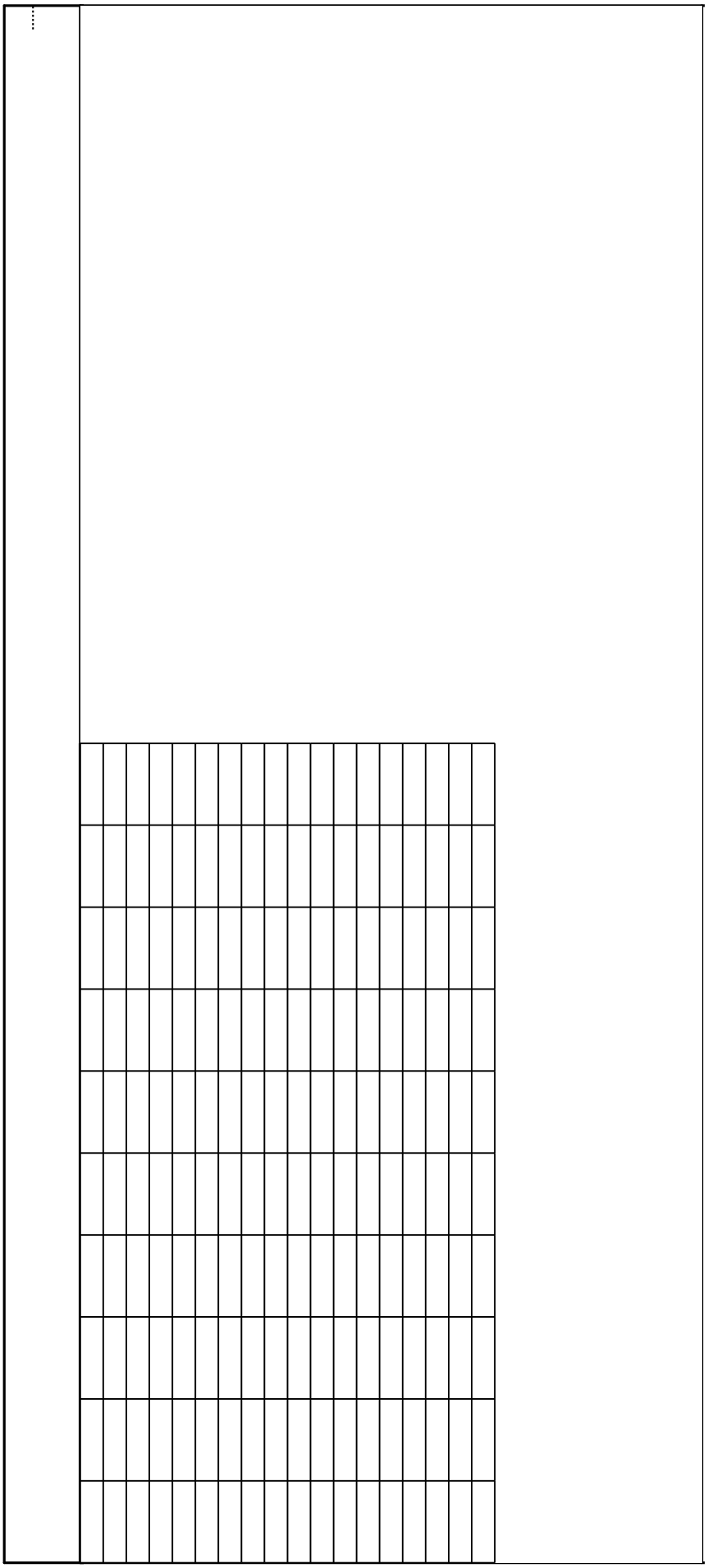
Target Completion

OWNER	ASSISTED BY	TASKS	March	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
		Housing										
	Mid Columbia H	Existing Housing										
		Housing Needs										
		Financing Housing										
		Economics										
	Farm Bureau, B	Agriculture										
	USFS, State	Forestry										
	Port	Manufacturing										
	Tourism Commi	Tourism and Education										
	Census	Non-Basic										
	Census	Labor Force Characteristics										
	State Economist	Future Economic Outlook										

Comp Plan Data Update Schedule - WORKING DRAFT

Target Completion

OWNER	ASSISTED BY	TASKS	March	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	



Planning Commission Process	DLCD 35 Day Notice (Postmark)	Tuesday, August 27, 2013
	ORS 215.503 40 Day (M56)	Thursday, August 22, 2013
	ORS 215.503 20 Day (M56)	Wednesday, September 11, 2013
	Notice to Newspaper 15(?) Days Prior	Monday, September 16, 2013
	Newspaper Notice Published 10 Days Prior	Saturday, September 21, 2013
	Planner Information Due	Wednesday, September 18, 2013
	PC Packet Sent Out	Tuesday, September 24, 2013
	HEARING #1 DATE	**Tuesday, October 01, 2013**
	HEARING #2 DATE	Tuesday, October 01, 2013
	PC Decision Mailed to Interested Parties	Friday, October 11, 2013
BOC Process	Planner Information Due	Thursday, November 21, 2013
	Notice to Newspaper 15(?) Days Prior	Tuesday, November 19, 2013
	Newspaper Notice Published 10 Days Prior	Sunday, November 24, 2013
	10 Day Notice Posting	Sunday, November 24, 2013
	PC Minutes Done	Tuesday, November 26, 2013
	Final Materials to Kathy	Wednesday, November 27, 2013
	Comments from DLCD Sent	Tuesday, November 19, 2013
	HEARING #1 DATE	**Wednesday, December 04, 2013**
	HEARING #2 DATE	Wednesday, December 18, 2013
	DATE BOC DECISION IS "FINAL"	**Wednesday, December 18, 2013**
	Submit Decision to DLCD	Tuesday, January 07, 2014
	Decision Mailed to Participants/Parties	Same Day as DLCD?

	Appeal Period Ends (on 21st Day)	#VALUE!

OR COUNTY
AUDIT

COMPREHENSIVE PLAN

WASCO COUNTY

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BENTON COUNTY

GOAL 1

Statewide Planning Goal 1

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land use planning process.

Excerpt from OAR 660-015-0000(1)

Cross-Reference

Additional policies related to this goal:
Goal 2 Land Use Planning

Defined Terms

- Citizen Advisory Committee
- Committee for Citizen Involvement

See **Appendix** for definitions

Benton County Goal

Citizen Involvement

To ensure opportunities for citizens to be involved in the development of public policies and all phases of the planning process.

Alsea Citizen Advisory Committee – Community Meeting

Plan

Gathering

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VALUE STATEMENTS

Residents of Benton County value

The land – its beauty and life-sustaining qualities

Agricultural and forest lands provide sustenance for residents of the Willamette Valley. These lands and the larger systems of mountains, valleys, rivers and wetlands of which they are part continue to be highly prized economically, culturally, recreationally, environmentally and aesthetically.

Maintenance of rural character

The residents of Benton County value the rural character that still exists in much of the county, the distinction that has been maintained between settlement areas and resource lands and open spaces, and the manageable scale of the cities, towns, and rural centers.

A healthy environment

The residents of Benton County value clean air, water and healthy natural systems and recognize their importance in sustaining the quality of life that residents value for themselves, their children and grandchildren.

Economic security and opportunity

The residents of Benton County recognize the importance of education and productive work and respect the rights and needs of individuals to pursue livelihoods of their choice that offer sufficient and sustainable material reward and personal satisfaction.

BENTON COUNTY

- Adopted 2007
- Integrates County data and Goals
- Clear guidelines on how to use the plan
- Transparency on process
- Easy to read format

DESCHUTES COUNTY

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DESCHUTES COUNTY

Preamble, Vision and Use of this Plan

Preamble
The Deschutes County Comprehensive Plan is a statement of issues, goals and policies meant to guide the future of land use in this County. This Comprehensive Plan is intended to recognize the expectations and rights of property owners and the community as a whole.

Community Vision

As a result of community outreach, a vision emerged that defines what people care about in Deschutes County.

The high quality of life in Deschutes County stems from:

- The beauty, bounty and richness of a healthy natural environment
- A community of caring people
- A strong and diverse economy
- Access to a wide variety of outdoor recreational opportunities
- The rural character of the region
- Maintaining a balance between property rights and community interests

Use of this Plan
The Comprehensive Plan is a tool for addressing changing conditions, markets and technologies. It can be used in multiple ways, including:

- To strengthen communication with the public.
- To guide public decisions on land use policy when developing land use codes, such as zoning or land divisions.
- As a basis for the development of public programs and budgets.
- As a basis for the measurement and evaluation of changes in the physical, social, environmental or economic makeup of the County. Modifications of the Plan itself may result from this process.
- To promote inter-government coordination, collaboration and partnerships.

This Plan does not prioritize one goal or policy over another. Implementation of this plan requires flexibility because the weight given to the goals and policies will vary based on the issue being addressed.

The Plan is not intended to be used to evaluate specific development projects. Instead, the Plan is a 20-year blueprint to guide growth and development

Section 4.2 Urbanization

Background

This section describes the coordination between the County and the cities of Bend, La Pine, Redmond and Sisters on Urban Growth Boundaries (UGBs) and Urban Reserve Areas (URAs). Statewide Planning Goal 2 recognizes the importance of coordinating land use plans.

> "City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268."

Oregon Revised Statute 197.015(5) goes further to define comprehensive plan coordination.

> "A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible."

Population

An important basis for coordinating with cities is adopted population projections. Having an estimate of anticipated population is the first step to planning for future growth and conservation. ORS 195.025(1) requires counties to coordinate local plans and population forecasts. The County oversees the preparation of a population forecast in close collaboration with cities. This is important because the population of the County has increased significantly in recent decades and a coordinated approach allows cities to ensure managed growth over time.

Table 4.2.1 – Population Growth in Deschutes County 1980 to 2010

Sources	*1980*	*1990*	*2000*	*2010*
Population Research Center July 1 estimates	62,500	75,600	116,600	172,050
US Census Bureau April 1 counts	62,142	74,958	115,367	157,733

Source: As noted above

In 1996 Bend, Redmond, Sisters and the County reviewed recent population forecasts from the Portland State University Center Population and Research Center (PRC) and U.S. Census Bureau, Department of Transportation, Woods and Poole, Bonneville Power Administration and Department of Administrative Services Office of Economic Analysis. After reviewing these projections, all local governments adopted a coordinated population forecast. It was adopted by Deschutes County in 1998 by Ordinance 98-084.

The results of the 2000 decennial census and subsequent population estimates prepared by the PRC revealed that the respective populations of the County and its incorporated cities were growing faster than anticipated under the 1998 coordinated forecast. The cites and the County re-engaged in a coordination process between 2002 and 2004 that culminated with the County adopting a revised population forecast that projected population to the year 2025. It was adopted by Ordinance 2004-012 and upheld by the Land Use Board of Appeals on March 28, 2005.

The following table displays the 2004 coordinated population forecast for Deschutes County and the UGBs of the cities of Bend, Redmond, and Sisters.

DESCHUTES COUNTY

- Adopted in 2011
- Integrates County data and Goals
- Organizes by rural/urban management areas

DOUGLAS COUNTY

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DOUGLAS COUNTY

CITIZEN INVOLVEMENT ELEMENT FINDINGS

1. Douglas County utilized citizen involvement prior to adoption of Senate Bill 100 in its land use planning program. (Revised 6/28/89)

2. Small area representation (PAC areas) provides the best form of diversified citizen input of all citizen involvement approaches considered by Douglas County.

3. Planning Advisory Committee and Committee for Citizen Involvement members are selected by an open, well-publicized public process.

4. PAC's are diverse bodies selected to represent their areas. Selection of members is made after consideration of geographic location, occupation, age, sex and interests.

5. PAC, CCI and members of the public in general are provided the opportunity to be involved in all phases of the planning process.

6. Since 1975, over 340 citizens have actively participated as members of either the CCI or a PAC. On average, there are 60 Planning Advisory Committee member's serving each year. This average committee membership multiplied by the 33 years that the program has been in place, adds up to 1,980 years of Planning Committee service. (Revised 12/8/08)

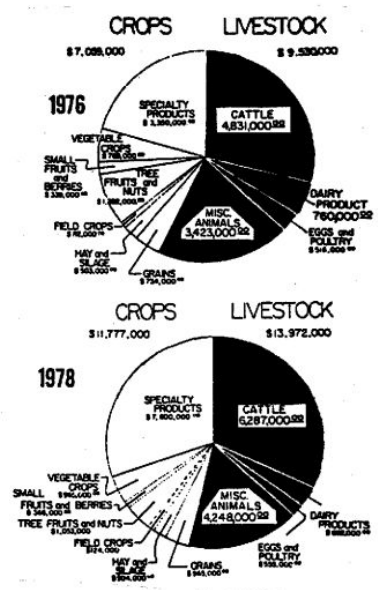
7. In an attempt to encourage citizen participation, Douglas County sent by mail and newspaper over 25,000 public meeting notices for each of the three initial plan phases in 1980. (Revised 6/28/89)

There is a limited amount of land available for agricultural production, and there is much pressure for other uses on that land.

Consideration for protecting agricultural lands should be given for many reasons, but one important reason is that the agricultural industry plays an important role in the County's economy. Douglas County produces more sheep than any other Oregon county and more cattle than any other western Oregon county.

The following graphic illustrates the 28% increase in gross farm sales which occurred between 1976 and 1978. Gross farm sales is one indicator of agricultural activity.

FIGURE 3-1. GROSS FARM SALES IN DOUGLAS COUNTY, 1976 & 1978



Full development of Douglas County's agricultural potential has not occurred. Various factors account for this including less than ideal farm management, the number of part-time operators who cannot for various reasons manage their agricultural operations full-time, cost of land, and the competition for rural homesites which make it difficult to acquire and manage large scale farming units. Significant areas for potential

DOUGLAS COUNTY

- Updated in 2011
- Integrates County data and Goals

HARNEY COUNTY

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HARNEY COUNTY

Implementation

A comprehensive plan provides general guidelines that are implemented through more specific regulations and other related mechanisms. Zoning and subdivision ordinances are the most widely recognized tools, but not the only ones as can be seen from the list below. The following provides non-binding examples:

Comprehensive Plan Maps: Comprehensive plan maps show generally how various uses will be allocated throughout the jurisdiction and serve to implement the goals and policies of the comprehensive plan.

Zoning Ordinances: Zoning ordinances contain a series of categories (land use zones) which specify what uses are allowed within those categories. The uses listed are those felt to be compatible with each other. In addition, a number of conditional uses are usually also included. These activities are allowed only by special permit after conditions have been attached which mitigate the probable impacts associated with the proposed use.

Subdivision Ordinances: In Oregon the process of dividing the land into smaller parcels is done within three categories. Minor partitions are the creation of two or three lots, where formerly only one existed, without the establishment of a street or right-of-way. Major partitions create two or three lots with a street or right-of-way. Subdivisions create four or more lots with or without a street or right-of-way. Predictably the requirements become increasingly stringent, from minor partitions to subdivisions. Subdivision regulations establish requirements for public facilities to be provided, allow review of the design to assure the safety and general welfare of the future residents, and permit the requirement of deed restrictions (protective covenants) to enable neighborhoods once established to retain their character. The subdivision ordinance very often will do more to determine the long term character of an area than will the zoning ordinance.

Planned Developments: Many jurisdictions offer an opportunity for planned developments (PDs), which allow a less than strict adherence to both zoning and subdivision regulations. These developments are intended to create better overall designs which still meet established policies. They most often occur in places where unusual conditions exist such that a conventional development would not be able to efficiently utilize the site. This may be true because of characteristics such as rock outcrops or because the area contains significant wildlife habitat, agricultural land, unique historical remains, or other resources that must be protected from development.

Other Ordinances: In some areas local governments do not establish all their land use restrictions within the zoning ordinance. For example; floodplain, weed control, mobile home design review and airport ordinances are often created

separately and administered in addition to the requirements of the zoning ordinances.

Capital Improvements Plans: Capital improvement plans are another method used to implement a comprehensive plan. Capital improvement plans lay out for a defined period how and where streets, sewers, and other public facilities will be constructed. The provision of these services often determines the feasibility of numerous types of community growth patterns.

Easements: Conservation easements, or other types of land acquisition less than fee acquisition, are becoming increasingly popular. An easement, lease, or purchase of a certain right can often be obtained from a property owner and thereby a specific use may be prohibited or some special resource protected. The purchase of this easement is less expensive than the purchase of the property, and for certain uses may even be granted without cost to the public.

Coordination Agreements: Coordination agreements are another common tool for implementing a plan. Often local governments (cities and counties) have overlapping interests within certain areas, such as urban growth areas, as well as overlaps with other public bodies, such as special districts (i.e., school and irrigation districts) and federal agencies. Establishment of cooperative arrangements reduces the probability of conflicts and assures that all these public agencies are working toward common goals, thereby increasing efficiency and the likelihood of achieving mutual goals.

Tax Incentives: Use of tax incentives to promote appropriate use of land is also receiving increased attention. Exclusive Farm Use zoning is an example of this. Land set aside and used for farm use may only be taxed for that farm value, rather than any potential development value. This enables the farmer to better afford remaining on the farm.

Implementation Plan

Harney County's implementation program, as specified in this plan, will include at minimum, a combination of zoning, subdivision and other necessary ordinances. Other implementation tools will be used as needed.

HARNEY COUNTY

- Adopted 2009
- Integrates County data and Goals
- Clear implementation strategies

JEFFERSON COUNTY

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Appendix I Goal 5 Inventory and Significance Determinations

Appendix II Exception Statements

JEFFERSON COUNTY

- Adopted 2006
- Integrates County data and Goals

UMATILLA COUNTY

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UMATILLA COUNTY

- Updated 2014
- Supports Goals with Technical Reports (County data)
- Hyperlinks all past versions and updates

WASCO COUNTY

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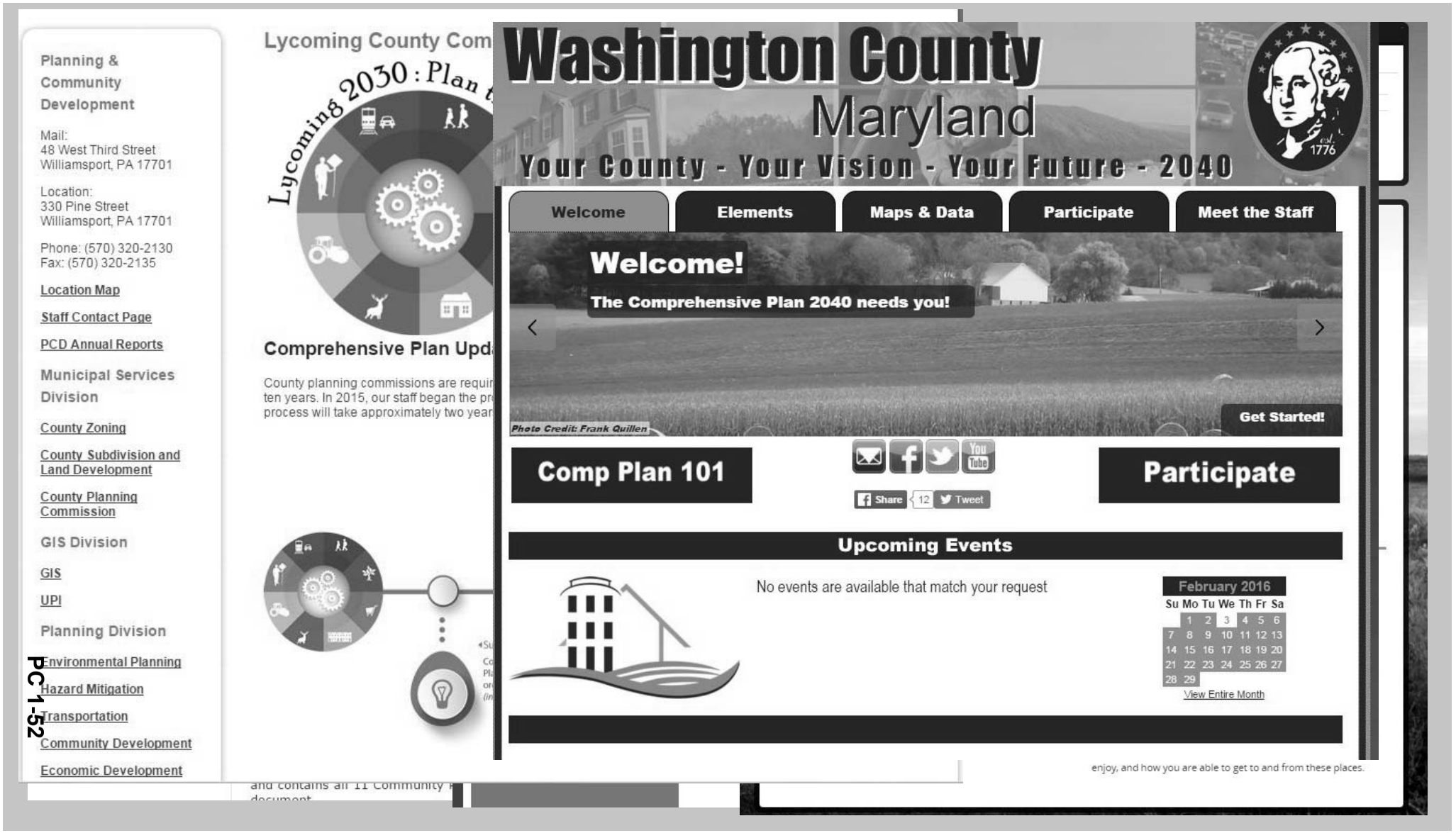
TAKE AWAYS

- Consider integrating data and goals into an easy to read format
- Transparency about process
- Transparency about implementation strategies, ordinances, etc
- Hyperlink documents used as reference
- Less (text) is more?

PROJECT WEBSITES



PROJECT WEBSITES

- Strong visual branding and infographs
- Clear timeline
- Clear ways for people to participate
- Planning 101 style explanation of purpose, implementation strategies, etc of Comp Plan
- Links for more info, contacts, etc

WASCO COUNTY PLANNING COMMISSION
August 2, 2016
Meeting begins at 3:00 p.m.
Wasco County Public Works Building
Conference Room
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

Meeting called to Order at 3:04. Roll call for commissioners present.

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russ Hargrave
Chris Schanno
Brad DeHart
Mike Davis
Lynne Erickson
Vicki Ashley
Jeff Handley (arrived late)

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Andrew Myers
Aimee Bell

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Kelly Howsley Glover
Brenda Jenkins, Planning Coordinator
Jensi Smith, Program Assistant
Dawn Baird (arrived late)

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*. Asked if there was any public comment.
None

III. TENTATIVE TRAINING SESSION

Follow up of APA parliamentary procedure training modules with Julie Krueger of the City of The Dalles won't take place as scheduled. Julie Kruger isn't available today but is available August 23rd. **Chairman Hargrave** suggested **Director Brewer** send out a Doodle Poll. **Director Brewer** will send the poll, asking that the 23rd be held on everyone's calendar. **Director Brewer** asked commissioners to send in topics

and questions before the meeting so Ms. Krueger can be prepared. **Director Brewer** confirmed the UPRR meeting will be held on September 6th at 3:00 pm.

IV. WORKSESSION ON LONG RANGE PLANNING:

Ms. Kelly Howsley Glover, **Wasco County Long Range Planner,** stated the department has been looking the reformatting process, making comparisons with the state model ordinance. Wasco County is more restrictive on some things. **Ms. Glover** had sent out tables to the commissioners. She had a PPP to share with the group (See Attachment A).

- **Chairman Hargrave** questioned if we allow clear cuts but no house can be built? Previously the thinking was from a watershed view, it was better to clear cut than develop residential. The logic was that there was less damage with a clear cut than building. **Ms. Glover** stated she has checked the numbers for how many private owners are in F1. The majority of F1 is government owned, with 41% privately owned. F2 is mostly owned privately. She isn't sure how much of these numbers have changed since 1983.
- **Vice Chair Ashley** asked about Mosiers' watershed. Is it designated as so? Not sure.

Chairman Hargrave noted the things we are more restrictive than the state seems to be dated, giving merit to look at them, to better understand why it was restricted. **Director Brewer** noted we need to figure out where the intent still makes sense. The data is outdated; with the watershed info was from the 70s. **Dawn Baird**, Wasco County Associate Planner, stated that part of the reasoning was that people make fires and there are mostly no fire districts in the forest zones.

Ms Glover noted these weren't necessarily insurmountable. Why are people saying it is more restrictive? A lot of the things not allowed are project specific, in many cases it is our setbacks. She surveyed 14 counties, from all over the state, some rural/agricultural, some more metro, to get an idea of where we were with setbacks. She will send commissioners copies of the information. A comparison of setbacks with the rest of the state - on any building we require 200' on the sides, front and rear. This is significantly more than what our counterparts do. Chairman Hargrave asked if this was just for EFU. **Ms. Glover** said yes. On the forest zoning, we are par with the rest of the state. Where we are really different is with the EFU.

Ms. Baird stated that when these were updated in 1996-1998: Wasco County established was 250' setbacks from orchards, 100' from wheat/hay, livestock grazing. However if you had a natural or created vegetation barrier you could cut it in half. Then these were updated without a lot of staff input and these were adopted. It was about 2009 possibly. **Commissioner Davis** noted this is our opportunity to adjust.

Chairman Hargrave stated this is a great piece of analysis and asked for the overview. **Ms. Glover** said that in summary, comparing LUDO and Model code - we need to reexamine the setbacks. We also have some things that are outstanding that we haven't updated that have passed the legislature that need to be addressed. We also have some bigger, tougher conversations that we need to have with the update to the COMP plan. One would be the non-farm dwelling where we may want to loosen some restrictions or do we want to leave them alone? Also addressing some of the pressure we have gotten

from Salem for things like Agri-tourism, destination resorts, what kind of changes are we going to make to balance commercial farming with recreation.

Chairman Hargrave asked if we needed to look at all of these issues. **Ms. Glover** relied yes. **Chairman Hargrave** noted we need to figure out some criteria to judge them, to have a decision making process. He was surprised by the set back issue. He asked if there are other things such as roads, where Wasco County is more restrictive than the state. **Ms. Glover** replied that we are pretty on par with other counties in the state with roads. **Chairman Hargrave** suggested creating the complete list, brain-storm to see if there are other things to be added to this list, and then rank these items. **Commissioner Davis** noted that ranking might be good, to identify where to start, other important things.

Ms. Glover shared that we don't have strict, prescriptive information from the state for residential. She could do a comparison with neighboring counties. Chairman Hargrave said he had not heard that it was a problem. **Commissioner Davis** would like to see how one zone affects another. Is there a connection between the two? Can we put AG next to residential, what would that look like? He would also like to see a session just on roads.

Commissioner Handley asked if we are in line with the state on minimum lot sizes. **Ms. Glover** said the state standard is 160. We have a 'go below' for our 40 acre orchards, which is unique. Forest zones have a minimum parcel size of 80. **Ms. Glover** said there isn't much wiggle room; you have to justify the production values. Dawn said the State is minimum for exclusive farm use is 80 acres. We chose 160 acres instead of 80 so that way they all could get a house. Some other counties do it with irrigation levels; if 80 acres are irrigated then you could build a house. Is there an income test in other counties too? **Ms. Glover** said yes, in some counties.

There was a question about the difference in EFU and forest zoning. Was this done through surveys? How did we decide on this? Discussion on how this zoning standard came to be. It was guessed that the best available data was used to create this, based on what was on the property at that time. There was a lot of window surveying in the 1983 COMP plan. There was a method used – soil data, terrain, topography. It was noted there wasn't a lot of technology when it was done, but also noted there was definitely a process used.

Commissioner Davis noted the market is different today than it was even five years ago. There is pressure on small farms now, because of the specialty crops. **Director Brewer** noted that plans are never created to last forever; they are designed to be updated. At least every 5 -10 years, but that doesn't always get done. The plans aren't poorly done, just outdated. **Commissioner Davis** noted that we may have good intentions, but we may not be able to do this for another 20 years. **Director Brewer** would like to add an implementation plan to our new COMP plan. **Commissioner Davis** said we need to keep this in mind while we are doing this.

LUDO update: There is a long process before we get to this. We need to update the COMP plan first. She will go through (with the PPP) each goal at a very high level.

Goal 1 Citizen Involvement: We are generally on track with these goals from 1983. The big difference is we had some grand visions, with a number of different planning areas throughout the county which all

had their own citizen advisory committee. There was a bunch of planning areas that towards the end of the process got bunched together. The Planning Commission essentially has functioned as the Citizen Advisory committee for the last 15 years. We need to update this, including the technology available now for posting, etc. Basically on track with this goal of making sure citizens are aware of what is going on, coming to meetings, getting in touch with planning staff.

Goal 2 – general land use planning-LUDO & COMP plan. The LUDO is our primary implementation tool. The COMP plan has not really been used as an active document. Part of that is because it hasn't been updated. There are some notable gaps. Our exception policies are not aligned with the state. We need to update this. The inventories that we have based our policies are meant to be kept updated. Most of this is 30 years old. We have problems when trying to apply some of the old policies.

Goal 3 – Agricultural Lands: The LUDO is predominately consistent with state law. We are more restrictive non-farm criteria and our setbacks are more restrictive. We need to add some implementation strategies that are current with state law. **Ms. Glover** sited the importance of Agricultural land in Wasco County. Chairman Hargrave asked what 'implementation strategic that is current with state law' - what does that mean? **Ms. Glover** said that state law says we are suppose to consider is the air, land and water resources bearing capacity of farmland. It is one of the states goals for us to consider these things when designing our policies. Our current COMP plan does not do a good job of this. It is not an active document for staff. They would like to see, specifically with AG land, some policies and implementation plans that are actionable that supports where we are more restrictive. This would give them something when people come in and ask why, a guiding document.

Commissioner Davis asked if we can add definitions. An example would be specialty crops; we will see a lot more green houses. How do we support this? Do we put a definition about this? **Chairman Hargrave** asked if there is a definition section or are you asking about an implementation strategy? Dow we need to do a definition column? **Ms. Glover** said we are having conversations with the state, pushing for implementation strategies that for this issue. When we get to the visioning part, there will definitely be conversations about this. We could end up with policies to encourage small agricultural, alternative farm types. **Director Brewer** stated that 'Definition' cannot mess with the state's definition for farm use.

Goal 4 - to protect our forest lands: Light AG – The difference between F1 and F2. We need to really evaluate whether we still see the value of having a difference between F1 and F2. We have partner agencies that have more active, current inventories on the forest lands. **Ms. Glover** recommended that we leverage some of the work that our partner agencies are doing and utilize their inventories to get a better sense of what is happening on the ground. She further explained that forestry has changed significantly; we really need to have a conversation about how we are managing forest lands to reduce conflict.

Goal 5 – protection of our natural areas. Outside of the Gorge, we use the LUDO and EPDs to make sure we are doing this. This is one of the examples where we are doing things very different than we were doing in the 1980s. We don't have a historic landmark commission any more. We do have state resources we rely on for historic resources. This will need to be revisited. Inventories are outdated. We

can use other organizations info. We need to call it out specifically so that planners know where to look.

Goal 6 – We have a lot of big visionary statements in the COMP plan. Not a lot of actionable items. We want to make the comp plan a useable document. An example is the land use buffers discussion, how to make a better connection to what is really happening on the ground. Our natural hazards are managed primarily through the EPDs. Some of the gaps identified, need to be reviewed/updated. The state has some non regulatory options that might be worthwhile - education and financial incentives. Flood plains developments tend to be painful for consumers/customers. One way to help this is to have proactive education for folks. Or some incentives.

Recreational needs are very relevant. This will be a hot topic. Our current policies really focus on the wild and scenic rivers. There are federal and state designations. The state regulation controlled rivers are the John Day & Deschutes Rivers. The White River is also identified by the federal act, but no regulatory policies or procedures. The state has specific implementation implications. **Chairman Hargrave** asked if the state doesn't recognize the federal designation for the White River. **Ms. Glover** shared she was not sure why this happened. **Commissioner Davis** noted that when we get into destination resorts, there is a separate process. **Ms. Glover** stated that we have to go through a Goal #8 exception process. We have identified on the map where it meets all the criteria of a destination resort. There are some really strict criteria. **Commissioner Erickson** asked if the state has an outdoor recreation plan. State parks do, but it doesn't cover all of Wasco County.

Economic development: Forestry and AG were changed in 1983, the focus of our strategies. That is still primarily true today. What are the additional opportunities and challenges to introducing some new types of industries? Where do we have underutilized properties? Small, experimental farms, for example. Our projections are outdated. We need to identify the trends that are relevant to our policies. The state talks about incentive based land use. How do we incentify people to move to less populated areas? Housing is a very big issue. We are listening intently to housing issues. It is a huge problem state wide. The housing issue in our COMP plan is short and sweet, allowing mobile homes as an opportunity. We have some slight differences - we treat mobiles and stick built as the same. We need to address this.

Ms. Glover said one of the things we deal with in the department is code compliance. Limited income folks have a really hard time to get into compliance. We want to find ways to help. **Commissioner Davis** asked about the health department involvement, noting DEQ changes to septic system rules. These rural residential small lots, they're supposed to evaluate the septic lines, if they are out of compliance, they may not be able to change out their septic systems. He thinks it would be helpful to incorporate the health department into these discussions. **Director Brewer** stated they are involved with every new development proposed. They are part of our process. **Director Brewer** said that part of the work that Ms. Glover is going to do is to identify how many options, what does our current zoning look like right now? That should tell us if it is a problem with zoning? Is it a problem of location of zoning? Is it an issue of owners not wanting to build out too fast with the standards? **Commissioner Davis** noted that it might be that the community water system might not be able to support it.

Ms. Glover – based on the LUDO audit, we want to look at our restrictions on residential development. We have unincorporated rural communities that are primarily second homes. We want to examine what the impact of that is, particularly if some want to transition those to primary homes. We have very small communities that have small population, so what the implications of that are. **Ms. Glover** plans to take a look at alternative dwelling types, accessory dwellings, mother-in-law suites, etc. We don't allow for duplexes.

Director Brewer commented that Wasco County's current rules have resulted in abuses of the temporary use and hardship dwelling permits. This has been hard to enforce with our Code Compliance in the long term. This results in out-of-compliance homes where people may be forced to live in conditions they may not want to be living in. To look at this for the long term need, we want to find ways that would give opportunities for people to live the way they want to live, recognizing that we have an aging population. **Commissioner Davis** – This will be an ongoing problem. How do people deal with their grandparents, etc? **Director Brewer** - How do we do this in a way as to not allow too many people in conflict with agriculture? **Ms. Glover** - We don't want to create densities in farm areas. Along with commercial AG one of the other things we hear a lot about is Farm Labor Housing which is rapidly aging. Some of the new restrictions with OSHA are increasing the space allotment, creating some conflict for them. We want to find ways to still have temporary farm labor housing, but do it in a way that is beneficial for everybody. Chairman Hargrave – To back up a little, taking farm labor out of it, we have a complete restriction on multifamily dwellings, is this discussion just part of that or it completely different? **Director Brewer** said she sees it as different because a multifamily dwelling is a permanent level of density change. We need to have that public conversation about where the line is. **Chairman Hargraves** noted it is a fairly continuous slope from one to the other. You have ADUs, temporary or hardship housing, maybe this should it be upgraded to better control it. He is trying to figure out which road we are on, whether it is multifamily dwelling or not. **Director Brewer** noted there are some state limitations too. AG labor and hardship/temporary use are exceptions. **Ms. Glover** noted there are a lot of conversations about this.

Commissioner Davis said this needs to be discussed. **Director Brewer** said we have to have our eyes wide open, knowing that AirBNBs and others might get wrapped into that. **Chairman Hargrave** stated this may intertwine the economic and housing goals. **Commissioner Davis** said we need to look at all of these. **Ms. Glover** noted that these discussions are happening all around us. We are in a unique position to get out in front of these issues, to be a great example for our counterparts. **Chairman Hargrave** the AirBNB looks more like economic than housing. These are really intertwined.
There was a consensus that we need to have a good discussion about this.

Public Utilities and Services – most of the six policies that are in the old COMP plan are not directly relevant to the planning program that deals with anything we have control over. **Commissioner Davis** - What are we talking about here? **Ms. Glover** said there is a transportation one. **Director Brewer** added streets, sewer, water, school facilities, safety, fire, power lines. **Director Brewer** noted we have lots of partners with this chapter. Wasco County is thinking about doing a capital improvement plan, to do an inventory, and a strategy moving forward. We will be looking at this to guide us. Emergency services, sheriff's department, etc, will be doing the heavy lifting that will effect what we do.

Ms. Glover said tied into the conversations about Housing, AG, Recreation, and Economic Development – thinking strategically on how to create policies that don't over burden our public services system. (Water, road, sewer, garbage) This chapter is pretty good, making some staples explicit.

Goal 12 – some specific things that need to be addressed.

Goal 13 – energy conservation. We have some big ideas based on things from the 1983 COMP plan, things that have changed significantly since implemented. This is a good opportunity to get these up to date, possibly with some renewable energy resources. There is a lot of talk at the state level. The connection between set back, lot size and the energy efficiencies. It was noted that Utilizes are critical for this to be successful in the county. We need to work with partner agencies. Most of this work has been done. **Chairman Hargrave** - wind turbines were addressed, as well as solar. **Ms. Glover** - we don't have a lot for commercial scale, we have some gaps. **Vice Chair Ashley** shared that it was discussed when these things were adopted. Question about commercial wind farms. The economics have held some of this up, with unpredictable issues hanging in the balance. **Commissioner Davis** would like to see incentives on the smaller scale, the embracement of the utilities. It would be important to have the utilizes as part of the discussion.

Goal 14 – Urbanization: The primary benefit of this goal is to continue to protect those resources land, to encourage residential uses in urban areas. We heard from LCDCs about extending the UGBs which aren't as significant here because of some of the scenic area restrictions. We need to make it more explicit. There is the prospective, one of the ways to resolve the housing issues, is to expand the urban boundaries. We have specific challenges because of the NSA, which literally needs an act of Congress to change the boundaries. It might be good to it more explicit that there are some process problems. The NSA will cause conflict to expanding the UGB. **Director Brewer** stated that we have an opportunity to evaluate what we would like see as far as standards and parameters go for moving forward with any kind of urban expansion, with the two urban areas in the scenic area, we need to acknowledge that we are not holding all of the cards. We can flush out what we want to see. We have to be the applicant to the Gorge Commission; the two incorporated areas cannot do it for themselves.

Commissioner Davis said he was suggesting that we can give alternatives, incentives, to bring people where we would like them to be. An example is South County, which needs people. Some towns are shrinking, with an aging population as an issue also.

Director Brewer said that **Ms. Glover** has some specific questions she would like to get to.

Goal 14 continued- **Ms. Glover** – urbanization, to explore ways to leverage ways to get people into the existing housing stocks. We also struggle on a current planning level that there are some disincentives, with partitions being developed to subvert having to do some of those additional developments. It ends up creating a problem from a visioning prospective. When we talk about the road issue, this might be a good place to talk about this.

V. DISCUSSION OF OTHER BUSINESS/PLANNING DIRECTOR COMMENTS:

For the Voluntary Periodic Review we need to identify the four things we need to represent to them.

Why are we asking for voluntary periodic review?
Are we making decisions that are out of sync with the state wide goals?
Are we experiencing some sort of significant regional issues?
We don't think our COMP plan is in compliance with the state.

Ms. Glover asked members if these things they are hearing out in the community. Yes. Also noted there are other things that have not been exposed in the analysis. Chairman Hargrave stated there were other that he had heard about. We need to look at scope. Are there any liabilities? **Vice Chair Ashley** said yes, where we are more restrictive than the state. They may be able to bring forth data that shows the county is wrong. There is technology that can give them that. **Director Brewer** stated that technically we are allowed to be more restrictive. People can challenge us now.

Chairman Hargaves spoke of missed opportunities. We don't want to miss these opportunities associated with dwellings. There are examples where we don't allow things that the state does. **Ms. Glover** – state doesn't allow for a building for marijuana grow. Chairman Hargrave stated with other AG uses on forest lands, the state will allow a building but we don't. **Ms. Glover** – the things that the state allows: there a couple kinds of dwellings you can have on forest land - large tract, lot of record, and template dwelling, caretaker, replacement dwelling, and temporary hardship. We don't allow temporary on forest lands. Example – portable mills. Chairman Hargrave noted if you can't make a living on it, it is not viable.

Ms. Glover – would like input that the commissioners are hearing. One of the primary goals is to have a more actionable document. Something our community and other agencies can use to understand why our planning is what it is. They can email her with the feedback. **Director Brewer** noted that we have a large responsibility to communicate these large issues to the rest of the world in a way that makes sense. One of the things that **Ms. Glover** has done is a one-page info graphic, a simplified document to help people understand. We are working to get a one-pager for each of the zoning areas.

Commissioner Davis – we need to consider where AG is going. Who we are supporting? We need to think outside of the box. **Director Brewer** – people need to be better educated on the value of our AG industry.

Chairman Hargrave – how do we support the AG going forward? We need to think about it differently. The tables were clearly enumerated. We need to look critically as to why. We don't want to shackle the county to the past. We could pull some of this into the economic plan. There was discussion about reaching out to the OSU extension office, the community college and other resources to look for ways to help improve the amount of skilled labor in the area to help with future development. The area has been affected because projects have had a difficult time finding enough qualified people to work. It was noted that it would be good to help promote the agriculture in the area, but not to promote it as an extension of the scenic area. **Director Brewer** noted that the scenic area rules are less protective of agriculture. We hear that we are overly protective. Chairman Hargrave stated that he saw these areas clearly enumerated on the tables **Ms. Glover** had sent out and shared that we need to look very

critically as to why. There are a lot of whys. We don't want to shackle the county to the past, we want to enable the county to look to the future.

Ms. Glover is proposing a draft letter requesting the LCDC to let us enter into a voluntary periodic review, based on some of what we have identified as our new stats. She will share with the commission and wants to move quickly to meet some of our targets. She would like to get this done in August, as September will be busy with UPRR. It will take at least one hearing, probably more. She will send it out to see if commission agrees and then vote to send it off to LCDC. She hopes to do this on August 23. She would ask them to approve the letter, as it becomes part of the public record. There was a consensus to move ahead with this.

Director Brewer – we received an email from our LCDC rep about our incoming request for voluntary periodic review. We have been asking their staff what we need to do. Specifically – none have done this before, to keep us on track to. We have decided to do this for a number of reasons. First, because none of us have been down this path before. Hypothetically, as we go through this process there will be someone ahead of us saying we need to this or that, keeping us on track for score and timelines. It forces us to put together a very specific work plan. The other reason is for potential for funding assistance for any data analysis we might have. It also makes it more predictable. We have enumerated this before. The email gave us a heads up that we don't have great odds. **Ms. Glover** – this is why we asked them to be very explicit. We still want to ask. We have the political will and a case to make, to meet the criteria. We have that. **Ms. Glover** – we want to set the expectation, they will likely deny us. If that happens, it doesn't change that we are still going to do the work. It will be a POPA. **Commissioner Davis** – the product that we are thinking were are going to get, irrelevant of the path we go down. We are still going to get the same product. We are doing this, with or without. **Director Brewer** noted the letter will be very pointed and direct. **Vice Chair Ashley** said if we do this without them we won't get any money. **Director Brewer** shared she thought there may still be monies available. Chairman Hargrave said we should point out the urban growth boundary. **Commissioner Davis** – they can call it whatever. We are going to call it COMP review. The commissioners thanked **Director Brewer** and **Ms. Glover** for the presentation.

Chairman Hargrave adjourned the meeting at 5:06.

_____	_____
Russ Hargrave, Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

WASCO COUNTY PLANNING COMMISSION
June 7, 2016
Meeting begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russ Hargrave
Andrew Myers
Chris Schanno
Brad DeHart
Mike Davis
Jeff Handley (arrived late)
Lynne Erickson

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Vicki Ashley
Aimee Bell

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Kelly Howsley Glover
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*.

Gretchen Kimsey, comments on Union Pacific Railroad. **Ms Kimsey** feels strongly that Wasco County and Mosier were saved by the Grace of God, and no wind on Friday after the train derailment. She thinks the transportation of oil through the Gorge should not be increased but should be decreased due to the danger, as shown on last Friday. She further stated that Union Pacific was quoted as saying only 3 trains go through the Gorge, however that does not 'jive' with what she has heard. She requested that the Commission please put a hold on additional oil coming through the gorge, and if possible a reduction of the number of trains.

Ms. Kimsey thought the Union Pacific Hearing was today, the Commission explained to her when the hearing was scheduled.

III. WORKSESSION ON LONG RANGE PLANNING:

- Staff presentation of formatting improvements to the Wasco County Land Use and Development Ordinance and the findings of this process.
- Discuss staff's proposed work plan for the future comprehensive plan update and public process.

Chair Hargrave called on Staff to present.

Kelly Howsley-Glover, Wasco County Long Range Planner, presented the proposed work plan for the updates. (See Attachment A)

Chair Hargrave asked Ms. Glover if there were any substantive changes. **Ms. Glover** stated there are just formatting changes at this point. She further explained that there are links to location within the document as well as hyperlinks to websites such as ORS. **Chair Hargrave** asked if it was now a document online or html. **Ms. Glover** responded that it was a pdf document. **Commissioner Erickson** asked if Ms. Glover could add a link to the zoning map. **Director Brewer** stated that they would look into that and possibly add such a link in the next phase.

The Commission discussed citizen involvement and decided to include the citizens through targeted road shows, both geographically and topically.

Ms. Glover asked the Commission what data/analysis/etc is needed to support an update. She asked them to think about hot topics/tasks that they want identified that are not already on the list. **Chair Hargrave** stated that he would like to see the total costs, results of the LUDO Audit, and specifics on where the County is out of line with where we want to be going. **Ms. Glover** suggested information on the questions the staff are getting on a daily basis, illustrating this with trends over a 10 year period of time. **Director Brewer** suggested using a dedicated website as a cornerstone to the public outreach portion of the program. **Commissioner Davis** would be interested in number of home permits. **Commissioner DeHart** wants to know what the staff is turning away, good ideas that were told the County had no way to approve the proposal. Where is the demand not being met.

Ms. Glover asked the Commission for their preference on meeting frequency. A consensus was reached to meet every month, possibly additional meetings during the month for the outreach meetings.

Commissioner DeHart asked if Staff could look into changing the time of the Planning Commission meetings, possibly to 5:30pm.

IV. PLANNING DIRECTOR COMMENTS:

Director Brewer asked the Commission to go around and introduce themselves to the new Planning Commissioners.

Adjourned 5:25

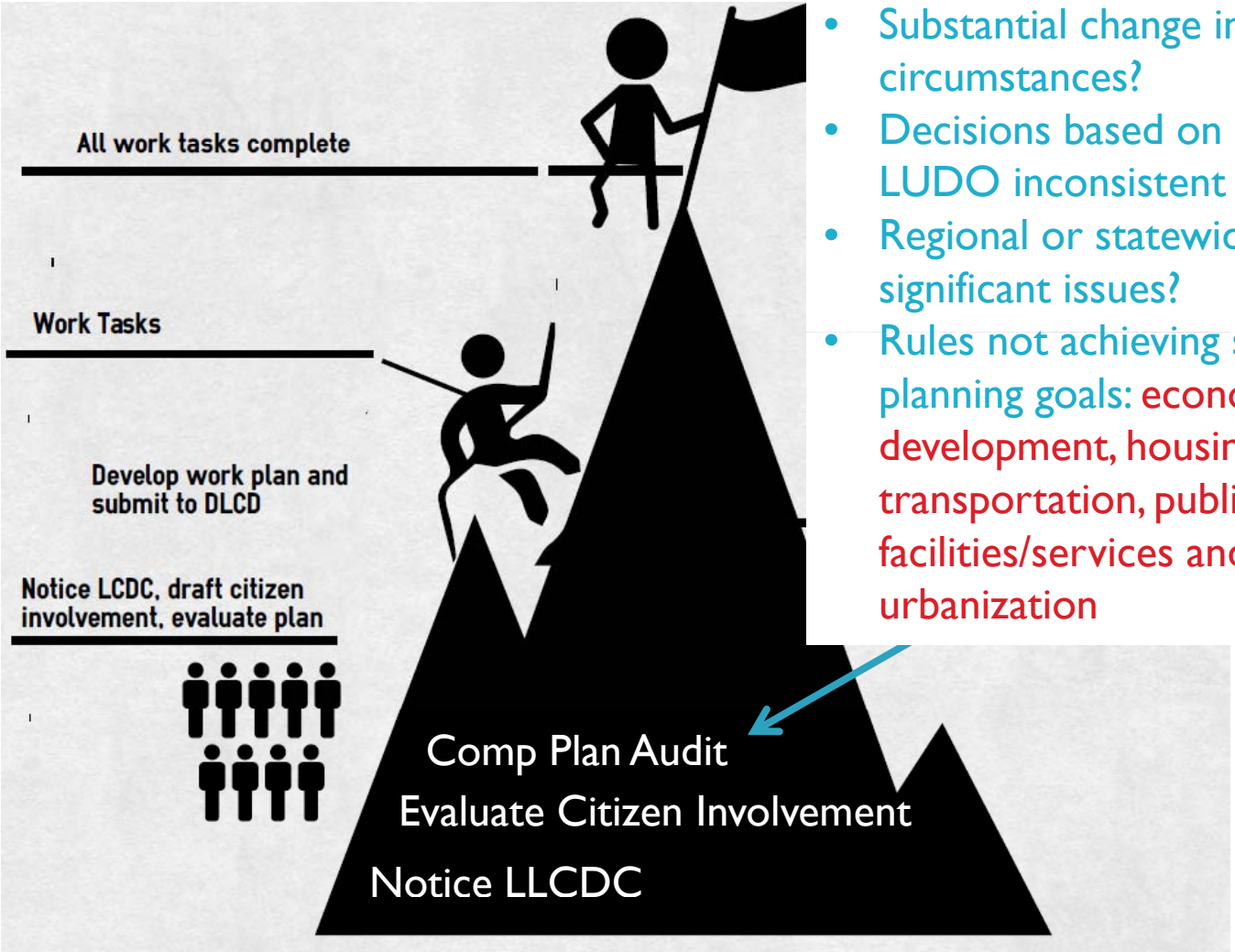
Rus Hargrave Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

DRAFT

Comprehensive Plan Work Program Draft

Proposed Tasks, Timeline and Products

Voluntary Periodic Review



- Substantial change in circumstances?
- Decisions based on Comp Plan/ LUDO inconsistent with Goals?
- Regional or statewide significant issues?
- Rules not achieving statewide planning goals: economic development, housing, transportation, public facilities/services and urbanization

PROPOSED COMPREHENSIVE PLAN UPDATE TIMELINE
Needs Assessment/Research Audit
Public and Stakeholder Outreach, Citizen Advisory Group Review
Map and boundary review
Roll out new Comp Plan
SPRING 2017
SUMMER 2016
FALL 2018
Develop Work Plan
Draft Goals and Policies
Public hearings for proposed Comp Plan Update

2A, 2B, 3A, 4A → 1A → 1B → 2C, 3B → 1C → 3C, 4B → 1D → Final Draft

2A, 2B, 3A, 4A

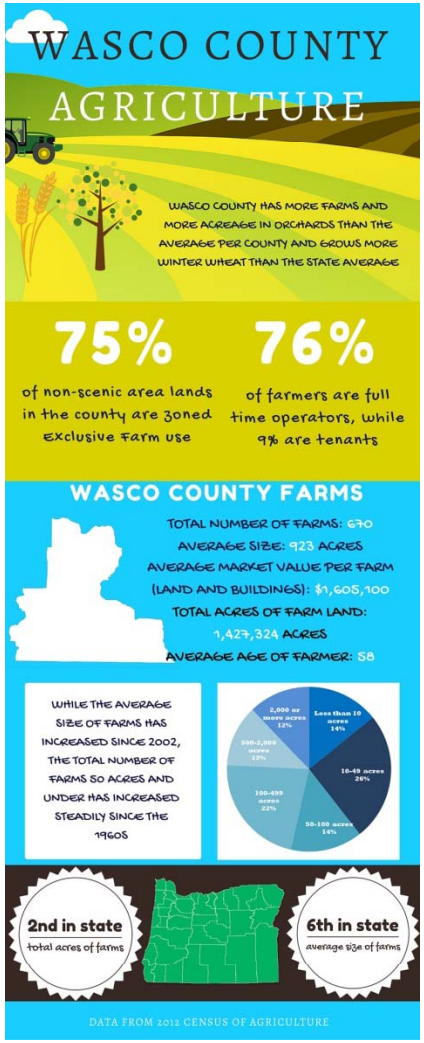
- Research/analysis on land development
- Population and demographic
- Audit current policies and results
- Audit current implementation strategies

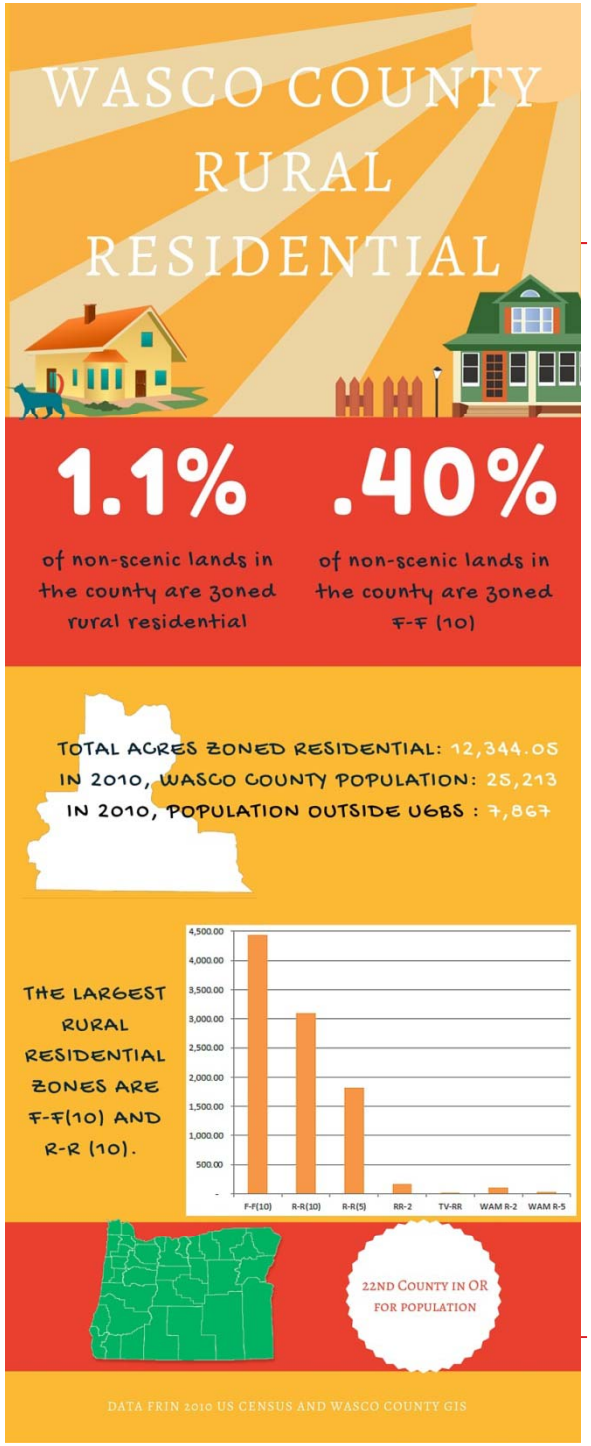
2A, 2B, 3A, 4A → 1A → 1B → 2C, 3B → 1C → 3C, 4B → 1D → Final Draft

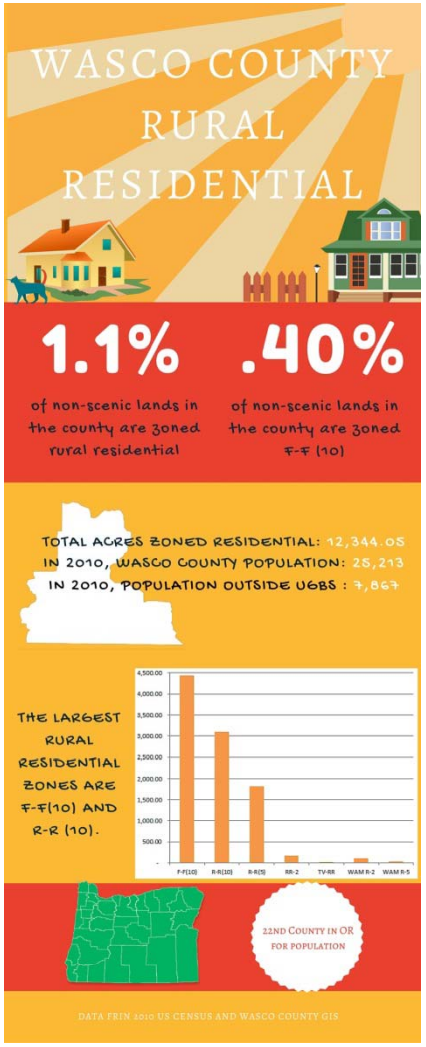
- 1A: Develop outreach materials, identify audiences
- 1B: Community "visioning"
- 2C & 3B: Take data and vision input and draft alternatives analysis and initial policy recommendations
- 1C: Community feedback on alternatives
- 3C & 4B: Synthesize feedback into final policy and implementation, including any map changes
- 1D: Final hearings on update

Currently underway

- LUDO Audit
- Data evaluation of Comprehensive Plan
- Review of other recently updated plans
- Drafting community outreach strategies and materials
- Coordinating data from external sources
- Audit of policy/implementation success


WASCO COUNTY
AGRICULTURE
WASCO COUNTY HAS MORE FARMS AND MORE ACREAGE IN ORCHARDS THAN THE AVERAGE PER COUNTY AND GROWS MORE WINTER WHEAT THAN THE STATE AVERAGE
75%
of non-scenic area lands in the county are zoned exclusive farm use
76%
of farmers are full time operators, while 9% are tenants
WASCO COUNTY FARMS
TOTAL NUMBER OF FARMS: 670
AVERAGE SIZE: 923 ACRES
AVERAGE MARKET VALUE PER FARM (LAND AND BUILDINGS): $1,605,100
TOTAL ACRES OF FARM LAND: 1,427,324 ACRES
AVERAGE AGE OF FARMER: 58
WHILE THE AVERAGE SIZE OF FARMS HAS INCREASED SINCE 2002, THE TOTAL NUMBER OF FARMS 50 ACRES AND UNDER HAS INCREASED STEADILY SINCE THE 1960S
2,000 or more acres 12%
Less than 10 acres 14%
10-49 acres 28%
50-100 acres 14%
100-499 acres 22%
500-2,000 acres 12%
2nd in state
total acres of farms
6th in state
average size of farms
DATA FROM 2012 CENSUS OF AGRICULTURE


WASCO COUNTY
RURAL
RESIDENTIAL
1.1%
of non-scenic lands in the county are zoned rural residential
.40%
of non-scenic lands in the county are zoned F-F (10)
TOTAL ACRES ZONED RESIDENTIAL: 12,344.05
IN 2010, WASCO COUNTY POPULATION: 25,213
IN 2010, POPULATION OUTSIDE UGBS : 7,867
THE LARGEST RURAL RESIDENTIAL ZONES ARE F-F(10) AND R-R (10).
4,500.00
4,000.00
3,500.00
3,000.00
2,500.00
2,000.00
1,500.00
1,000.00
500.00
-
F-F(10)
R-R(10)
R-R(5)
RR-2
TV-RR
WAM R-2
WAM R-5
22ND COUNTY IN OR FOR POPULATION
DATA FRIN 2010 US CENSUS AND WASCO COUNTY GIS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DATA FRIN 2010 US CENSUS AND WASCO COUNTY GIS

Next steps

- Citizen Involvement: Roadshow versus committees
- Work Program: Any additions?
- Plan Evaluation: What data/analysis/etc. do we need to support an update?

WASCO COUNTY PLANNING COMMISSION
August 2, 2016
Meeting begins at 3:00 p.m.
Wasco County Public Works Building
Conference Room
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

Meeting called to Order at 3:04. Roll call for commissioners present.

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russ Hargrave
Chris Schanno
Brad DeHart
Mike Davis
Lynne Erickson
Vicki Ashley
Jeff Handley (arrived late)

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Andrew Myers
Aimee Bell

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Kelly Howsley Glover
Brenda Jenkins, Planning Coordinator
Jensi Smith, Program Assistant
Dawn Baird (arrived late)

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*. Asked if there was any public comment.
None

III. TENTATIVE TRAINING SESSION

Follow up of APA parliamentary procedure training modules with Julie Krueger of the City of The Dalles won't take place as scheduled. Julie Kruger isn't available today but is available August 23rd. **Chairman Hargrave** suggested **Director Brewer** send out a Doodle Poll. **Director Brewer** will send the poll, asking that the 23rd be held on everyone's calendar. **Director Brewer** asked commissioners to send in topics

and questions before the meeting so Ms. Krueger can be prepared. **Director Brewer** confirmed the UPRR meeting will be held on September 6th at 3:00 pm.

IV. WORKSESSION ON LONG RANGE PLANNING:

Ms. Kelly Howsley Glover, **Wasco County Long Range Planner,** stated the department has been looking the reformatting process, making comparisons with the state model ordinance. Wasco County is more restrictive on some things. **Ms. Glover** had sent out tables to the commissioners. She had a PPP to share with the group (See Attachment A).

- **Chairman Hargrave** questioned if we allow clear cuts but no house can be built? Previously the thinking was from a watershed view, it was better to clear cut than develop residential. The logic was that there was less damage with a clear cut than building. **Ms. Glover** stated she has checked the numbers for how many private owners are in F1. The majority of F1 is government owned, with 41% privately owned. F2 is mostly owned privately. She isn't sure how much of these numbers have changed since 1983.
- **Vice Chair Ashley** asked about Mosiers' watershed. Is it designated as so? Not sure.

Chairman Hargrave noted the things we are more restrictive than the state seems to be dated, giving merit to look at them, to better understand why it was restricted. **Director Brewer** noted we need to figure out where the intent still makes sense. The data is outdated; with the watershed info was from the 70s. **Dawn Baird**, Wasco County Associate Planner, stated that part of the reasoning was that people make fires and there are mostly no fire districts in the forest zones.

Ms Glover noted these weren't necessarily insurmountable. Why are people saying it is more restrictive? A lot of the things not allowed are project specific, in many cases it is our setbacks. She surveyed 14 counties, from all over the state, some rural/agricultural, some more metro, to get an idea of where we were with setbacks. She will send commissioners copies of the information. A comparison of setbacks with the rest of the state - on any building we require 200' on the sides, front and rear. This is significantly more than what our counterparts do. Chairman Hargrave asked if this was just for EFU. **Ms. Glover** said yes. On the forest zoning, we are par with the rest of the state. Where we are really different is with the EFU.

Ms. Baird stated that when these were updated in 1996-1998: Wasco County established was 250' setbacks from orchards, 100' from wheat/hay, livestock grazing. However if you had a natural or created vegetation barrier you could cut it in half. Then these were updated without a lot of staff input and these were adopted. It was about 2009 possibly. **Commissioner Davis** noted this is our opportunity to adjust.

Chairman Hargrave stated this is a great piece of analysis and asked for the overview. **Ms. Glover** said that in summary, comparing LUDO and Model code - we need to reexamine the setbacks. We also have some things that are outstanding that we haven't updated that have passed the legislature that need to be addressed. We also have some bigger, tougher conversations that we need to have with the update to the COMP plan. One would be the non-farm dwelling where we may want to loosen some restrictions or do we want to leave them alone? Also addressing some of the pressure we have gotten

from Salem for things like Agri-tourism, destination resorts, what kind of changes are we going to make to balance commercial farming with recreation.

Chairman Hargrave asked if we needed to look at all of these issues. **Ms. Glover** relied yes. **Chairman Hargrave** noted we need to figure out some criteria to judge them, to have a decision making process. He was surprised by the set back issue. He asked if there are other things such as roads, where Wasco County is more restrictive than the state. **Ms. Glover** replied that we are pretty on par with other counties in the state with roads. **Chairman Hargrave** suggested creating the complete list, brain-storm to see if there are other things to be added to this list, and then rank these items. **Commissioner Davis** noted that ranking might be good, to identify where to start, other important things.

Ms. Glover shared that we don't have strict, prescriptive information from the state for residential. She could do a comparison with neighboring counties. Chairman Hargrave said he had not heard that it was a problem. **Commissioner Davis** would like to see how one zone affects another. Is there a connection between the two? Can we put AG next to residential, what would that look like? He would also like to see a session just on roads.

Commissioner Handley asked if we are in line with the state on minimum lot sizes. **Ms. Glover** said the state standard is 160. We have a 'go below' for our 40 acre orchards, which is unique. Forest zones have a minimum parcel size of 80. **Ms. Glover** said there isn't much wiggle room; you have to justify the production values. Dawn said the State is minimum for exclusive farm use is 80 acres. We chose 160 acres instead of 80 so that way they all could get a house. Some other counties do it with irrigation levels; if 80 acres are irrigated then you could build a house. Is there an income test in other counties too? **Ms. Glover** said yes, in some counties.

There was a question about the difference in EFU and forest zoning. Was this done through surveys? How did we decide on this? Discussion on how this zoning standard came to be. It was guessed that the best available data was used to create this, based on what was on the property at that time. There was a lot of window surveying in the 1983 COMP plan. There was a method used – soil data, terrain, topography. It was noted there wasn't a lot of technology when it was done, but also noted there was definitely a process used.

Commissioner Davis noted the market is different today than it was even five years ago. There is pressure on small farms now, because of the specialty crops. **Director Brewer** noted that plans are never created to last forever; they are designed to be updated. At least every 5 -10 years, but that doesn't always get done. The plans aren't poorly done, just outdated. **Commissioner Davis** noted that we may have good intentions, but we may not be able to do this for another 20 years. **Director Brewer** would like to add an implementation plan to our new COMP plan. **Commissioner Davis** said we need to keep this in mind while we are doing this.

LUDO update: There is a long process before we get to this. We need to update the COMP plan first. She will go through (with the PPP) each goal at a very high level.

Goal 1 Citizen Involvement: We are generally on track with these goals from 1983. The big difference is we had some grand visions, with a number of different planning areas throughout the county which all

had their own citizen advisory committee. There was a bunch of planning areas that towards the end of the process got bunched together. The Planning Commission essentially has functioned as the Citizen Advisory committee for the last 15 years. We need to update this, including the technology available now for posting, etc. Basically on track with this goal of making sure citizens are aware of what is going on, coming to meetings, getting in touch with planning staff.

Goal 2 – general land use planning-LUDO & COMP plan. The LUDO is our primary implementation tool. The COMP plan has not really been used as an active document. Part of that is because it hasn't been updated. There are some notable gaps. Our exception policies are not aligned with the state. We need to update this. The inventories that we have based our policies are meant to be kept updated. Most of this is 30 years old. We have problems when trying to apply some of the old policies.

Goal 3 – Agricultural Lands: The LUDO is predominately consistent with state law. We are more restrictive non-farm criteria and our setbacks are more restrictive. We need to add some implementation strategies that are current with state law. **Ms. Glover** sited the importance of Agricultural land in Wasco County. Chairman Hargrave asked what 'implementation strategic that is current with state law' - what does that mean? **Ms. Glover** said that state law says we are suppose to consider is the air, land and water resources bearing capacity of farmland. It is one of the states goals for us to consider these things when designing our policies. Our current COMP plan does not do a good job of this. It is not an active document for staff. They would like to see, specifically with AG land, some policies and implementation plans that are actionable that supports where we are more restrictive. This would give them something when people come in and ask why, a guiding document.

Commissioner Davis asked if we can add definitions. An example would be specialty crops; we will see a lot more green houses. How do we support this? Do we put a definition about this? **Chairman Hargrave** asked if there is a definition section or are you asking about an implementation strategy? Dow we need to do a definition column? **Ms. Glover** said we are having conversations with the state, pushing for implementation strategies that for this issue. When we get to the visioning part, there will definitely be conversations about this. We could end up with policies to encourage small agricultural, alternative farm types. **Director Brewer** stated that 'Definition' cannot mess with the state's definition for farm use.

Goal 4 - to protect our forest lands: Light AG – The difference between F1 and F2. We need to really evaluate whether we still see the value of having a difference between F1 and F2. We have partner agencies that have more active, current inventories on the forest lands. **Ms. Glover** recommended that we leverage some of the work that our partner agencies are doing and utilize their inventories to get a better sense of what is happening on the ground. She further explained that forestry has changed significantly; we really need to have a conversation about how we are managing forest lands to reduce conflict.

Goal 5 – protection of our natural areas. Outside of the Gorge, we use the LUDO and EPDs to make sure we are doing this. This is one of the examples where we are doing things very different than we were doing in the 1980s. We don't have a historic landmark commission any more. We do have state resources we rely on for historic resources. This will need to be revisited. Inventories are outdated. We

can use other organizations info. We need to call it out specifically so that planners know where to look.

Goal 6 – We have a lot of big visionary statements in the COMP plan. Not a lot of actionable items. We want to make the comp plan a useable document. An example is the land use buffers discussion, how to make a better connection to what is really happening on the ground. Our natural hazards are managed primarily through the EPDs. Some of the gaps identified, need to be reviewed/updated. The state has some non regulatory options that might be worthwhile - education and financial incentives. Flood plains developments tend to be painful for consumers/customers. One way to help this is to have proactive education for folks. Or some incentives.

Recreational needs are very relevant. This will be a hot topic. Our current policies really focus on the wild and scenic rivers. There are federal and state designations. The state regulation controlled rivers are the John Day & Deschutes Rivers. The White River is also identified by the federal act, but no regulatory policies or procedures. The state has specific implementation implications. **Chairman Hargrave** asked if the state doesn't recognize the federal designation for the White River. **Ms. Glover** shared she was not sure why this happened. **Commissioner Davis** noted that when we get into destination resorts, there is a separate process. **Ms. Glover** stated that we have to go through a Goal #8 exception process. We have identified on the map where it meets all the criteria of a destination resort. There are some really strict criteria. **Commissioner Erickson** asked if the state has an outdoor recreation plan. State parks do, but it doesn't cover all of Wasco County.

Economic development: Forestry and AG were changed in 1983, the focus of our strategies. That is still primarily true today. What are the additional opportunities and challenges to introducing some new types of industries? Where do we have underutilized properties? Small, experimental farms, for example. Our projections are outdated. We need to identify the trends that are relevant to our policies. The state talks about incentive based land use. How do we incentify people to move to less populated areas? Housing is a very big issue. We are listening intently to housing issues. It is a huge problem state wide. The housing issue in our COMP plan is short and sweet, allowing mobile homes as an opportunity. We have some slight differences - we treat mobiles and stick built as the same. We need to address this.

Ms. Glover said one of the things we deal with in the department is code compliance. Limited income folks have a really hard time to get into compliance. We want to find ways to help. **Commissioner Davis** asked about the health department involvement, noting DEQ changes to septic system rules. These rural residential small lots, they're supposed to evaluate the septic lines, if they are out of compliance, they may not be able to change out their septic systems. He thinks it would be helpful to incorporate the health department into these discussions. **Director Brewer** stated they are involved with every new development proposed. They are part of our process. **Director Brewer** said that part of the work that Ms. Glover is going to do is to identify how many options, what does our current zoning look like right now? That should tell us if it is a problem with zoning? Is it a problem of location of zoning? Is it an issue of owners not wanting to build out too fast with the standards? **Commissioner Davis** noted that it might be that the community water system might not be able to support it.

Ms. Glover – based on the LUDO audit, we want to look at our restrictions on residential development. We have unincorporated rural communities that are primarily second homes. We want to examine what the impact of that is, particularly if some want to transition those to primary homes. We have very small communities that have small population, so what the implications of that are. **Ms. Glover** plans to take a look at alternative dwelling types, accessory dwellings, mother-in-law suites, etc. We don't allow for duplexes.

Director Brewer commented that Wasco County's current rules have resulted in abuses of the temporary use and hardship dwelling permits. This has been hard to enforce with our Code Compliance in the long term. This results in out-of-compliance homes where people may be forced to live in conditions they may not want to be living in. To look at this for the long term need, we want to find ways that would give opportunities for people to live the way they want to live, recognizing that we have an aging population. **Commissioner Davis** – This will be an ongoing problem. How do people deal with their grandparents, etc? **Director Brewer** - How do we do this in a way as to not allow too many people in conflict with agriculture? **Ms. Glover** - We don't want to create densities in farm areas. Along with commercial AG one of the other things we hear a lot about is Farm Labor Housing which is rapidly aging. Some of the new restrictions with OSHA are increasing the space allotment, creating some conflict for them. We want to find ways to still have temporary farm labor housing, but do it in a way that is beneficial for everybody. Chairman Hargrave – To back up a little, taking farm labor out of it, we have a complete restriction on multifamily dwellings, is this discussion just part of that or it completely different? **Director Brewer** said she sees it as different because a multifamily dwelling is a permanent level of density change. We need to have that public conversation about where the line is. **Chairman Hargraves** noted it is a fairly continuous slope from one to the other. You have ADUs, temporary or hardship housing, maybe this should it be upgraded to better control it. He is trying to figure out which road we are on, whether it is multifamily dwelling or not. **Director Brewer** noted there are some state limitations too. AG labor and hardship/temporary use are exceptions. **Ms. Glover** noted there are a lot of conversations about this.

Commissioner Davis said this needs to be discussed. **Director Brewer** said we have to have our eyes wide open, knowing that AirBNBs and others might get wrapped into that. **Chairman Hargrave** stated this may intertwine the economic and housing goals. **Commissioner Davis** said we need to look at all of these. **Ms. Glover** noted that these discussions are happening all around us. We are in a unique position to get out in front of these issues, to be a great example for our counterparts. **Chairman Hargrave** the AirBNB looks more like economic than housing. These are really intertwined.
There was a consensus that we need to have a good discussion about this.

Public Utilities and Services – most of the six policies that are in the old COMP plan are not directly relevant to the planning program that deals with anything we have control over. **Commissioner Davis** - What are we talking about here? **Ms. Glover** said there is a transportation one. **Director Brewer** added streets, sewer, water, school facilities, safety, fire, power lines. **Director Brewer** noted we have lots of partners with this chapter. Wasco County is thinking about doing a capital improvement plan, to do an inventory, and a strategy moving forward. We will be looking at this to guide us. Emergency services, sheriff's department, etc, will be doing the heavy lifting that will effect what we do.

Ms. Glover said tied into the conversations about Housing, AG, Recreation, and Economic Development – thinking strategically on how to create policies that don't over burden our public services system. (Water, road, sewer, garbage) This chapter is pretty good, making some staples explicit.

Goal 12 – some specific things that need to be addressed.

Goal 13 – energy conservation. We have some big ideas based on things from the 1983 COMP plan, things that have changed significantly since implemented. This is a good opportunity to get these up to date, possibly with some renewable energy resources. There is a lot of talk at the state level. The connection between set back, lot size and the energy efficiencies. It was noted that Utilizes are critical for this to be successful in the county. We need to work with partner agencies. Most of this work has been done. **Chairman Hargrave** - wind turbines were addressed, as well as solar. **Ms. Glover** - we don't have a lot for commercial scale, we have some gaps. **Vice Chair Ashley** shared that it was discussed when these things were adopted. Question about commercial wind farms. The economics have held some of this up, with unpredictable issues hanging in the balance. **Commissioner Davis** would like to see incentives on the smaller scale, the embracement of the utilities. It would be important to have the utilizes as part of the discussion.

Goal 14 – Urbanization: The primary benefit of this goal is to continue to protect those resources land, to encourage residential uses in urban areas. We heard from LCDCs about extending the UGBs which aren't as significant here because of some of the scenic area restrictions. We need to make it more explicit. There is the prospective, one of the ways to resolve the housing issues, is to expand the urban boundaries. We have specific challenges because of the NSA, which literally needs an act of Congress to change the boundaries. It might be good to it more explicit that there are some process problems. The NSA will cause conflict to expanding the UGB. **Director Brewer** stated that we have an opportunity to evaluate what we would like see as far as standards and parameters go for moving forward with any kind of urban expansion, with the two urban areas in the scenic area, we need to acknowledge that we are not holding all of the cards. We can flush out what we want to see. We have to be the applicant to the Gorge Commission; the two incorporated areas cannot do it for themselves.

Commissioner Davis said he was suggesting that we can give alternatives, incentives, to bring people where we would like them to be. An example is South County, which needs people. Some towns are shrinking, with an aging population as an issue also.

Director Brewer said that **Ms. Glover** has some specific questions she would like to get to.

Goal 14 continued- **Ms. Glover** – urbanization, to explore ways to leverage ways to get people into the existing housing stocks. We also struggle on a current planning level that there are some disincentives, with partitions being developed to subvert having to do some of those additional developments. It ends up creating a problem from a visioning prospective. When we talk about the road issue, this might be a good place to talk about this.

V. DISCUSSION OF OTHER BUSINESS/PLANNING DIRECTOR COMMENTS:

For the Voluntary Periodic Review we need to identify the four things we need to represent to them.

Why are we asking for voluntary periodic review?
Are we making decisions that are out of sync with the state wide goals?
Are we experiencing some sort of significant regional issues?
We don't think our COMP plan is in compliance with the state.

Ms. Glover asked members if these things they are hearing out in the community. Yes. Also noted there are other things that have not been exposed in the analysis. Chairman Hargrave stated there were other that he had heard about. We need to look at scope. Are there any liabilities? **Vice Chair Ashley** said yes, where we are more restrictive than the state. They may be able to bring forth data that shows the county is wrong. There is technology that can give them that. **Director Brewer** stated that technically we are allowed to be more restrictive. People can challenge us now.

Chairman Hargaves spoke of missed opportunities. We don't want to miss these opportunities associated with dwellings. There are examples where we don't allow things that the state does. **Ms. Glover** – state doesn't allow for a building for marijuana grow. Chairman Hargrave stated with other AG uses on forest lands, the state will allow a building but we don't. **Ms. Glover** – the things that the state allows: there a couple kinds of dwellings you can have on forest land - large tract, lot of record, and template dwelling, caretaker, replacement dwelling, and temporary hardship. We don't allow temporary on forest lands. Example – portable mills. Chairman Hargrave noted if you can't make a living on it, it is not viable.

Ms. Glover – would like input that the commissioners are hearing. One of the primary goals is to have a more actionable document. Something our community and other agencies can use to understand why our planning is what it is. They can email her with the feedback. **Director Brewer** noted that we have a large responsibility to communicate these large issues to the rest of the world in a way that makes sense. One of the things that **Ms. Glover** has done is a one-page info graphic, a simplified document to help people understand. We are working to get a one-pager for each of the zoning areas.

Commissioner Davis – we need to consider where AG is going. Who we are supporting? We need to think outside of the box. **Director Brewer** – people need to be better educated on the value of our AG industry.

Chairman Hargrave – how do we support the AG going forward? We need to think about it differently. The tables were clearly enumerated. We need to look critically as to why. We don't want to shackle the county to the past. We could pull some of this into the economic plan. There was discussion about reaching out to the OSU extension office, the community college and other resources to look for ways to help improve the amount of skilled labor in the area to help with future development. The area has been affected because projects have had a difficult time finding enough qualified people to work. It was noted that it would be good to help promote the agriculture in the area, but not to promote it as an extension of the scenic area. **Director Brewer** noted that the scenic area rules are less protective of agriculture. We hear that we are overly protective. Chairman Hargrave stated that he saw these areas clearly enumerated on the tables **Ms. Glover** had sent out and shared that we need to look very

critically as to why. There are a lot of whys. We don't want to shackle the county to the past, we want to enable the county to look to the future.

Ms. Glover is proposing a draft letter requesting the LCDC to let us enter into a voluntary periodic review, based on some of what we have identified as our new stats. She will share with the commission and wants to move quickly to meet some of our targets. She would like to get this done in August, as September will be busy with UPRR. It will take at least one hearing, probably more. She will send it out to see if commission agrees and then vote to send it off to LCDC. She hopes to do this on August 23. She would ask them to approve the letter, as it becomes part of the public record. There was a consensus to move ahead with this.

Director Brewer – we received an email from our LCDC rep about our incoming request for voluntary periodic review. We have been asking their staff what we need to do. Specifically – none have done this before, to keep us on track to. We have decided to do this for a number of reasons. First, because none of us have been down this path before. Hypothetically, as we go through this process there will be someone ahead of us saying we need to this or that, keeping us on track for score and timelines. It forces us to put together a very specific work plan. The other reason is for potential for funding assistance for any data analysis we might have. It also makes it more predictable. We have enumerated this before. The email gave us a heads up that we don't have great odds. **Ms. Glover** – this is why we asked them to be very explicit. We still want to ask. We have the political will and a case to make, to meet the criteria. We have that. **Ms. Glover** – we want to set the expectation, they will likely deny us. If that happens, it doesn't change that we are still going to do the work. It will be a POPA. **Commissioner Davis** – the product that we are thinking were are going to get, irrelevant of the path we go down. We are still going to get the same product. We are doing this, with or without. **Director Brewer** noted the letter will be very pointed and direct. **Vice Chair Ashley** said if we do this without them we won't get any money. **Director Brewer** shared she thought there may still be monies available. Chairman Hargrave said we should point out the urban growth boundary. **Commissioner Davis** – they can call it whatever. We are going to call it COMP review. The commissioners thanked **Director Brewer** and **Ms. Glover** for the presentation.

Chairman Hargrave adjourned the meeting at 5:06.

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Russ Hargrave, Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

WASCO COUNTY PLANNING COMMISSION
August 31, 2016
Meeting begins at 3:00 pm
Wasco County Public Works Building
Conference Room
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

Meeting called to Order at 3:02.

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russell Hargrave
Vicki Ashley,
Chris Schanno
Andrew Myers
Lynne Erickson
Mike Davis (arrived after roll call)
Jeff Handley (arrived after roll call)
Aimee Bell (arrived after roll call)

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Bradley DeHart

WASCO PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Brenda Jenkins, Planning Coordinator

GUESTS

Kristen Campbell, Counsel
Dan Olson, Facilitator
Tyler Stone, County Administrator

II. PUBLIC COMMENT:

Maximum 15 minutes, limited to items not being heard or discussed elsewhere on the agenda. Maximum 5 minutes per speaker.

Chair Hargrave asked for comment. There was none.

III. TRAINING SESSION:

Dan Olson gave a brief background of his experience. He explained that his role in the upcoming hearing would be to help facilitate the meeting and to keep it on track. He stated that Kristen Campbell will handle the substance criteria regarding the decision. He then stated that the Commission will not be discussing any of the substance of the upcoming hearing, as this meeting was not noticed for that purpose; and if they did discuss substance, the commissioners would be required to declare that at the upcoming hearing. **Mr. Olson** then discussed his expectation of the upcoming hearing. He stated that he had been in communication with the party's lawyers and expressed his expectation to them as well.

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Mr. Olson explained that Chair Hargrave will read the "script" to open the hearing, he then explained the steps of the upcoming hearing. He stated that the applicant isn't planning a large presentation. He also explained that the Wasco County rules can be interpreted to allow everyone the same amount of testimony time as the applicant received. Therefore he thinks the Commission should set a time limit on the testimony.

It was decided that Staff will have 3 sets of signup sheets for testimony to facilitate ease in the testimony process. There will be sheets for testimony "In Favor", "Opposed", and "Unsure". It was also decided that there would be 10 to 15 minutes allowed for Applicant's rebuttal. **Mr. Olson** stated that the Commission should encourage testimony to be submitted in writing.

Mr. Olson then explained that the Commission also needs to set Rules of Conduct for the upcoming hearing. Those include the following rules: No applause; No demonstrations; No yelling from the audience. **Tyler Stone, County Administrator** asked if the Commission has the right to excuse someone from the room. **Mr. Olson** stated that they did, but cautioned that it can get 'ugly' if it comes to that.

The Commission then discussed time limits for testimony. A consensus was reached on a three (3) minute time limit per person.

Mr. Olson then went over the Conflict of Interest requirements and rules as well as the Disclosure of Interest and Ex-Parte Contact. He suggested disclosing things such as reading articles in the local newspaper, talking with neighbors, and visiting the site . It was discussed and Staff was directed to add the statement that "all the Commissioners had driven past the site while passing along Interstate 84".

Mr. Olson stated that after the initial hearing the Commission will need to deliberate and adopt findings. He suggested possibly having two meetings to accomplish this. The Commission set a tentative hearing schedule:

Hearing – 9/6
Written comments 9/13
Staff time to compile comments 9/15
Public Response to comments 9/21
PC Deliberation 9/26
Staff time to write findings 9/30
PC to adopt findings 10/03
Appeal period 10/18
Wasco BOC 11/1
Wasco BOC Continuation 11/2
Wasco BOC Decision 11/16

Meeting was adjourned at 4:48pm

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WASCO COUNTY PLANNING COMMISSION

August 23, 2016

Meeting begins at 3:00 pm

Wasco County Public Works Building

Conference Room

The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

Meeting called to Order at 3:02. Roll call for commissioners present.

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Vicki Ashley, Vice (Acting) Chair
Brad DeHart
Mike Davis
Lynne Erickson
Jeff Handley
Andrew Myers

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Russ Hargrave
Chris Shanno
Aimee Bell

WASCO PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Kelly Howsley Glover, Long Range Planner
Jensi Smith, Program Assistant
Will Smith, Associate Planner

GUESTS

Julie Krueger, City of The Dalles

II. **PUBLIC COMMENT:** Maximum 15 minutes, limited to items not being heard or discussed elsewhere on the agenda. Maximum 5 minutes per speaker. **Vice Chair Ashley** asked for comment. None.

III. TRAINING SESSION: Training on parliamentary procedures with **Julie Krueger** from the City of The Dalles. **Director Brewer** introduced **Ms**. **Julie Krueger** from the City of The Dalles. Julie shared some back ground on her experience on parliamentary procedures. **Ms. Krueger** shared a quick reference of the motions for each commissioner. **Ms. Krueger** would be willing to come to important meetings to help with Parliamentary Procedures. She recommended stopping a meeting to check procedure, if unsure.

- **Roles**: Chair – open the meeting, call to order, announce the business on the agenda, recognize members entitled to the floor, recognize questions and call for vote, enforce the rules, expedite business, decides question of order, respond to questions of inquiry and adjourn the meeting
- **Staff**: Help Chair, guidelines are available for Chair, make this available if you get a new Chair – go over it, help them with it.

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- **Board**: Attend and be on time, understand rules, address all remarks to the Chair, use parliamentary procedure knowledge constructively, don't obstruct business, be familiar with the issues at hand
- **Motions** – types: There are several different types of motions:
  - **Main motion**: I move to . . . . . Whatever the action item is on the agenda. Most are approved by majority vote, sometimes 2/3 vote (example - suspending rules or object to consideration of a question, you would need 2/3s votes). These are to protect everyone's' interests, there have to be a large number in favor of these types of thing for protection.
  - **Subsidiary motions**: This could be applied to another motion, for the purpose of amending a motion. Many times people will say, 'I move to postpone an item.' - This would be to move it to another meeting, (to a time & date certain) to postpone indefinitely is a way to kill a motion. To bring it back up at the same meeting you say 'lay on the table' (indicating it will happen when …. 30 minutes, at the end of the meeting, etc.). Reasons to 'lay on the table' would be used for a recess, to retrieve more information on an item. Motion to 'remove it from the table' would bring it back into action.
    - '**Previous question'** is the correct term for when people say 'call for the question'. This is allowed with Robert's Rules, but is inappropriate. 'I move previous question' is used to shut off debate – a tactic to remove further discussion. This would need a second. It would then need a vote. This would be for the decease of the conversation, not a vote on issue stated.
    - **To limit or extend the limit of debate** – Expand or minimize the limit for debate. This is for the board, not public comment, which can be limited also, if desired.
    - **Postpone:** To a time or date certain.
    - **Continuance**: applies to a public hearing, more than a parliamentary procedure.
    - **Move to commit**: move to a committee, or refer to committee.
    - **Move to amend:** a main motion on the floor, striking, adding, and/or changing the original motion. This would need to be seconded and voted on.
    - **Postpone indefinitely** : this is a tactic to terminate all together, without taking a position.
  - **Privileged Motion**: Usually have no relation to the pending question. An item can be put on the floor, something other than agenda items, discussion. This can sometimes be for the comfort of the body.

Commissioner DeHart had a question about the friendly amendment. Is there risk to ask for this? If someone does this and it looks like unanimous consent, is this a risk? **Ms. Krueger** answered that it depends on how formal you want your body to be. If it appears there is unanimous consent, which is as good as a formal motion. If you don't want it to be informal, you may need a formal amendment or motion. If you feel uncomfortable, at risk, it is better to be formal for protection. **Ms. Krueger** has never seen a challenge due to Parliamentary Procedures errors. It is good for follow procedures, to make things look professional. **Commissioner Davis** noted he wants to be clear on parliamentary procedures for formal situations. There was conversation about knowing how to do these things, to be professional so as to avoid risks.

Commissioner Davis asked what it means to 'raise a question of privilege'. **Director Brewer** suggested it might be something like do we have the scope of authority to even hear this? Is it relative information? **Ms. Krueger** read from Robert's Rules that if a pressing issue is affecting the right of privilege of the assembly or an individual member, (examples – noise, inadequate ventilation, introduction of confidential subjects in presents of guests), it permits an interruption to pending business to state an urgent request or motion. She shared it usually

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doesn't have anything to do with the business at hand, more things like discomfort, or interruption. A 'question of privilege' is the formal statement used for this.

- **Call for the order of the day** is the agenda. This can also include someone who would like to rearrange the agenda. If things get out of order, someone could call for the order of the day to get it back in line.

Vice Chair Ashley commented that some meeting will include an approval of the agenda. Is this necessary? **Ms. Krueger** answered it is not required but many do use this, as it is a formal motion. It is used to remove or add things to the published agenda. To add something, you have to notice it. This could include voting on the item. This could not be used to add an item to be voted on if it is a situation where there needs to be a public notice prior to adding to the agenda, to be voted on.

- **Incidental motions:** Usually arise out of a pending question. It relates to the business of the board.
  - **Point of order**: Examples would be providing clarification, side barring. This is sometimes used to get things back on track, not needing a vote but more a consensus. If a member notices that the chair is not noting something, a member can call attention to bring it back in line. This would require the Chair to make a ruling on the question at hand.
  - **Appeal from a decision of the Chair** – that means that even though there are duties of the Chair, any two members can challenge the Chair's decision –with a motion and a second. This would require the Chair to bring a vote to the assembly to appeal the Chair's decision.
  - **Suspend the rules**: If there are specific things that need to be changed.
  - **Objection to consideration of a question**: If a motion is made that a member believes the question would do harm to even discuss, the member can raise an objection to the consideration of a question. This would be done before the discussion. It can be motioned to stop, maybe because it should be discussed in executive session, etc.
  - **Division of a question**: Someone makes a motion that is too long. This is asking to have it divided into pieces that can be decided on individually.
  - **Division of a paragraph:** This is similar to a division of a question.
  - **Division of the assembly**: If someone doesn't think the vote is accurate, they can ask for a division of the assembly. This can be a standing vote, a roll call vote, etc. This is to elevate confusion about who voted, what was voted. This is a good way to do it if something is controversial.
  - **Parliamentary inquiry**: Asking someone for more information, asking a question. Can refer to the book for parliamentary inquiries, asking staff for more info.
- **Bring back/restorative motions**:
  - **Take from the table**: Brings back something that has been tabled. This would be something that was tabled at the current meeting.
  - **Rescind or amend something that has been adopted**: Strike out the whole motion. This can be done at a future meeting.
  - **Reconsider:** Used to change a previous decision. This would need to be at the same meeting and can be only from a person on the prevailing side who can ask for the issue to be reconsidered.

Discussion on when a group of individuals discuss something without a motion. **Ms. Krueger** stated this is inappropriate. There should only be discussion after the motion (the question) and second. If debate starts without a second, it is considered to have been seconded. (We agree to talk about it by talking about it). The Chair should ask if there is a second. The Chair should also say it has been motioned and seconded. They should

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say –'is there any further discussion?' Also should restate the motion so everyone knows what is being voted on. There was discussion on best way to vote – either by voice vote or roll call. **Ms. Krueger** said it is always a good idea to state the rules at the beginning of the meeting. She recommended there be a presentation table, to help alleviate some of the cross bar discussion with big item or large meetings. She recommends limited number of speakers, and if needed, brings it to a future meeting. If there is a group attending a meeting, the commission can ask for a speaker to be appointed to talk for the group. It was noted that they can state for the record they agree with such and such. **Director Brewer** noted that a line would be cued up for a speedier run through.

There was a discussion on Abstentions. An example is when people abstain from voting on minutes because they were not at the meeting. Robert's Rules states you have a duty to note your opinion by voting, but you can abstain because no one can compel you to vote. An appropriate time to abstain is if you have a conflict of interest. If it is known at the beginning, it should be stated then. If in the course of the discussion you realize the conflict, you can abstain then. An abstention is considered a "no" vote. Be mindful of that when the vote is close as the abstention may end a motion. **Ms. Krueger** shared more info on board dynamics to help the commissioners, offering helpful hints. She shared a quick reference guide on making motions, a cheat sheet.

There was a discussion on the upcoming UPRR continuation date possibilities. **Director Brewer** stated that the date was set and has already been publicly noticed. It takes 20 days notice to change, so the date is set for the next meeting. The commission can do it whenever they want if it is to be continued. If someone else asks for the continuation, there are other things that need to be considered. The facilitator is looking into these. **Commissioner Davis** asked if someone in the audience can request a continuance. Yes, it is believed so, but the attorney is looking into it. **Director Brewer** told the group that Chapter Two is where our procedures ordinance is located. It is unique in that anyone can speak as long the applicant. State statue is different. The attorney should be able to provide more information later. The ordinance was presented on the screen. It states 'in the same manner. ' **Director Brewer** said there have been questions regarding this, because it is so broad. She is having council look into this and suggested that commissioners look at this chapter to become familiar with it.

IV. **<u>LONG RANGE PLANNING WORK SESSION</u>:** Planning Commissioners will review a draft letter to the state Land Conservation and Development Commission requesting to enter voluntary periodic review and vote whether to proceed or make amendments to the draft.

Ms. Glover reviewed the draft letter, noting she would like them to make an official decision whether to revise or keep the draft. **Commissioner Davis** asked if the state can reject it. Yes, they can. **Ms. Glover** stated that we could then go to the PAPA process. **Director Brewer** said they are set up to do the same thing. We are trying to do the Voluntary Periodic Review because we would like to have assistance from the state. If they deny, we can still do the work with the PAPA (Post Acknowledgement Plan Amendment). We can structure this, not needing to have work tasks that we submit. The state would then have to review and acknowledge our PAPA, approve what we are proposing. **Commissioner Davis** asked if it is inconsistent with state law, is there a process to refine what we do. Is there a process to defend our decision? It was suggested to wait and see if this arises, as it is a broad question. With the Voluntary Periodic Review, it is sent in pieces, work tasks. With the PAPA we send the whole thing. **Vice Chair Ashley** asked if this is too lengthy. **Director Brewer** stated we are one of the first to ask in more than a decade. We have been told we need to make our case.

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Commissioner Davis made a motion to approve the letter as written and submit it to the state for approval. 2nd – **Commissioner Myers**. **Vice Chair Ashley** called for a vote. Voting request rescinded for question from **Commissioner Erickson**.

Commissioner Erickson asked if the **BOLD** items are what we are supposed to respond to, to make our case? That is correct. Under (section) B, paragraph 3 – it seems to imply that if we allow more houses, the forest would be managed better. Also talking about fire risk? She isn't sure what we are talking about there. **Director Brewer** suggested adding a preamble to make sure no one misunderstands the linkage. There was discussion on how commissioners perceived the passage, noting that times have changed. Different suggestions on how to revise were given. **Commissioner Davis** suggested sub-bulleting these, noting the three topics. **Director Brewer** suggested that after the word, 'rigid and' add a statement 'has resulted in several unintended consequences that have required attention:' amending the decision that way.

Commissioner Erickson – Question under (section) A, where it talks about demands on water resources, how that impacted the county; where it has lead to development and use restrictions in incorporated communities. She is curious to where we were referring to. Examples were given as to where in the county.

Commissioner Erickson – On the next paragraph it states: "In many state regulations outside the Land Use Planning system have changed the process, etc . . . . , would it be helpful to have an example? **Ms. Glover** asked if others thought it would be helpful to add examples, which she can add. The Department of State Lands had identified that some of our joint processes were not necessarily up to current regulations. **Commissioner Davis** thought it might be good to know if the audience would understand what we are referencing. **Commissioner DeHart** said he thought others would know, summarizing that times have changed, we need to update.

Commissioner Erickson had a question on (section) B – the first paragraph: Aging population has increased demand for assisted living housing arrangements. Does this mean it is actually increasing the density of dwellings or the aging population will increase, the demand will increase? It was noted it is currently an issue.

Commissioner Erickson noted on the first page, second paragraph – is it 'further' or 'farther' reaching? Farther is distance. **Director Brewer** noted it could be changed to 'further'. She also noted on the last sentence on the first page, it make be good to say 'Wasco County is aware of the criteria that must be met to qualify for Voluntary Periodic Review; shown in bold below' – just to introduce the bold. **Vice Chair Ashley** asked if there need to be a vote on the recommended changes. Correct.

Commissioner Davis moved to approve the letter at hand with the modifications that have just been discussed, to include the changes made as noted.
Commissioner Erickson seconded.

Vice Chair Ashley called for questions.
Commissioner Myers asked for clarification on whether the Commission was voting now on modifying the motion? And then we have to vote on the motion? Can we just scrap the first motion? Yes.

Vice Chair Ashley – We are voting on the adoption, of sending this letter, with modifications, to the LCDC.
Commissioner Davis - Do we have to vote to modify it first? We are voting on the modifications now.

Vice Chair Ashley called for the vote by a raise of hands. **The motion was unanimously approved 6 to 0, 3 absent (Chair Hargrave, Commissioner Schanno, and Commissioner Bell).**

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – absent
Vice-Chair Ashley – yes
Commissioner DeHart – yes
Commissioner Myers - yes
Commissioner Davis – yes
Commissioner Handley – yes
Commissioner Schanno – absent
Alternate Commissioner Erickson – yes
Alternate Commissioner Bell – absent

Vice Chair Ashley called for the vote on the adoption of the letter to be sent to the LCDC.
Vice Chair Ashley called for discussion. There was none.
Vice Chair Ashley called for the vote by the raising of hands. **The motion was unanimously approved 6 to 0, 3 absent (Chair Hargrave, Commissioner Schanno, and Commissioner Bell).**

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – absent
Vice-Chair Ashley – yes
Commissioner DeHart – yes
Commissioner Myers - yes
Commissioner Davis – yes
Commissioner Handley – yes
Commissioner Schanno – absent
Alternate Commissioner Erickson – yes
Alternate Commissioner Bell – absent

Ms. Glover noted the next step is to go before the Board of County Commissioners to sign off, and then it will be sent in September.

It was noted that a good practice is to put it on the agenda prior to starting the meeting. Discussion on how the votes are noted. It was suggested to do a roll call or hand vote, to individually acknowledge the commissioners votes. **Commissioner Dehart** stated he would like more discussion, at a time when **Chair Hargraves** can participate. He stated that it is recorded, noted in the minutes. He said there are times when it may need to be

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more structured. **Commissioner Davis** – the discussion is also on entrusting our Chair to look at the situation to decide on what is appropriate. We can as members, ask for 'division of the assembly'. Discussion noted this would be available, if you want it to be very clear. **Commissioner Davis** inquired as to when it appropriate to say this? **Vice Chair Ashley** commented it should be during the discussion. **Commissioner DeHart** stated that when the Chair calls for a vote and the vote is divided, that might be an appropriate time to ask. **Commissioner Davis** also noted that if during a discussion a member would like to see it be more formal, a member could call for this, before the vote. **Vice Chair Ashley** commented that after a second is made, if someone would like to call for a division of the assembly that might be the time to do this. **Commissioner Davis** commented that the Chair (Hargraves) should be present when the decision on how to do this is made.

Director Brewer wanted everyone to note the amount of research that went into the draft letter that **Ms. Glover** put together. She also stated that the links in the document will also allow members to look more closely at these, if they chose to. **Ms. Glover** will send to Commissioners the Word doc so they can use the hyperlinks. **Director Brewer** introduced a video **Ms. Glover** made. **Ms. Glover** noted this was made because many people do not know what a COMP plan is. This is an EXPLAINER video, it tells you what we are doing, noting it will be on the County's website. Staff will check on having it posted to The Chronicle's website as well.

The new logo isn't on everything, but will be on the new County website. New business cards will not be printed; old ones will be used up. The new logo will be used going forward. **Director Brewer** gave a brief discussion on what the new letterhead will look like, noting it takes time to roll all this out.

Meeting adjourned at 4:57 pm.

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WASCO COUNTY PLANNING COMMISSION
September 26, 2016
Meeting begins at 3:00 p.m.
Wasco County Public Works Building
Conference Room
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russ Hargrave
Brad DeHart
Lynne Erickson
Vicki Ashley
Jeff Handley
Andrew Myers
Mike Davis
Chris Schanno

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Aimee Bell

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Brent Bybee
Brenda Jenkins, Planning Coordinator

Chair Hargrave called the meeting to order at 3:00

II. QUASI JUDICIAL HEARING (Continued from September 6, 2016):

File # PLASAR-15-01-004. Union Pacific Railroad and their land use consultants, CH2M Hill, request to expand an existing railroad siding on either side of Mosier, Oregon for 4.02 miles of new second mainline track and realigned existing track; place five new equipment shelters; install drainage structures, a retaining wall, new lighting and signage, and wireless communication poles; modify existing utilities, temporary landing zones for construction; and construct temporary and permanent access roads. The request also includes off-site wetland mitigation east of the primary project site.

Chair Hargrave gave a history of the hearing to date, stating that the first hearing occurred on September 6, 2016. At which time staff provided a presentation of the proposed development and the application as well as applicable rules. Testimony was received from the Applicant and members of the audience. **The Commission** voted to hold the record open for 7 days. He then summarized the request.

Chair Hargrave explained the rules regarding testimony and stated that at the end of testimony he will ask for a motion to keep the written record open for until 5:00pm on September 13, 2017; also written responses to these comments may be received until 5:00pm on September 21, 2017.

Chair Hargrave asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter? There were none.

Chair Hargrave asked if any Commission member wished to declare any ex-parte contact. There were none.

Chair Hargrave asked if anyone had objection to the jurisdiction of this body to act on behalf of Wasco County. There were none.

Chair Hargrave called for the Staff Report from Planning Director, Angie Brewer. **Chair Hargrave** stated that there was rebuttal information submitted that the Commission had not had a chance to review. He asked Director Brewer to provide an overview of the information prior to the Commission taking a break to read the material.

Director Brewer explained that the Planning Department received a few new documents between September 6th and the cut-off for the extended seven-day comment period for submitting documents. She then gave a brief summary of those documents, which are part of the Agenda Packet for the Commission. She also explained that the rebuttal comment document received from Union Pacific Railroad was left out of the last email to the Planning Commission; therefore the Commission will be taking a small period of time to read the document before deliberations. (See Attachment A)

Commissioner DeHart asked for clarification, stating that Director Brewer mentioned that the City of Mosier had submitted a request to have a portion of the project eliminated, he asked if the Commission really had the ability to do that or if it would require going back to the beginning with a new application. **Director Brewer** responded that in her opinion, no. She continued by stating that the Commission could place conditions on anything in the application, including the scope, size, location, and design. She further stated that they could not just deny it because they want to. There has to be a connection with real impacts addressed and cited.

Chair Hargrave called for additional questions from the Commission. There were none.
Chair Hargrave called for a break to allow the Commission to read the submitted rebuttal comments.

*****Break at 3:15pm*****
*****Reconvened at 3:25pm*****

Chair Hargrave asked for some recommendations from Director Brewer on the rebuttal document.
Director Brewer stated that there were some legal questions in the document and some project specific question. She then deferred to Kristen Campbell to address the legal aspects. **Commissioner Myers** stated that it appeared to him that the document was asserting that Wasco County does not have the authority to impose many of the conditions of approval that was suggested by Staff. He asked for Ms. Campbell to address the issue.

Ms. Campbell stated that it was her opinion that there is federal precedent that requires local government to administer federal environmental laws through Compact. She further explained that in this case the Compact required the Management Plan which is the County's authority in this case implementing. Therefore she believes the Commission does have the authority to consider these items.

Commissioner Davis stated that because of the number of statements in their letter which state that they undertook this review process voluntarily, since state and local laws cannot be applied, he asked for clarification as to whether the Commission's decision would become an irrelevancy based upon federal law, can they just do the operation anyway. **Ms. Campbell** replied that the Service Transportation Board has repeatedly held that nothing in the sections that Union Pacific cites is intended to interfere with the role of state and local agencies in implementing federal environmental statutes. **Director Brewer** stated that the scenic area ordinance that Wasco County implements is specifically implementing the Columbia River Gorge National Scenic Area Act, which is signed by Congress through its federal authority.

Commissioner Erickson had questions on the revision of condition #21 regarding the access. **Director Brewer** stated that she does not agree with Union Pacific's recommendation. She stated that the recommendation suggestion that access concerns be addressed through a sort of unified approach, they suggest a fund of $2 million to support the planning, permitting and building of those access areas. She further stated that in her opinion it is premature to put a price point on it because we don't know what access will satisfy the concerns provided by the Umatilla and Yakama Nations and we don't know what the outcome of the study for the recreation resource impacts will be. We can't assume we can address these concerns in the same location and with a specific amount of money. We don't have enough information to draw conclusions to support this sort of specific proposal.

Commissioner Schanno asked if they were allowed to ask questions of Union Pacific Rail Road.
Chair Hargrave replied that if he had a question clarifying or seeking information based on the rebuttal documents submitted which would help him in the deliberations it would be allowed.
Nathan Baker, Friends of the Columbia Gorge, asked if the public would be allowed to respond to the questions that are asked of Union Pacific. **Chair Hargrave** replied that the Commission is asking for clarification so there should not be a need for a response. **Mr. Baker** asked if the record was technically closed already. **Chair Hargrave** stated that it was indeed closed.

Commissioner Schanno directed a question to Union Pacific, asking if they currently run any covered coal cars anywhere. **Steve McCoy, Friends of the Columbia Gorge** objected to the question. He stated that it would enter new evidence into the record. He suggested the Commission could reopen the record. **Ms. Campbell** stated that the Commission should not be taking questions or comments at this point of the proceeding. **Chair Hargrave** stated that he was looking for questions only of not understanding something in the documents.

Commissioner Davis asked Ms. Campbell for more clarification on the authority of Wasco County to impose these conditions onto the rail road. **Ms. Campbell** stated that effectively the scenic area ordinance carries the weight, it is effectively federal law. **Commissioner Davis** stated that Union Pacific has stated that the issue of covering coal cars is not a common practice and would essentially be impossible and would disrupt the economy if required. **Ms. Campbell** stated that when a local government is applying federal environmental law it cannot unduly restrict the railroad from conducting its operations or unreasonably

burden interstate commerce. She further stated that this is the qualifying consideration and analysis. The Commission must apply the facts to these qualifications. **Director Brewer** stated that the condition is not asking them to discontinue a contract, simply to carry it safely to comply with the ordinances.

Commissioner Erickson the issue was raised that the Union Pacific did not address the fact that they did not get the land transfer from the parks department in their application. She asked for clarification on this issue. **Director Brewer** stated that there was quite a bit of discussion at the time when the Oregon State Parks and Recreation Commission was making a decision as to whether or not to move forward with the piece of the project on proposed for their land. The Parks Commission directed staff to discontinue conversations with Union Pacific on the proposal. They wanted to make sure they fully understood the potential impacts to the landscape and the resources that they're offering to citizens but also required to protect by state law. However, when Staff asked Oregon State Parks if we should be modifying the Parks stated that we did not need to modify. They needed to know the outcome to know what their next steps would be. Staff asked Union Pacific if they wanted to modify the scope and they said no. Staff felt comfortable moving forward with the scope and if for some reason they decide not to build that piece of the project, it will not change any of the other conditions of approval or changes that we have recommended for scope, design, public health and safety requirements.

Chair Hargrave stated that the Commission would now move into deliberation. (See Attachment A, beginning on page 27, for Commission Deliberation)

Commissioner Myers moved to deny the request in its entirety.
Chair Hargrave seconded.
Chair Hargrave called for discussion.
Commissioner Davis has a concern over monitoring. He believes you can't micromanage this and believes some of the conditions might be unable to monitor. He agrees with a denial.
Commissioner DeHart I don't agree with denying the request
Vice Chair Ashley does not agree with a denial either.
Commissioner Handley also does not agree with denial.
Commissioner DeHart stated that he has a list of nine (9) revisions to the conditions that he thinks would allow for easily approving the request. Some would require eliminating the condition; some are tweaks to the condition.
Vice Chair Ashley stated that she thinks the Commission can work with the request. She agrees that some of the conditions need to be tweaked and some need to be eliminated.
Commissioner Handley stated that he agreed with Commissioner DeHart. There are some conditions he would like to see removed and some he would like the change the wording.
Chair Hargrave called for additional discussion.
Commissioner Schanno stated that he was leaning towards Commissioner DeHarts thinking. He wants to go through and discuss the revisions to see what the Commission can agree on.
Commissioner Davis stated that he is struggling with safety and a catch 22 that he feels the County is falling into with the Tribes and with land use.
Chair Hargrave reminded the Commission that there was an open motion than needed to be addressed. He called for additional discussion. There was none.

Chair Hargrave called for the vote. **The motion was not approved 4 to 3, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – no
Commissioner Myers – yes
Commissioner Handley - no
Commissioner Davis – no
Commissioner DeHart – no
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Commissioner DeHart stated that he had a list of changes he would like to discuss. (See Attachment A beginning on pg 61 for full discussion)

<u>Suggested changes as proposed by Commissioner DeHart:</u>

- Eliminate Condition #13.
- Clarify Condition #14 to specify whether the spill plan is for derailments or whether it is a spill plan for construction activities.
- Eliminate Condition #15
- Eliminate Condition #16
- Rewrite Condition #17 to be more objective in the requirement rather than "make a good faith effort".
- Eliminate Condition #20
- Eliminate Condition #21, and replace it with something that is collectively crafted that includes something similar to Union Pacific's proposal for $2 million. Perhaps a different figure, but some sort of collective proposal around how those crossings will be determined; Also would like to restrict them to specifically occurring within Wasco County.
- Revise Condition #23 to remove "to the extent practicable" would like to replace it with something more objective.
- Make Condition #47 a recommendation rather than a condition.

Vice Chair Ashley stated that she would like to suggest revisions as well, she suggests combining Conditions #22, 31, and 33 to eliminate extra 'wordiness'. She feels they just repeat the same information and could easily be consolidated.

Commissioner Handley stated that he has concerns on Condition #33. Union Pacific states that condition will violate the federal standards they have for lighting for safety and track management. He feels it the lighting needs to be consistent throughout their system. He proposes eliminating Condition #33.

Commissioner DeHart stated that he read Condition #33 to mean changing the color of the support structure, not changing the color of the lights, that the face of the signals would remain rail standard. **Commissioner Handley** stated that the condition states "shielding and coating". **Chair Hargrave** stated that he agreed that Condition #33 could be cleaned up. **Commissioner Handley** stated that he would agree to cleaning up the condition rather than eliminating it. **Director Brewer** stated Union Pacific provided elevation drawings of their standard lighting. These fixtures have a little bit of a shield to funnel light down the track. Condition #33 is a standard condition of approval that Staff includes in every single land use decision. Staff feels that Union Pacific is complying with Condition #33 with the lighting they have proposed. This condition is just trying to require the colors of the structures and the material of the structures to comply, but not in any way trying to undermine the safety that the existing lighting has. She stated that Staff would clarify the Condition #33 to address confusion.

Commissioner Erickson stated that she had concerns on one of the safety issues. Could Union Pacific be required to notify fire districts in advance of hazardous materials being shipped through their areas? **Commissioner DeHart** stated that some regulations are already being worked out for this on a state-wide scale. **Director Brewer** stated that there currently is an app that can be downloaded. There is a disclaimer on the app that states last minute changes to the list might not be captured, but it is available. **Vice Chair Ashley** stated that she spoke with two Wasco county fire departments about this type of notification. One department is already monitoring it and the other one is implementing it now. She feels Wasco County doesn't need to "police it".

Chair Hargrave suggested that the Commission move on to specific recommendations and asked if there were any additional changes to conditions the Commission would like addressed.

Commissioner Davis stated that Commissioner Ashley had brought up a concern regarding safety and the availability of foam. **Vice Chair Ashley** stated that she would like a condition that a foam tanker be positioned in the Mid Columbia, either at The Dalles or Hood River. **Commissioner DeHart** stated that Condition #17 states "UPRR shall provide regular training to Gorge fire departments included in the Mid Columbia Five County Mutual Aid Agreement and requires UPRR to solicit feedback about local needs for combating a railroad related fire incident and to make a good faith effort to assist in meeting those needs." He further stated that the revision he suggested was to make something a little more objective around what "good faith effort" would constitute. He would rather rely upon interaction between Union Pacific and our fire departments to allow them to make requests for where they might want to see foam tankers or training. Allow that discussion to occur between them. **Commissioner Davis** stated he agrees that Condition #17 needs to be modified to add more specifics to Commissioner DeHart's point.

Chair Hargrave stated that he would like to move forward with reaching agreement on the wording of the proposed changes to the conditions, then to make a motion to approve as a whole.

Director Brewer stated to the Commission that if we eliminate a condition, we are potentially coming out of compliance with our Ordinance. So, if the Commission is going to take something away, they need to be conscious of what that means for the findings in the staff summery and the overall compliance, the finding of compliance. **Commissioner Myers** asked if she would let them know any concerns she has. **Director Brewer** stated that these conditions of approval are in there to ensure compliance and consistency with the rules, therefore all of them are considered by staff to be necessary. The conditions may be modified, but if

the Commission is going to eliminate a condition completely they need to be aware that it could cause some issues and inconsistencies throughout the rest of the approval. **Chair Hargrave** stated that the conditions are in there for good reasons. **Commissioner DeHart** stated that he believes it is a risk the Commission is going to have to take.

Chair Hargrave called for discussions on the specific conditions. (See Attachment A, beginning on page 72 for complete discussion).

Condition #13 (Discussion on Attachment A, beginning on page 72)
Commissioner Handley moved to remove Condition #13 from the approval.
Commissioner DeHart Seconded.

Chair Hargrave called for discussion.
Commissioner Schanno asked Director Brewer for clarification on removing Condition #13; if they remove it does it put an end to it. **Director Brewer** responded that it is the Planning Commission's decision to reach a different conclusion about Treaty Rights impacts than Staff reached is within the Planning Commission's ability. However, based on Staff analysis, Staff feels that Condition #13 is a necessary condition. **Chair Hargrave** stated that he has sat on the commission for a long time, it does not seem like a deal breaker to him. He stated that he understands the way the treaty is worded and the concern with taking the condition out, but it doesn't seem like a deal breaker to him. **Vice Chair Ashley** stated that she agrees.
Chair Hargrave called for additional discussion. There was none.

Chair Hargrave called for the vote. **The motion was approved 4 to 3, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave –no
Vice-Chair Ashley – yes
Commissioner Myers – no
Commissioner Handley - yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – no
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Condition #14 (Discussion on Attachment A, beginning on page 79)
Vice Chair Ashley moved to rewrite Condition #14 to indicate for derailment or accident.
Chair Hargrave amended the motion to state derailment or other train accident.
Commissioner Handley seconded.

Chair Hargrave called for discussion. There was none.
Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley –yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Davis –yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell – absent

Condition #15 (Discussion on Attachment A, beginning on page 81)
Commissioner Schanno moved to eliminate Condition #15 from the approval.
Commissioner Myers seconded.

Chair Hargrave called for discussion.
Commissioner Myers stated that his concerns are that they are hearing from the planning director that removing this condition makes it so we are not in alliance with our ordinance. But at the same time, he agrees that it is not manageable and very well might not be enforceable. So if the request is going to be approved, he believes we should take the condition out, recognizing that it might mean that we are not in alliance with the ordinance. **Chair Hargrave** agrees that it is unmanageable. He also feels that the application is to increase capacity, but an approval with a condition that you can't increase the capacity makes no sense. He also recognizes that it might cause an issue with the treat. But as is, the condition is not manageable.

Chair Hargrave called for additional discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley – yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Condition #16 (Discussion on Attachment A, beginning on page 88)
Commissioner Handley moved to eliminate Condition #16.
Vice Chair Ashley seconded.

Chair Hargrave called for discussion.
Commissioner Handley stated that this is already covered by federal law and Wasco County doesn't need to be doubling or adding more cumbersome items to the approval. **Vice Chair** stated that she felt the Commission could leave it in as a compliance factor, just remove the optional section. She would just say that UPRR must adhere to all safety standards.
Chair Hargrave called for additional discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Condition #17 (Discussion on Attachment A, beginning on page 92)
Commissioner Myers moved to modify Condition #17 to remove the language "make a good faith effort". So it reads "related fire incidents and to assist in meeting those needs".
Commissioner Schanno seconded.
Chair Hargrave called for discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Davis – yes

Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Break at 5:30
Reconvened at 5:40

Condition #18 (Discussion on Attachment A, beginning at page 96)
Vice Chair Ashley stated that she wanted clarification on this condition, specifically the "all future land owners" language. **Director Brewer** stated that it was standard language for all land use decisions. It means that the requirement stays with the land. **Vice Chair Ashley** stated that was fine, she had no concerns with this condition.

Condition #20 (Discussion on Attachment A, beginning at page 97)
Commissioner DeHart moved to eliminate Condition #20.
Commissioner Myers seconded.

Chair Hargrave called for discussion.
Vice Chair Ashley stated that the condition feel redundant.
Commissioner Myers agrees that it is the same as the other condition. He understands why it would be removed, and doesn't feel it is enforceable. He also recognizes that it takes us out of compliance with the ordinance. **Chair Hargrave** asked Director Brewer if she could explain to the Commission why this condition was put in the approval, why it is different than the previous condition. **Director Brewer** stated that it is in regards to Treaty Rights. This condition is specifically listed under the treaty rights conditions. She explained that the previous condition (#15) was to keep the approval at what was proposed; to require them to come in with a revised proposal or revised plan in order to deviate from the original proposal to allow us to assess the impact and make a new decision. Condition #20 is specific to the treaty rights concerns. She further stated that Condition #20 has more detail because it is specifically responding to the letter from the Umatilla. The Umatilla had concerns about the volume of the traffic increasing and the impacts to being able to cross the tracks safely. They also had concerns about the number of trains, the length of trains. **Chair Hargrave** stated that he feels it is the same as Condition #15. He feels it is an application to increase the volume and this condition says they shall not increase the volume.
Commissioner Schanno stated that he doesn't know that it will be increasing the volume over what it is. The Commission doesn't know what the maximum volume is currently. **Chair Hargrave** that with the increased track proposed the maximum capacity would be greater that it is today. The actual volume is driven by supply and demand, but the capacity would be increased.

Chair Hargrave called for additional discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley –yes
Commissioner Myers – yes
Commissioner Handley – yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Condition #21 (Discussion on Attachment A, beginning at page 102)
Commissioner Handley moved to revise Condition #21, striking the language "one east of the project area and one west of the project area" and replace it with "in Wasco County." He further moved to strike "Umatilla Fish and Wildlife Commission" and replace it with "the four treaty tribes.", retaining the remainder of the condition as is.
Vice Chair Ashley seconded.
Chair Hargrave called for discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell – absent

Director Brewer asked for clarification on the motion. She stated that she wanted to verify that the Commission intended to include a replacement of the second to the last sentence references to CTUIRR being the only ones that can request an extension, was it intended to be replaced with all four tribes. **The Commission** agreed that was the intention.

Condition #23 (Discussion on Attachment A, beginning at page 109)
Commissioner DeHart moved to revise Condition #23, striking the language "to the extent practicable" and just state "rock blasting shall occur in irregular patterns to produce a natural appearing face. Half cast shall be removed."
Commissioner Davis seconded.
Chair Hargrave called for discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Condition 33 (Discussion on Attachment A, beginning at page 112)
Vice Chair Ashley moved to revise Condition #33 to state "Union Pacific Railroad has uniform signals and systems and standards across its network." ; and then "all signal lights." **Chair Hargrave** stated that he thought the Commission was going to include "not intended to interfere with UPRR's uniform signal standards."
Vice Chair Ashley withdrew her motion.

Commissioner Schanno moved to revise Condition #33 to read, "Where it does not interfere with the UPRR's uniform signals systems and standards," and then continue into "all signal lights and affiliated structures."
Commissioner Myers seconded.
Chair Hargrave called for discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell – absent

Condition #47 (Discussion on Attachment A, beginning at page 121)
After discussion, no change was proposed.

Condition #44 (Discussion on Attachment A, beginning at page 129)
Vice Chair Ashley moved to revise Condition #44, adding to the end of the existing condition the language "The study shall be initiated by the director of Oregon State Parks following the appeal period but within 45 days of final decision. Improved access as identified and agreed upon by UPRR and the Oregon State Parks as a result of this study shall be accomplished within two years of the commencement of development. Extensions may only be requested by Oregon State Parks."
Commissioner Myers seconded.

Chair Hargrave called for discussion.
Chair Hargrave asked for clarification, the study must be initiated by State Parks. If they don't initiate, what does that mean to the applicant. Do they not meet their conditions and the permit gets pulled?
Commissioner Myers stated that it would mean the applicant would not be required to do anything.
Commissioner Handley Agreed. **Director Brewer** stated that the intent was that the applicant would initiate, just mirror the language in the other condition. "The study shall be initiated with the director of Oregon State Parks." **Vice Chair Ashley** stated yes, "with Oregon State Parks".

Chair Hargrave called for additional discussion.
Commissioner Handley stated his concern is that State Parks didn't ask for this.
Chair Hargrave agreed.
Director Brewer responded that State Parks provided two comments letters with a laundry list of concerns about noise and access and overall recreation impact to existing established recreation sites. They provided a long list of references to their Gorge Unit Park Plan which is their Comprehensive Plan for all the Gorge parks. There are several references to a desire to initiate a study such as this. **Commissioner DeHart** asked for clarification, stating that in the State Parks Plan there were specific locations that were mentioned. He believes throughout the Gorge there were five or six specific locations. **Director Brewer** stated that was correct, and that Memaloose was one of these listed. She stated that the Scenic Area Rules allow us to look regionally and we are required to address the cumulative effects. They are starting with Memaloose State Park, but also acknowledging that if there is increased rail traffic, this would affect all of their parks throughout the Gorge. So, once initiated the study would come down to what are the effects of the existing established recreation sites. **Vice Chair Ashley** clarified that Parks requested in their letter that a study be done, we are just adding a time line. **Director Brewer** stated that a study was referenced is their references to their Comp Plan. **Chair Hargrave** stated that 45 days is a short timeline, can it be supported. **Director Brewer** replied that the language would allow them to request an extension if it was required.

Chair Hargrave called for additional discussion. There was none.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes

Commissioner Handley - yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Condition 45 (Discussion on Attachment A, beginning at page 135)
After discussion, no change was proposed.

Commissioner Dehart moved to approve the proposed development with the revisions to the conditions that we have gone through tonight and all other conditions that we have not specifically mad changes to. **Vice Chair Ashley** seconded.

Chair Hargrave called for discussion.
Director Brewer asked for clarification on whether there are any findings in the staff summary related to these conditions that the Commission would like Staff to modify as a result of the revisions. **Chair Hargrave** asked if there were any she was thinking specifically needed to be modified. **Director Brewer** stated that if the Commission is going to revise one document, it will impact the other one. When the Commission makes a motion to move forward, they need to be clear about whether or not Staff is directed to go back and revise those findings. She further stated that Staff will need to at least acknowledge where there is referenced a condition of approval that has been struck. Staff will need to go back and acknowledge that in the report. **Chair Hargrave** stated that the findings should be modified to be consistent with the modified conditions. **Commissioner DeHart** stated that we are asking Staff to go back and rewrite those findings. He further stated that Director Brewer has stated that she may have a difficult time revising the findings to be in line with the conditions as modified. **Chair Hargrave** stated that it may be difficult to make it complete and convincing, but he doesn't think that is any reason to leave it untouched at odds with different parts of the document. **Director Brewer** stated that she will capture what the Commission has discussed in the findings. She further stated that ultimately it is the discretion of the Commission for what the findings will say. She will capture what has been discussed and add to the findings based on the motions and decisions.

Chair Hargrave called for additional discussion. There was none.

Chair Hargrave called for the vote. **The motion was approved 5 to 2, 1 non-voting member (Commissioner Erickson), 1 absent (Commissioner Bell)**.

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave –no
Vice-Chair Ashley – yes
Commissioner Myers – no
Commissioner Handley - yes
Commissioner Davis – yes
Commissioner DeHart – yes
Commissioner Schanno – yes

Alternate Commissioner Erickson – non-voting member
Alternate Commissioner Bell - absent

Meeting was adjourned at 6:40.

_____	_____
Rus Hargrave, Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

DRAFT

WASCO COUNTY PLANNING COMMISSION

Application for Conditional Use

Union Pacific Case File PLASAR 15-01-0004

September 26, 2016

CHAIRMAN HARGRAVE: So calling the hearing to order for deliberation on application PLASAR-15-01-0004.

The first hearing for this proposal occurred on September 6th, 2016, during which staff provided a presentation of the proposed development and the application -- and the applicable rules. Some testimony was received from the Applicant and by all members of the audience who signed up to speak. The record was held open for seven more days and closed on September 13th, 2016.

As you will recall, the application includes expanding an existing railroad siding on either side of Mosier for 4.02 miles of new second mainline track and realign the existing track; replace five equipment shelters; install drainage structures, including ditches and culverts; a retaining wall; new lighting and signage and wireless communication poles; modify existing utilities, temporary landing zones for construction; construct temporary and permanent access roads and offsite wetland mitigation.

The proposed development location -- the project area begins at rail milepost 66.98 east of the Wasco County line, approximately two miles west

of the city of Mosier, and ends at milepost 72.35, approximately three miles east of Mosier within Memaloose State Park.

The project area roughly parallels the Columbia River at Interstate 84. The portion of this project located inside the urban area of Mosier is exempt from National Scenic Area requirements and is not subject to this review.

The procedure that I would like to follow is, first, disclosure of interest, ex parte contact, or potential conflicts; then the planning department will present information received during the extended period; then the Planning Commission will begin deliberation. If enough information is available, the Planning Commission will make a decision today.

It's actually a recommendation. That should be phrased differently in this script. The commissioners would make the decision. I'm sure that we will be making a recommendation. I can't speak for the commissioners. Sorry if you can't hear the questions here.

Okay. Then I think -- I think before we move to the next agenda item, we should ask if anyone wants to speak about business which is not on

today's agenda and also roll call. So a few things are not here.

Let's start with roll call. Lynne.

MS. ERICKSON: Lynne Erickson, The Dalles.

MR. HANDLEY: Jeff Handley, The Dalles.

MR. DEHART: Brad DeHart, The Dalles.

MS. ASHLEY: Vicki Ashley, Bakeoven.

CHAIRMAN HARGRAVE: Russ Hargrave, Mosier.

MR. SCHANNO: Chris Schanno, Dufur.

MR. MYERS: Andrew Myers, The Dalles.

MR. DAVIS: Mike Davis, Tygh Valley.

CHAIRMAN HARGRAVE: Okay. Great.

Does anyone wish to speak or raise an issue that is not on today's agenda, something not relevant to what we have on the agenda?

Okay. Hearing none.

So does any Planning Commissioner wish to disqualify themselves for any personal or financial interest in this matter?

Does any Planning Commissioner wish to report any significant ex parte or prehearing contacts?

Does any member of the audience wish to challenge the right of any planning commissioner to hear this matter?

Okay. Is there any member of the audience who

wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter?

Okay. Will the staff please present their report. So do you want us to go through -- there is some information that came in that we have not had a chance to read. We're going to read it at the beginning of this session.

Do you want us to do it before your report or after, Angie?

MS. BREWER: That's really up to you. I'm happy to give a high-level overview of what we did get and then you can take a break.

CHAIRMAN HARGRAVE: I think that would provide better context.

MS. BREWER: Okay. I'm going to have -- the PowerPoint projector clicker here, if you will, is not working, so I'm going to have to signal my staff every time I want to change slides.

(Pause in proceedings)

MS. BREWER: So we received a handful of new documents between the hearing on the 6th and the cut-off timeline, the extended seven-day timeline of September 13th. I'm going to go through them briefly on a very high level because they are part of the packet.

And for you -- for those of you in the audience, what we were just talking about is, as it turns out, the rebuttal comment received from Union Pacific Railroad was left out of the last email to the Planning Commissioners, so we're going to give them a small period of time to review that before they get into their deliberations here this afternoon.

So, first and foremost, we received a letter from the Confederated Tribes and Bands of the Yakama Nation citing treaty rights impacts, natural and cultural resource concerns, and increased risk of derailments and spills, and interference with Yakama Nation treaty rights, including access to usual and custom areas and cumulative natural resource impacts associated with regular long-term use of and transport of commodities of concern and also the sort of catastrophic derailment incidents/accidents that could occur based on those commodities of concern.

So along those lines, I just want to remind the Planning Commission that there are very specific criteria and language in the Scenic Area rules about treaty right protections, and that if there were any -- if it was concluded by the Planning

Commission that there were adverse effects, or the likelihood of adverse effects to treaty rights, we would then have to prohibit the project. So I just want to make sure that that's very clear.

We received comment from Mosier Fire. They had provided comment for the last hearing and they came and presented it personally.

And I'm looking in the audience to see if anyone is here from them today, but they did provide additional information asking specifically to eliminate the west end of the project from the proposal before moving forward. They feel strongly that they cannot mitigate the impacts and increased risk on the areas closest to the city of Mosier and made some pretty specific requests on that.

I'm hoping that you all received that packet of information and are familiar with that. I have hard copies if anyone is interested in seeing that again.

We received a letter from the Hood River Valley Residents Committee citing public health concerns and safety concerns not only from the existing railroad traffic and uses on the railroad, but expanded risks based on the potential expansion of rail traffic.

We received a letter from the Sierra Club citing public -- again, public health and safety concerns, specific resource impacts in the Scenic Area subject to the protections of the scenic, natural, cultural, and recreation resource protections, as well as the treaty rights protection clauses. They have some concerns about ensuring those were implemented.

We received responses from Union Pacific Railroad to items raised at the hearing on the 6th. That is available on our website as well. There were some very specific responses to each of the individual comments and items raised at that hearing, along with some additional information to support their responses.

We received new information from the Friends of the Gorge and a response to some of the items at the hearing last -- excuse me, the September 6th hearing. I think I was able to advance that myself.

And then we received nearly 1800 new public comments by email requesting the denial of the proposed development; many of them were similar to the comments we received the first time around. A lot of them were template letters, but there were

some original and unique comments provided in response to what they heard at the hearing on the 6th.

And then staff provided some responses to planning commissioner questions, and so did our County Counsel, Kristen Campbell.

We received questions from one planning commissioner asking for clarification on several items. It was Lynne Erickson. And staff wrote that up and put it into the record so you could all see what the questions were and what the answers were from staff.

And then the rebuttal that we're going to take a moment to pause and look through was provided by Union Pacific Railroad on September 21st in response to the comment received by the 13th.

So no new information has been submitted since the 13th. The record has been closed on that date. We have received a few other items, but they didn't make the cut-off timeline. And if anyone has questions about those, I can generally answer, but I can't get into the information.

So that concludes my presentation of the new information that has come in. I didn't get into a lot of detail about the Friends comments, but I'll

just quickly do that for you. It's a longer list. They submitted a couple of documents. You should be aware of that and hopefully you've all had a chance to read it.

The Friends comments cite illegal insufficiencies, zoning conflicts, inconsistent with variance criteria and set-back requirements, resource protection requirements.

It surmises -- well, it states that the staff report fails to adequately address resource impacts and cumulative effects. It has concerns expressed in there that staff catered to the Applicant and failed to address ordinance requirements, and that the staff report is lacking language in the conditions of approval to make them enforceable. That's just something to be aware of.

Any questions before I turn it back over to you for reading through the rest of it?

MR. DEHART: I have a question. You mentioned that the City of Mosier had submitted a request that a portion of the project be eliminated.

MS. BREWER: Yes.

MR. DEHART: We don't really have the ability to -- I mean, that would require that we go back to the beginning, so to speak, because the project

would be a different application then, wouldn't it?
MS. BREWER: In my personal opinion and professional opinion, no, you can definitely place conditions on anything in the application, including the scope, size, location, design. Those would be based on the need to be consistent with resource protection requirements, and so they -- there would need to be a nexus there for the possible impact of concern and what is being proposed.
MR. DEHART: Okay.
MS. BREWER: You can't just deny it because you want to. There has to be a connection there with real impacts addressed and cited by the proponent.
CHAIRMAN HARGRAVE: Do commissioners have any other questions?
Okay. Thanks.
(Pause in proceedings)
CHAIRMAN HARGRAVE: Before we read through the rest of this, I want to clarify, go back to something that came up earlier. We will in this case be -- it depends on the case as to whether we're making a decision or a recommendation. In this case we will be making a decision. This does not automatically go to the County commission

except on appeal. So we will be making a decision. If we have enough information, we'll make that decision today.

I ferreted this out. We are making a decision.

So I want to go ahead and open this for deliberation. We will not take any questions today. The first thing we're going to do in deliberation is take a good 20 minutes at the beginning and read through the response from Union Pacific because we did not have that ahead of time.

(RECESS 3:15 to 3:35)

CHAIRMAN HARGRAVE: Have all of the commissioners read completely through the document at this point?

Okay. Good work on that.

Okay. What do you guys think?

MS. ASHLEY: We've all got questions.

CHAIRMAN HARGRAVE: If you have questions, but -- yes, Lynne.

MS. ERICKSON: I think, given all of the changes requested by Union Pacific, that I would like to hear or see staff and legal counsel's response to all of these changes.

CHAIRMAN HARGRAVE: Okay. Angie?

MS. BREWER: I'm sorry, I didn't hear that.

CHAIRMAN HARGRAVE: Given the -- so the document we've just read through is from Union Pacific Railroad, written comments, and there are a lot of specifics in here. And Lynne is requesting that, given the amount of specific detail of changes that they are alluding to in here, she would like to hear from the planning department what do you -- what do you think of these recommended changes?

MS. BREWER: Well, so there are -- there are a lot of comments in that letter and a lot of responses, and I could go through them one by one, but, really, truly, it's for the Planning Commission's consideration and decision to evaluate whether or not you would agree or you would like additional information. Staff would have to do some additional analysis to go back and compare a lot of these things. It's quite lengthy, so I don't know if you want to go through one by one or just generally.

CHAIRMAN HARGRAVE: No, I don't. I think if you have some sort of general reaction, that would be really helpful at this point, or from legal.

MS. BREWER: Just to be clear, is this the document that we just -- you guys just took some

time to read through?
CHAIRMAN HARGRAVE: Yes, because that was late-breaking for us.
MS. BREWER: Sure. So there are some legal questions in there and some project-specific questions in there. And I'll start by deferring to Kristen if she wants to talk about the legal questions first.
MS. CAMPBELL: So the legal issues --
(Multiple Speakers - Inaudible)
MR. MYERS: So, Kristen, what's being asserted from what I can tell in that document is that we don't have authority to impose many of the conditions of approval that are suggested, so I guess that's what we're wanting to hear from you.
MS. CAMPBELL: Right. Okay. So that's the essence of it. My initial memo took a broad-level approach to that analysis. Is that something that you would like me to reiterate now? Is that what you're asking?
MR. MYERS: I guess we want to know do you agree or disagree that we have the authority to suggest that they cover coal cars or that they have a certain number of trains per day?
CHAIRMAN HARGRAVE: Can everyone hear?

GROUP SPEAKING: Sort of. Not really.

MS. CAMPBELL: Okay. So it is my opinion that there is federal precedent that requires local government to administer particularly federal environmental laws through -- through Compact. And in this case the Compact requires the management plan, which is what -- what our authority in this case is -- is implementing.

So it is my opinion that we -- that you have the authority to consider these items.

CHAIRMAN HARGRAVE: Thanks, Kristen.

Any other questions for Kristen?

MR. DAVIS: Just one other question regarding the legality, because a number of statements in their letter basically states that they undertook this as a voluntary and that because state and local requirements cannot be applied as they are stating that, into, like, page two, the top of page two.

So -- and also they are stating that -- if you look at page four, to be specific, it's basically they are saying that, hey, we don't have to abide by -- we can just do this anyway, but -- so the question I have is that -- is that the case in these type of -- this type of thing, meaning that

whether we say "yes" or "no" becomes an irrelevancy based upon federal law, that basically they state they can do this operation anyway. You see what I'm saying?

MS. CAMPBELL: Give me a second to look where you have cited.

Okay. So, again, this, in my opinion, dovetails what I just opined in that -- and to note also, I think more specifically maybe cite this, that the service transportation board has repeatedly held that nothing in -- in the sections that they cite is intended to interfere with the role of state and local agencies in implementing federal environmental statutes.

And so beyond that, for example, the authority that they cite is distinguishable in that in those cases it wasn't the federal. Those local governments weren't implementing the federal environmental laws. They were implementing in those state laws or in another case the -- it preceded what I -- what I just recited.

MS. BREWER: So one thing for us all through, just to refresh you guys, just a reminder that the scenic area ordinance that we implement is specifically implementing the Columbia River Gorge

National Scenic Area Act which is signed by Congress through its federal authority. It is implemented through a five-state Compact in Oregon and Washington, created the Columbia River Gorge (inaudible) which is a five state regional agency and the Forest Service National Scenic Area Office, a federal agency, to create those rules and review our ordinances for consistency so that we -- when we adopt our ordinances and implement them locally, we are consistent with the federal requirements on a regional scale.

So our rules do carry -- I'm looking to -- it was tested in court before that the rules are federal in nature. Even though they are implemented on a local scale, they do carry that full weight and authority, and staff feels strongly that we do have the authority to regulate this.

CHAIRMAN HARGRAVE: Thanks, Angie.

Lynne, did that answer your questions?

MS. ERICKSON: Oh, well, I have various questions throughout.

I guess one that really troubled me was the lengthy revision of the condition about access. And, to me, it looks more like an agreement rather than condition, the way it's proposed to be

revised.

MS. BREWER: Just so we're on the same page, are you looking at the revised staff --

MS. ERICKSON: Condition 21.

CHAIRMAN HARGRAVE: From the staff?

MS. BREWER: Oh, I'm sorry. Let me get there.

CHAIRMAN HARGRAVE: I think that's fair to point out.

MR. DAVIS: Page 6 of the memorandum.

MS. BREWER: So their recommended changes to condition number 21. I can tell you that I disagree with this recommendation for a couple of reasons. I think that historically trying to address recreation and treaty rights access in the same location has not been successful.

Let me just skim this for a second here and make sure -- yeah, so their suggestion is that the access concerns be addressed perhaps more comprehensively through a sort of unified approach, and they suggest a fund of $2 million to support the planning, permitting and building of those access areas.

In my opinion, this is a -- it's a bit premature to put a price point on it because we don't know what the -- what kinds of access will

satisfy the concerns provided by the Umatilla and now the Yakama Nation and we don't know what the outcome of the study for the recreation resource impacts will be. So to assume that we can address them in the same location and with a specific amount of money, I just don't think we have enough information to draw those conclusions to support this sort of very specific proposal. I appreciate it very much, but I think it's a bit premature to put a cap on it in both numbers of locations and the costs it will incur.

MS. ERICKSON: And, also, assumes that the County is going to be the builder, which I think is not a problem.

CHAIRMAN HARGRAVE: Any other questions for staff? I don't want to go through all of these one by one. I mean, we're going to do that when we deliberate.

Did you have other big questions? What I'm -- let me explain my sort of thinking on the deliberation here. It will probably help. I'm trying to get information out first, so clarifying questions, maybe based on this document, clarifying questions back to UPRR or to Kristen or staff.

MR. SCHANNO: Can we ask questions of the Union

Pacific at this point or not?

CHAIRMAN HARGRAVE: Yes. I'm trying to get all the information on the table and then I'll tee up some actual deliberations. I'm going to ask you what do you think at this point and that will help you to move the discussion forward. If everyone is in one position, then we're going to have to manage the discussion accordingly. If people are all over the map, that would be different.

So at this point I'm trying to get all the information out. What questions do you have?

(Pause in proceedings)

CHAIRMAN HARGRAVE: So if you agree to that kind of format, clarify or information-seeking questions. We do not want to open up new areas, but if you have clarifying questions about areas that are already open either in the previous meeting or during the period through September 13th.

Anyone?

MR. SCHANNO: I want to ask the UPRR question.

CHAIRMAN HARGRAVE: Go ahead, Chris.

MR. BAKER: Nathan Baker, Friends of Columbia Gorge. Will the public be allowed to respond to the questions that are asked of Union Pacific?

CHAIRMAN HARGRAVE: We're asking clarification to them. There shouldn't -- there shouldn't be a response needed. What we're trying to do is clarify things that are already in the record up through September 13th. If it turns out differently, we'll certainly manage that, but my first line of managing it is to try and limit the questions to clarifications on issues that have already been presented and which have already been discussed.

MR. BAKER: Hasn't the record technically been closed already?

CHAIRMAN HARGRAVE: It is.

MR. BAKER: Thank you.

CHAIRMAN HARGRAVE: So clarifying questions around something that's already in the record?

Chris.

MR. SCHANNO: Do you guys currently run any covered coal cars anywhere now?

MR. WYMAN: Thank you very much, Commissioner Schanno. Ty Wyman from --

UNIDENTIFIED SPEAKER: We would like to object. That's a question of entering into -- evidence into the record. If you would like to reopen the record, then that would be fine to reopen the

record.

MS. CAMPBELL: So we shouldn't be taking comment or questions at this point.

CHAIRMAN HARGRAVE: I'm looking for more like something that you didn't understand because there was a smudge on the page.

MR. DAVIS: Kristen, I just wanted to make sure that I'm understanding. I'm sorry to keep on about this, but the conditions of approval, at least several of them, Union Pacific has suggested that we don't have legal authority, not just that, they have suggested that they don't even have legal authority to agree to them really and your position is otherwise, that we do have the authority to impose those conditions. Is that correct?

MS. CAMPBELL: That effectively -- effectively our ordinance carries the weight, it effectively is federal law.

MR. DAVIS: Okay. The issue of covering coal cars, their response has been not only is that not a common practice, but it would essentially be impossible and that it would disrupt, you know, the economy, essentially.

MS. CAMPBELL: Okay. So that does bring up -- that does bring up an issue for your

consideration, that what I cited to you earlier, it does have -- hold on. Let me make sure I get the appropriate language here.

CHAIRMAN HARGRAVE: And out of consideration -- you may sit back down, it turns out.

MS. CAMPBELL: So when a local government is applying federal environmental law such as this, it still -- it cannot -- it cannot unduly restrict the railroad from conducting its operations or unreasonably burden interstate commerce. So that is the qualifying consideration and analysis here.

And it really is a fact-driven analysis. Each case tends to be, you know, obviously different in that analysis. So applying the facts here to those qualifications.

MR. SCHANNO: Thank you.

MS. BREWER: I would just add that we're not asking them to discontinue a contract. We're just asking them to carry it safely to comply with the ordinances that we have.

MS. ASHLEY: I would just like to make a statement before we get much further into this.

We've heard a lot in the last few days. We've read tremendous number of treaties from reams of

paper. We have to remember this is a land use issue, not an emotional issue. And I think that -- that's going to go a long ways to our decision.

CHAIRMAN HARGRAVE: Okay. Lynne. Go ahead.

MS. ERICKSON: A couple points of clarification. In several documents I read that we received -- the issue was raised that the Union Pacific did not address the fact that they did not get the land transfer from the parks in their application and how that would impact the project. Could I get some clarification on that from either staff or Union Pacific?

MS. BREWER: I can respond to that.

So there was quite a bit of discussion at the time when the Oregon State Parks and Recreation Commission was making a decision as to whether or not to move forward with the piece of the project on the -- proposed for their land.

Their commission directed staff to discontinue conversations with Union Pacific on that proposal because they were waiting on a number of things. They wanted to make sure they fully understood the potential impacts to the landscape and the resources that they're offering to citizens but

also required to protect by state law.

And, also, it did not get a lot of support from that commission in general, so they -- they did let us know that they had directed staff to stop working with Union Pacific on those negotiations.

However, when we asked Union -- excuse me, when we asked Oregon State Parks, should we be modifying this proposal in any way, do I need a new proposal, they said no. Let it move forward. We need to know the outcome of that analysis in order to know what their next steps are.

So the Applicant was asked if they had any preferences whether or not they wanted to change the scope. They said no, you know, best case for them would be to proceed with the full-scale project they had proposed in their alternatives analysis, and so we moved forward with confirmation from Oregon State Parks expressing a level of comfort with the land use and planning and permitting process, all the while knowing that as the land owner, they have the ability to -- to not allow that development to occur on their property at a future date if it did get approved.

So staff felt comfortable moving forward with the scope and if for some reason they decide not to

build that piece of the project, it does not -- it does not change any of the other conditions of approval or changes that we have recommended for scope, design, public health and safety requirements. It wouldn't change any of those things. It just would be that that piece of the project would not be constructed.

MS. ERICKSON: That being the access, access road?

MS. BREWER: A portion of the access road is owned by the Applicant. And I should just start by saying the ownership in that area was a very complicated discussion for months and months early on. So -- and that was part of the Oregon State Parks and Rec Commission concern about what was happening there. There was a lack of clarity for a while as to who owned what. So there is a -- if I remember correctly, the access piece is mostly owned by Union Pacific Railroad, if not entirely owned by them, but there are quite a few pieces of the railroad right-of-way where they were looking to expand that were owned by Oregon State Parks.

Does that answer your question?

MS. ERICKSON: Let me think about it a minute.

CHAIRMAN HARGRAVE: Okay. I'll tell you, let's

launch into deliberations.

So our job is to either approve the application or deny the application or approve it with conditions. Am I correct?

MS. BREWER: Yes, you're correct, but you can also ask for modifications of findings or conditions.

CHAIRMAN HARGRAVE: Right, absolutely. So we don't need to take the conditions exactly as they are in the staff's recommendation, and a number of modifications to those conditions have been entered into the record, so that's certainly an alternative, too.

If we were to deny it, we need to do it based on which criteria, Angie?

MS. BREWER: Any of the criteria you found to be inconsistent you would have that ability to deny based on that.

CHAIRMAN HARGRAVE: With the management plan?

MS. BREWER: With our ordinance. And the management plan is effective, too, but it's implemented through our ordinance.

CHAIRMAN HARGRAVE: So is everyone clear on that? So I am curious -- to try and manage this and facilitate it in a reasonable amount of time,

we could spend an awful lot of time discussing things which may not turn out to be important. So I want to ask for a straw vote. I don't want a binding vote. I'm hopeful that our deliberations will influence our thinking and that as we learn what each other has thought of all the stuff we've listened to and read, that we're all going to listen to each other and that that wisdom and knowledge from all of the material we've absorbed is going to influence our thinking.

I want to facilitate that effectively. I'm curious right now, I want to take a quick straw poll to see where your head is at; accept, approve the application, deny the application, or with conditions, and those conditions could be as the staff recommended or modified.

So starting with Mike.

MR. DAVIS: Since this is a straw vote, after listening to the audio tapes twice over and going through everything, and keeping an eye on what we are here to do, at this stage I am -- if I had to vote right now, I would accept the application only based upon accepting all the conditions that have been outlined as written and not modified by our staff. That's where I'm positioned at this point.

MR. MYERS: And for me it's tough to give a position at this point. What I want to do is -- we heard a lot from people in the community, and we heard I think specifically with regard to issues of concern that deal directly with the application, things such as vegetation, effect on recreation, noise, all of those considerations.

And I think that what I would suggest is that we take each one of those things one by one and discuss them. If I was to vote right now, I would vote to deny the application.

MR. SCHANNO: I would say my -- I'm probably leaning towards the same way Commissioner Myers is. I would vote -- I would lean towards denying it at this point until we talk more about it.

CHAIRMAN HARGRAVE: My initial reaction, which is not at all initial. I've heard hours and hours of testimony; some of it expert and professional and a lot of it from people who aren't experts, but have a tremendous amount invested in this area of this community and the culture we have here.

I have listened carefully to a lot of information and I really came in without any particular bias on this, but based on what I heard, at this point my inclination would be to deny it.

MS. ASHLEY: Okay. Based on what I have read, what I listened to for hours, reread, considering that it's a land use issue, I would be in favor of it with conditions.

MR. DEHART: I don't think I need the microphone. Can you hear me in the back?

I have never felt like our decision here was more insignificant in the whole scheme of things, but that being said, I mean, we're arguing about legal matters that I believe are going to play themselves out on a different stage. This has become what I consider to be a relatively simple and straightforward project application, has become one where we're having more discussion around whether we should be using fossil fuels on this planet or not.

And for this body, for my portion of this, I've listened to all that testimony and I don't believe that we can wrap all of that into this. My inclination has been to approve the application with conditions, but not with the conditions as they are exactly written in the staff report. I do have actually some changes that I would want to see in those conditions before I would be able to approve it.

CHAIRMAN HARGRAVE: Thanks.

MR. HANDLEY: I would have to agree with Brad on this. I have read through everything, including every last letter that was sent by email that I have received.

At this point I'm leaning towards approval but with changes to the conditions.

MS. ERICKSON: I would be leaning towards disapproval, but I don't get to vote today, but, also, thinking about some additional conditions, if we were to move in that direction, that would need to be modified.

CHAIRMAN HARGRAVE: Okay. Thanks. That helps.

So, John, you were saying that -- I'm sorry, I meant Andrew. Mr. Myers, you said you were leaning towards denying it. I'm curious to learn a little bit of your thinking on that. Try and relate your thinking specifically back to our management plan. What are the conditions in that that you see as incompatible with this application?

MR. MYERS: Guess my thought, Russ, is that I want to have more of a conversation about it and I want to do it kind of one step at a time. So I want to look at -- let's start with vegetation. You know, that was something I heard a lot about

from people who came in and spoke to us.

And from what I can understand, the requirement is that there not be any loss of plant habitat. Is that what everybody -- okay. And I don't see how the -- even the conditions of approval really would effectuate that, that it's preserved to the greatest extent practicable. I don't see how that is ensuring that we're not having plant habitat loss, you know, that a certain percentage -- 75 percent of vegetation be -- you know, survive after a period of in one case five years, in another case three years, depending on whether it's planted in a different location or planted in the same location.

That kind of concerns me that there is not really -- there is not really, in my view, a very detailed or very carefully thought out way to ensure that that condition is satisfied.

You know, I want to have conversation. I want to hear the other commissioners' thoughts on how this project might affect recreation in that area and how it might, you know, might -- the noise issue. That's something that's significant to me.

I also have some questions, I think, just with regard to the staff report and I also -- I am with Brad in that I'm trying to make -- this is a land

use decision and I'm not making it an emotional decision. And I agree that the whole fossil fuel issue is something that is a bit distractive. But the question on the number of trains -- and I don't think that that's really something that would -- would warrant approval or denial, but at the same time, I have questions about it because our -- you know, I have heard from Union Pacific -- I have heard from opponents of the project that we're going to have a lot more trains. I've heard from Union Pacific that we're not going to have either any more trains or many more trains, and then in the staff report we have we're going to have less trains. And I don't know how they got that, because I didn't hear that from even Union Pacific.

CHAIRMAN HARGRAVE: I would like to just comment. You asked for a dialogue, so I'm going to jump in.

In terms of, you know, more trains, I think -- I understood UPRR's assertion that this wouldn't affect the number of trains is being based on business, which makes a lot of sense to me. It's what's the demand and they are going to facilitate the demand. I think that was

the -- what they were basing the response on.

Okay. But as an engineer, what is clear is that they are increasing the capacity of the track, and they acknowledged that when I asked that specific question. There is a lot of debate about how much it increases it. And the increased capacity can also be phrased as increased efficiency, right, because if you have a given amount of track and you make it more efficient, you can move more trains on it, so we've heard it called both capacity and efficiency.

It's clear that it increases the capacity. It's apparently not clear from all the experts we heard on exactly how much, but I wanted to separate that out from the supply and demand aspect because if the capacity is X, it can't be above that regardless of demand.

MR. DEHART: What I recall from our discussions in the past was that the improvements by this additional length of siding could increase the efficiency of the overall corridor by, I believe it was five to six trains per day.

So by us putting a restriction in there that says that -- that train traffic or the number of trains won't go beyond what we're seeing today,

already the existing configuration provides for a lot more trains to pass through the Gorge than what's -- than what's occurring today.

I don't see how we have the ability to impose a restriction on the efficiency of the rail based on just what I would consider to be somewhat of an arbitrary point in time, today, and what the train traffic is on UPRR's lines.

MR. SCHANNO: I also agree with Brad on that, too, when it comes to the amount of trains that you are putting through. I don't know if we can put a number there because as a retired railroader, they -- you're not going to get -- four miles of double track, it's going to increase the velocity through that stretch. It's not going to be increasing the amount of trains that much.

And, like Brad said, you are going to be able to reach far more higher numbers if they ran it correctly. And part of that, too, when it comes to number of trains, that's like -- it's hard to put a number on it today because of economic -- where we are economically as opposed to where we could be five years from now or ten years from now. And also who is going to hold them accountable to that from today until forever? You expect the UP to

self-report? I mean, we need to be realistic with some of the things we put in there.

And also when it comes to the noise and train blocking the recreation access through Mosier, part of that's going to be actually decreased because if this is double track, they will be able to move on by it.

So I'm also not doing it as a -- I'm trying to be unemotional and I agree totally with Brad's comments about the fossil fuels being -- clouding the -- what this is. So we just need to make sure we're doing it as best we can with the correct stipulations, I guess, and monitoring.

MR. HANDLEY: I think for me with the number of trains and such, I look at it as if ODOT was going -- sorry to use ODOT, but if ODOT was going to increase the capability or capacity (inaudible) they look at ODOT and say, yeah, we'll let you do that, but you can only have so many cars pass through that corridor at any given time.

I just don't see how -- how we can impose a standard on a private entity that we wouldn't probably likely not impose on another entity.

And with the vegetation part, we've had other stuff come through, other applications come through

us, where we have never even took a second look at the plants or vegetation. We just went with the recommendations. So I don't see how holding the UP to a higher standard than what we held previous applicants to would be appropriate.

CHAIRMAN HARGRAVE: Not necessarily a higher standard, if I understood the comment right. It was relative to the conditions. So in those other ones you might be recalling, the conditions might have been quite different. I think that was your comment is that you didn't see how the conditions would achieve that, right, or how the proposal would achieve those conditions.

MR. MYERS: Correct.

MS. ASHLEY: I have a question. I have a question in the fact that what makes more noise, the train sitting idling on the siding waiting for a train to go by or two trains moving simultaneously in opposite direction? To me, it seems like there would be less pollution and exhaustion fumes if they kept moving. That is just one of my thoughts on the siding.

MR. MYERS: Would they be sitting idling in that same location, though?

MS. ASHLEY: They do. They do. They sit there

and wait for the other one to go by.

MR. MYERS: Well, not if they go to double track.

MS. ASHLEY: But they wouldn't be. With double track --

(Multiple Speakers - Indiscernible)

MR. DAVIS: In regards to the two topics, let's take the first one, which is about the train operations itself, is -- I think one of the questions why it was raised in regards to the --

GROUP SPEAKING: Can you speak up?

MR. DAVIS: On page four, I'm referring to the train operations which we were discussing here, it goes back to their original statement in regards to what I brought up and that was the carrier, the federal government basically saying that they have the right to carry.

So the question would be is that I think that the number of trains that would go through there, how do we monitor, limit, whatnot, I think that we're going to be -- that's going to be shaken out on more of a legal condition. I don't see how we can put that in there, personally. So I think that if we carry this thing forward, we can't sit here and say, oh, by the way, you can only do so many

trains every 15 minutes or whatever.

So I think the likelihood of fairness of other places is we have to look at that as you're improving that rail for carrying more goods, more stuff through there, and I question whether we have the wherewithal to put that in successfully.

As far as the wetlands and as far as the vegetation, et cetera, I think we have some areas to protect in the section of the natural resource conditions and that that should be looked at, and I think we have in the past looked at -- considered that irrelevant of who's in that process. So I feel comfortable as long as we keep the sections on those conditions to protect our wetlands and protect our vegetation growth.

Anyway, that's my comment.

CHAIRMAN HARGRAVE: I agree with the point about it not being feasible to put a condition on the number of cars or whatever, but -- Angie.

MS. BREWER: Can I provide a little bit of context about the source of these conditions?

So think about the existing bottleneck, if you will, in Mosier as a bit of a traffic-calming device. Right now it only allows so many trains to pass and so many -- and specific lengths of trains

to pass safely and efficiently.

The letters that we received from the Umatilla during the comment period, and again similar comments during the window of time after our last hearing from the 13th, the treaty rights concerns specifically discuss increases in rail traffic. We also received those concerns from others, but in order to comply with our treaty rights protection requirements and allow any kind of proposal to move forward, we have to attempt to regulate it. If we don't try to keep it at least somewhat similar to what it is now, then we would be allowing something that has a potential adverse effect to treaty rights to move forward and that would be in conflict with our resource protection requirements.

MR. HANDLEY: I would like to say something about the treaty rights. It says right in their letter "may result in violation." It doesn't say that it will result in violation. It said it may. I imagine that if it would, we would have totally different documentation in there and it should say "shall" result in violations instead of "may." And there is a big difference in my opinion between "may," "it may do this," than "shall, it shall do this."

MS. ASHLEY: Or will.

MS. BREWER: So the -- I understand what you are saying. The rules in our ordinance discuss our ability to protect treaty rights from direct and indirect as well as cumulative effects. It is very difficult without being able to project market demands what the changes will actually be.

So what they are doing is they are assuming the worst-case scenario, which is what we have to do as well, because, again, if you open up that bottleneck and it is subject to the demands on the market, you really don't know what the impacts of that traffic will be with certainty.

So, again, that condition is specifically in there to address the treaty rights concerns as much as we can and the alternative is deny.

MR. DAVIS: Could I have a question, Angie? So what you are saying is that we need to put in a moderate time, a number of trains, just because of the treaty and so we have to put something in there.

MS. BREWER: There needs to be something that can address the concerns regarding increased rail traffic.

MR. DAVIS: Okay.

MR. MYERS: My point with regard to that is it is UP's position that we can't do that.

MR. DEHART: Can I make a comment on that? What I would like to say is I believe that if we were to consider things such as efficiency and pollution and all of those kinds of things, putting restrictions on the number of trains could actually have an adverse effect on some of the other tribal concerns or some of the other constituents' concerns around pollution in the Gorge.

If you think about the efficiencies that this is reported as providing for rail traffic, then when we start talking about less smog, less noise, all of those other adverse impacts to inefficient trains traveling through the Gorge, we may be shooting ourselves in the foot by removing or by -- by actually making UP run less efficiently than they could if they built this project.

CHAIRMAN HARGRAVE: Sure. It's a good point. And I think to some extent, Brad, maybe it's scale. If you look at it across the country, certainly improved efficiency is a good thing. If I look at it within the Gorge and realize that improved efficiency would increase capacity -- and I'm just going to take a minute to pontificate here to share

with you my thinking -- it would increase capacity in two ways, as I understand it. One is you could have more trains, more cars, but the other one is could have bigger trains. And so I realize as a land use person, I want to just look at it as a land use issue.

If a factory were coming before us and asking to increase capacity, okay, how does that line up with our management plan and our county goals? With this application I see a safety issue and I see a health issue. And if the factory -- and, you know, most of the factories in our County don't have those issues to a high degree, at least not the ones that I've been made aware of in this capacity.

So if I look at it through that lens, I am concerned about the safety issues that come with increased capacity and about the health issues. And that's why it's my thinking that regardless of this condition or that condition, none of these conditions adequately address those fundamental issues.

And, Brad, you asked, you know, a good question around -- this is an arbitrary point in time. The capacity is X. If we went back -- this railroad

has been operating for a long time. If we went back 100 years, the capacity would be something different. And so, you know, why should we arbitrarily constrain it to what it happens to be today? I think that was kind of the gist of your point. I don't know.

All I know is that we have an application in front of us today and we have to make a decision today. And while it might be an arbitrary point in time, it is the decision that we're faced with, and so that's some of my thinking. My concerns are safety, number one, and health, number two. And I don't see that any of the conditions adequately addressed that.

MS. ASHLEY: I would like to address the point of safety. I think we need to break that out.

Fire safety. I live off of the Deschutes River. We see fires from the trains there from brakes. If they would commit to putting one of those foam trailers permanently stationed in The Dalles or Hood River so that there is access for this mid Columbia Gorge area for the foam trailer, that, to me, would be -- that foam is so much better than just plain old water. And I know, I've used plain old water in a gunny sack and if I had

foam, it would be a whole lot better to put fires out.

CHAIRMAN HARGRAVE: I agree with you that mitigation conditions could be -- there might definitely be effective mitigations. And, you know, the foam was key in the one scenario that we've had and, you know, staging foam would certainly be an important aspect of addressing safety concerns.

Fundamentally, though, the topography and geography of the area is problematic with regard to safety. If you look at Mosier as an example, and that's where this application is centered, there is not a lot of routes out and in. It's extraordinarily dependent on routes that are adjacent to where this proposal is.

MS. ASHLEY: The same thing could happen if a big truck carrying hazardous material on the freeway had a wreck, the same type of thing. It's going to close off wherever, or a barge.

CHAIRMAN HARGRAVE: I agree. Well, a barge might be different.

MR. SCHANNO: Or any train that they currently run.

MS. ASHLEY: Yes, or any train that they

currently run.

MR. DAVIS: I have a question for Angie, if you don't mind. This goes back to the train operations, the number of. And the concern that's been in my head since we started talking about this is that I feel we have a catch-22 on this between the tribes. And I think that there was a -- the catch-22 on this in regards to what we're obligated with the tribes to look at, as well as what they are stipulating in the memorandum of demand.

When you have something like that, it makes me step back and say, wait a second, time-out. We have to have push-back on this whole thing because there is no win. There is no -- you know, it's wrong no matter if you step into it. Is that correct in regards to the operation?

MS. BREWER: You were looking at her but talking to me?

MR. DAVIS: I'm asking both of you for just some direction.

MS. BREWER: I think, if I understand your question correctly, is there any way to move forward? Is that what you're asking?

MR. DAVIS: Yes, right.

MS. BREWER: So based on the information we had

a week before the hearing is what you are seeing in the staff's recommendation, or a week before the first hearing, and we took up our sort of best stab in the dark at conditions of approval to address the concerns that we heard. We postponed this hearing several times asking for more feedback from our technical assistance partners. It was a struggle every time.

And so you will notice that there are still some questions looming and that is, in part, because we could not get technical assistance that we were asking for and we needed to issue a unanimous decision based on the application that was provided to us, which was a complete application.

They prepared several natural resource and cultural resource surveys to accompany that application. So we had a lot of information to look at and review but, again, there are some very specific treaty rights concerns that are essentially deal breakers. If we do not have a way to respond to them and mitigate them, we cannot move forward based on the proposal that would still protect those treaty rights.

And I have the language from our ordinance in

front of me, if anyone wants me to read it, but essentially it says that if we do reach a different conclusion from what they have asked for, we need to be able to justify that. We can't -- we need to have some information to back that decision.

And it goes on to say that -- let me see if I can find it here -- uses that would affect or modify any treaty rights, any such rights, shall be prohibited. It's a "shall." It's not optional. There is not a lot of discretion there.

So staff feels that, you know, if you feel like there is a way to monitor this and you have some level of confidence in monitoring those numbers, then you could move forward. The physical restraint of the bottleneck now is the only sort of guarantee that the numbers won't change, but that doesn't mean that monitoring can't happen, and that's really your decision.

Anything you want to add?

MS. CAMPBELL: And with respect to some of these conflicted laws, provisions, with all due respect, those are issues that won't be settled by you here today.

So it's my best advice in that regard that when in doubt, do your best to apply the facts, the

criteria, and whether you think a particular condition is needed to address the standard.

CHAIRMAN HARGRAVE: Does anyone else want to speak, share your thoughts?

MR. HANDLEY: About just 20 to 30 trains?

CHAIRMAN HARGRAVE: The whole thing.

MR. MYERS: Just to kind of clarify to make sure I'm on the same page with what Mike and Angie were saying, are we all -- what's everybody's position on if we did -- we know we're increasing capacity. We don't know if we're increasing number of trains. If we did increase number of trains, are we saying that that's going to have an impact on treaty rights? Is everybody in agreement with that, or no?

MR. HANDLEY: I'm saying that we don't know if it will or not. The tribes don't even know. They put in their letter to us they don't even know if they are going to impact their treaty rights. They said it may impact their treaty rights. They did not say it that will impact your treaty rights. That's what I'm saying.

MR. MYERS: Can I ask Angie, what's your understanding at this point of how an increase in train traffic would or potentially could improve

1 treaty rights?
2 MS. BREWER: So my understanding is based on
3 the comment letter which you've all seen. And it
4 is specific. It doesn't use -- so you're right,
5 Commissioner Handley, it doesn't say "will." You
6 know, there is no sort of definitive "This will
7 happen. Beware." A lot of it -- and I have a hard
8 copy of the Yakama letter in front of me, but not
9 the Umatilla's.
10 It's not just one thing or the other. They
11 both cite multiple concerns revolving around
12 increased traffic, but also just expansion of use.
13 So there are concerns about trains not stopping
14 would potentially increase deaths and accidents for
15 their fisherman along the tracks trying to access
16 the property. That's one of the conditions we've
17 included in there which I think addresses some of
18 those concerns.
19 There are other concerns about a likelihood for
20 irreparable harm to natural and cultural resources,
21 which is based on the notion that with increased
22 capacity, there is increased risk of any kind of
23 derailment or incident that would cause impacts.
24 So it doesn't need to be -- it doesn't need to
25 be a doubling of the numbers. I mean, it's really

just a recognition from them that any increase is an increase in the existing risk because there is an existing risk right now.

MR. MYERS: And our rule says any increase shall be prohibited.

MS. BREWER: Well, it doesn't say any increase.

MR. MYERS: Or any increase or any risk.

MR. DAVIS: It says impact.

CHAIRMAN HARGRAVE: Negative impact, right.

MS. BREWER: The proposed uses must not affect or modify treaty rights or other rights of Indian tribes. Uses that would affect or modify such rights shall be prohibited.

And our rules are a bit more expansive than the Corps of Engineers' rules and other federal rules, so our rules allow us to look at indirect impacts as well as direct impacts and also the cumulative effects of all of those -- all of our rules combined, what that means for the long-term outcome of our resources and our treaty rights.

MS. ASHLEY: So I guess I go back to the fact, okay, we say no increase in number, so they are running ten trains with 100 cars, they will just run ten trains with 200 cars. They will increase their capacity, but they are not going to increase

their number.
MR. DAVIS: What was that?
MS. ASHLEY: Okay. So we don't allow them to have more trains per day. Well, we don't have any say on the length of the train.
MR. MYERS: But right now the length is restricted because of the track that's in there.
MS. ASHLEY: Not really.
MR. MYERS: I think it is.
CHAIRMAN HARGRAVE: It is because the --
MR. SCHANNO: If you stop in that section of track.
CHAIRMAN HARGRAVE: It's not to say they couldn't run bigger trains than they do today, but there is certainly a limit because you only have so much bypass.
MR. SCHANNO: (Inaudible) unless you connect all 176 miles with double track.
CHAIRMAN HARGRAVE: I appreciate that. It wouldn't have to all have double track. It would all have to have long enough.
MR. MYERS: I recall hearing that specifically from UP, that this project would allow them to increase the length of the trains.
MS. ASHLEY: Yes.

CHAIRMAN HARGRAVE: I recall that also. And I think the number was one mile. It would increase it to one mile.

MR. SCHANNO: The fact is that they can run a train in that siding now that's short enough. They can meet a three-mile train. They pull a short train in there, they could meet a three-mile train in there. On the four-mile stretch of track they will not be able to take two four-mile trains. They will only go four miles.

CHAIRMAN HARGRAVE: I think we're down the rat hole because Vicki's point was that there is two parameters here and if you simply restrict the number of trains, that doesn't necessarily address the issue because you could have fewer longer trains. That was her point.

MS. ERICKSON: Under the conditions proposed by staff, number 20 says there shall -- "Proposed development shall not directly result in significant increase in net volume of rail traffic, including number of individual trains, length of trains."

That's been sort of addressed, but if -- Angie did also suggest some language to be added to ensure compliance with that in the memo that was

sent out and that UP -- we could require UPRR to provide quarterly reports to the planning department to document that.

CHAIRMAN HARGRAVE: So my feeling, I will just -- my thinking on this, having worked for a lot of large bureaucracies, it's just unmanageable. I'm not even sure it's measurable. I mean, maybe they could self-report. I just see so many issues with trying to micro-manage this thing.

I think we need to decide, you know, as a commission, are we approving or denying it? Because if we're trying to deny it through a condition that's, you know, un -- if we really want to deny it, then let's do that and not try and have some crazy condition that, you know, that sort of does that, because I'm not sure this is manageable or the right way to put policy out there. It just seems really hard to measure or manage.

MS. ASHLEY: I think some of these conditions need to be tweaked.

CHAIRMAN HARGRAVE: Let me do this.

MS. BREWER: Can I just add one piece of the timeline? I just want to make sure the timeline is straight in our mind. I just want to call out again, and I mentioned it earlier, that the

Yakama's letter came in after they had a chance to see our conditions of approval. I just want you guys to know that. They are still citing concerns that are not addressed by those conditions of approval.

CHAIRMAN HARGRAVE: Right. I appreciate those. Back to Vicki's comment around trying to manage lengths of trains and number of trains. So how about if I facilitate it like this, why don't we first decide as a commission what our thinking is on approve or deny. If we're definitely going to go ahead -- I mean, where does the majority lie on that? Because if we're going to deny, then this debate isn't really needed, right?

If we're going to approve, then let's figure out are we going to approve with the conditions as recommended or are we going to modify it? If we're going to modify it, then I'll facilitate that and we will get through this in a timely manner.

Does that make sense? Okay.

MR. MYERS: Another straw poll.

CHAIRMAN HARGRAVE: We could do it via straw poll or via motion, either way.

MR. MYERS: I would make a motion to deny the application in its entirety.

CHAIRMAN HARGRAVE: I would second that.
All in favor? Well, hold on. Let's back up. Discussion, please.
MR. DAVIS: I have now a concern over monitoring. I have been around very large companies before. I agree with you. You can't micro-manage the thing. I think it's unmanageable on some of the topics that we see. And so I'm -- based upon what I'm hearing now, I'm going to have to push back and I would have to agree with you to deny it. That's my feeling about this thing.
CHAIRMAN HARGRAVE: I am in a similar space, which is a proposal could be put forward that would address the concerns that I have based on all the testimony we've heard and read, but this proposal doesn't. And so rather than go through some extraordinary machinations to recraft the proposal in a commission meeting by via really complex conditions, I would rather approve it or deny it.
If we deny it, it could be resubmitted and then that would give much more time to recraft it much better than we can do here on the fly in a meeting.
So similar thinking to yours, Mike, has led me to where my -- where I am. What do you guys think?

MR. DEHART: I don't agree with denying it.
MS. ASHLEY: I don't either.
MR. HANDLEY: I don't either.
CHAIRMAN HARGRAVE: Well, tell us why.
MR. DEHART: I have got a list of nine revisions to the conditions that we have right now that, for me, if these revisions were made, I would easily be able to approve the application. Some of them are extreme, complete elimination of conditions, because I don't -- and those are related to some of these restrictions around the covering of coal trains or the number of trains.
I don't believe that we want to put Wasco County in a policing position making sure that Union Pacific Railroad or any carrier coming through our County is abiding by conditions that I don't feel we have the ability to enforce.
So many of my changes that I would recommend are complete elimination --
CHAIRMAN HARGRAVE: To remove those.
MR. DEHART: -- conditions. Others are less extreme, subtle changes in some language to better clarify, I believe, what we're trying to achieve.
MS. ASHLEY: I move that --
MR. HANDLEY: That's the direction I'm in.

MS. ASHLEY: I can't agree with the motion in the fact that I think we can work with it. I think a bunch of these conditions need to be tweaked. Some need to be totally removed. Some need to be tweaked, but I think we could approve it on a land use issue quite simply with some revision.

CHAIRMAN HARGRAVE: Okay. And, Jeff.

MR. HANDLEY: I agree with what Brad had to say. There is some stuff in there I would like to completely remove, some I would like to change the wording of, but we have been working on this for a long time. We have gone through everything. I think it would be kicking the bucket down the road to another -- another section to go and redo all this and I think it's taking the easy way out.

CHAIRMAN HARGRAVE: Any other discussion or comments?

MR. SCHANNO: I'm starting to lean towards the way Brad is thinking in the sense that if we send them back to the drawing board, we're going to be back all again, whereas the drawing board has been there. We know what we want. We know the majority of it right now. We're all here. It seems like we can go through and talk about the revisions that need to be made or what we agree or don't agree.

Part of it comes, even when you talk about the treaties with the tribes, they don't have a maximum amount of train traffic they can run through there right now, so how can we -- we're not a law -- we're not the sheriff's office. You know what I mean? We can't go and say, well, they are violating that because in the Treaty of 1800 it says no more than 50 trains.

CHAIRMAN HARGRAVE: I mean, I totally agree, if I understand what you're saying, and what Brad articulated pretty clearly, that we can't get in that business. Our business is approval of land use applications. You know, and that -- that's kind of where my head is at, too.

It might lead me to a different vote on this motion, but, you know, I'm like, hey, we don't want to get in the business of monitoring trains. We're approving applications or denying them or modifying them. Right?

Is there more discussion or do you want to vote on this? Okay. Mike.

MR. DAVIS: I guess so what I'm hearing is that -- there is some fundamental things that I'm wrestling with. One, of course, is safety and the other one is, is this a catch-22 that I feel that

we're kind of falling into with the tribes and with the land use, with what we are -- in our management plan of what we shall conform with. Okay?

If we -- if we decide to -- and I'm all for it, by the way, that if we want to go through each item by item and start tearing into it, you know, that's fine. That may or may not change, you know, how I feel, but I'm fine with that if we want to take the time to do that. We may take Brad's suggestion and go through those modifications.

But if I had to vote right now, based on this, I'd still have to say that I would have to push back.

CHAIRMAN HARGRAVE: Okay. And there is a motion open. Any more discussion on the motion? Okay.

All in favor of denying the application, say aye.

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: The motion is not carried.

MR. SCHANNO: We're going to keep talking about it, right? I'm not opposed to voting to denying.

CHAIRMAN HARGRAVE: We will probably vote many

times. Don't worry.

MR. DEHART: Can I make a suggestion, a platform to discuss this from. I'm not going to make a motion, but I would like to share my thoughts on the changes, the nine -- I believe it was nine changes and maybe it can be a starting point for the discussion. I don't know that we need to walk down through all of those conditions, but I think if I've heard all the conversation and deliberations and stuff, I believe that we kind of -- they are circling around these conditions that I've got written down. Okay?

And I'm not going to look at what the conditions are. I just called them out by number when I wrote this down, but I just want to reiterate that I believe this is a lot of my thought around this is based upon whether we want to put Wasco County in a position of policing the Union Pacific Railroad on so many issues that I don't believe -- I understand what you have said, Angie, but I don't believe we have the ability to do, to police that.

So I'm just going to walk down through these. I want to eliminate condition number 13. I want to clarify --

MR. MYERS: Can you slow down a bit?

MR. DEHART: I want to clarify condition number 14 to specify whether the spill plan -- and this may be just something we can do in discussion -- but whether the spill plan that's being called for there is for derailments or whether it's a spill plan for construction activities. I think that's an important clarification because I wasn't sure.

The next one was to eliminate condition number 15; eliminate condition number 16.

In condition number 17, I would like to see something a little bit more objective in the requirement than "make a good faith effort." I feel like that's -- maybe we could talk about that one a little bit more, but I just don't know -- I think we need to get a little bit more objective about what that looks like.

I would like to eliminate condition number 20. I would like to eliminate condition number 21 and replace it with something that is collectively crafted that includes something along the lines of Union Pacific's proposal for $2 million. Maybe the figure isn't the right figure, but that there is some sort of collective proposal around how those

crossings are going to be determined. And I would also like to restrict those specifically to occurring within Wasco County.

I would like to revise condition number 23 to remove, to the extent practicable, with a more objective requirement, perhaps something along the lines of half cast would be removed or something. And this has to do with the visual appearance of rock faces that are blasted. I think we could be -- put something in there that's a little bit more objective rather than just saying "to the extent practicable." There are ways that you can line drill and shoot and then go back in and chip away at those drilling half casts, they call them, and get a more natural-looking face.

And then the last one was I would suggest that we make number 47 a recommendation, just like we have made 48 a recommendation.

MS. ASHLEY: Okay. Going along that same line, if we're doing a few revisions, I would combine conditions 22, 31, and 33 all to be combined -- I mean, we just kind of reiterate the thing over and over on coloring stuff, combine all of that to one restriction -- condition, I mean.

UNIDENTIFIED SPEAKER: Which numbers again?

MS. ASHLEY: 22, 31, and 33.
MR. MYERS: Could you say that again?
MS. ASHLEY: 22 --
MR. MYERS: No. What you said about them.
MS. ASHLEY: Well, they are all conditions dealing with the color and to the Scenic Area. Make them one condensed condition. It's just kind of a little wordy in there.
CHAIRMAN HARGRAVE: Do you have any?
MR. HANDLEY: Yes, 33. UP calls out 33 saying that if we throw that condition on them, it's going to violate their -- the federal standards that they have for lighting for track management.
MS. ASHLEY: Safety.
MR. HANDLEY: Safety and track management.
CHAIRMAN HARGRAVE: It's just confusing because it's not consistent along that line.
MR. HANDLEY: Right. And that's why I have a problem with 33. I want safe transportation on the railroad. That would be like asking the city to change two of their traffic lights to a different pattern because of whatever reason. I think that it should be consistent throughout their system.
CHAIRMAN HARGRAVE: Yes, I agree with that.
MR. HANDLEY: So I propose just eliminating

condition 33.

CHAIRMAN HARGRAVE: Oh, I would propose they change the rest of the system.

MR. DEHART: I appreciate what you are talking about there. And then I also read that and I felt like -- let me use an example from projects that we do within ODOT, within the Scenic area. We color signal poles in our projects, the pole, the mast arm, those parts of it are colored a specific color, browns and stuff, to blend in better.

I took this as meaning coloring of the support structure and stuff and not changing the colors of lights or anything like that so the face of the signals would still be rail standard, but --

MR. HANDLEY: It says the shielding and coating.

MS. ASHLEY: I took it as the coloring.

MR. HANDLEY: I wouldn't either. And, again, we don't -- we don't paint brown around the face of a signal, the signal itself. There are standard requirements of what the face of that signal look like and it's got some reflectiveness and stuff like that.

I think that we can work --

CHAIRMAN HARGRAVE: It sounds like we all have

the same -- we might just want to clean this up.

MR. HANDLEY: Clean 33 instead of removing it.

CHAIRMAN HARGRAVE: Not changing the face of the signal.

MR. DEHART: We're wanting it to still be --

MS. BREWER: If I might just give some comment on that. They did provide elevation drawings of standard lighting that they use throughout their railroad already. And those standard fixtures do have a little bit of a shield over the top of them. They have a little bit of a lip because they are trying to funnel that light down the track, basically.

So this lighting standard is a standard condition of approval we include in every single land use decision, and staff feels that they are complying with the lighting that they have proposed already. So this isn't trying -- this is trying to do exactly what Commissioner DeHart just explained, is require the colors of the structures and the material of the structures to comply, but not in any way trying to undermine the safety that the existing lighting has.

MR. HANDLEY: Or the consistency of Union Pacific.

CHAIRMAN HARGRAVE: But in reaching their response -- I think we're all on the same page. It apparently wasn't clear to Union Pacific, based on their response.

MS. BREWER: Sure. So I would be for a revision to be more clear, but not an elimination.

CHAIRMAN HARGRAVE: So that is still a subsection of the conditions would be open for surgery. Any other conditions that we haven't talked about that the commissioners feel need to be modified?

MS. ERICKSON: I had raised an issue -- I had raised an issue about one of the safety issues related to Chief Appleton's comments last time.

And I wondered if UPRR can be required to notify fire districts in advance of hazardous materials being shipped through their areas? And Angie said yes, but it's possible that it's already available to fire districts through an app, but that we could suggest that condition be added as well.

MR. DEHART: I believe that's already -- some regulations are being worked. I think it's already become a condition in Washington state. I know I can't ask Union Pacific what they could share with

us about that right now but, again, I feel like something like that is being resolved on a larger stage at a state-wide level. Whether we want to specifically require something like that, we may be able to get some feedback.

CHAIRMAN HARGRAVE: Do you know, Angie?

MS. BREWER: I participated in a meeting a few weeks ago with railroad staff and that question came up and that's how I was able to respond to Commissioner Erickson's question is that the app is apparently something you can download on your phone and the only concern that was expressed is that there is a disclaimer at the bottom of it that sort of states that it could be accurate, you know, it's as accurate as it can be, basically, and that last-minute changes to that list might not be captured. And I'm really not -- I don't have that app. I haven't viewed it, but that was the discussion around that app.

CHAIRMAN HARGRAVE: I'm kind of in the same space as Brad, which is if Wasco County doesn't need to get in and manage it, you know, let's try and avoid that. I'm not clear where this one is.

MS. ASHLEY: I talked to two Wasco County different fire departments about this particular

type of thing; one is already monitoring it and the other one is implementing it. So I don't think we need to police it. I think it's being done or is going to be shortly.

CHAIRMAN HARGRAVE: Why don't we do this, to talk to the specific recommendations in the time we have left.

I think we've got all the conditions on the table at this point that people are wanting to modify, right? So --

MR. DAVIS: Excuse me. Did we address -- one of the things I think Vicki brought up, and that is the safety in regards to some kind of -- would you say foam.

MS. ASHLEY: Oh, the foam tanker?

MR. DAVIS: Was there going to be any kind of modification to the safety clauses in here that addresses that or are we passing that by? Are you recommending --

MS. ASHLEY: I would like to make a recommendation that it be positioned in the mid Columbia, whether it be The Dalles or Hood River, but I don't know how we can totally put it in another county.

MR. DEHART: Condition 17 says, "UPRR shall

provide regular training in the Gorge fire department to include the mid Columbia fire (inaudible)" --

(Pause in proceedings)

MR. DEHART: Sorry. "Condition 17, UPRR shall provide regular training to Gorge fire departments included in the Mid Columbia Five County Mutual Aid Agreement and requires UPRR to solicit feedback about local needs for combatting a railroad-related fire incident and make good faith effort to assist in meeting those needs."

The revision that I had suggested was to make something a little bit more objective in there around what "good faith effort" would constitute, but I would rather rely upon that interaction between Union Pacific and our fire departments and allow them to make requests for where they might want to see foam trailers or training or allow that discussion to occur between them. We still have the condition in here.

MR. DAVIS: So that needs to be modified to add some more specifics to that point.

CHAIRMAN HARGRAVE: Thanks for pointing that out, Mike. What I was going to do was kind of march through each one of these that we want to

modify; agree, if we can, on wording and then if we are successful at that, then we can back up and make a motion. To try and have each person make a motion and in that motion express their idea of how the condition should be reworded I think is too cumbersome.

So why don't we go through the first section, which is -- which is -- let's see, the first one I think that we tripped up on was 13, right?

MS. BREWER: I'm sorry. Can I interrupt just one thing before you get into that? I just would ask that you all keep in mind that when we eliminate a condition, we're potentially coming out of compliance with the ordinance itself. So if we're going to take something away, we need to be conscious of what that means for the findings in the staff summary and our overall compliance -- finding of compliance.

MR. MYERS: Can you let us know if you have any concerns?

MS. BREWER: The only reasons those conditions of approval are in there is to ensure compliance and consistency with the rules, so all of them are considered by staff to be necessary. They can be modified, but if you are going to eliminate them

completely, just please be aware that that could cause some issues and inconsistencies throughout the rest of it.

CHAIRMAN HARGRAVE: They are in there for good reasons.

MR. DEHART: I believe that's a risk we're going to have to take.

CHAIRMAN HARGRAVE: So let's dive in and look at 13. I think that 1 through 12 nobody wanted to change, right?

So 13, should coal cars be covered? What do you want to do with that? Brad?

MR. DEHART: Eliminate it.

CHAIRMAN HARGRAVE: Okay. Does anyone disagree with Brad?

MS. ASHLEY: And I think the reason behind that is statistics basically that were presented by Union Pacific Railroad that if Wasco County did it, we would be the only one in the nation and we probably would fight clear to Congress to get it accomplished.

MR. HANDLEY: I have a couple thoughts on that. I agree to go ahead and eliminate it, and here is my reasoning. At this time Union Pacific doesn't even run coal through Wasco County. They stop at

Boardman. They put that in there, in their stuff, in the packet to us.

Second, is that Friends of the Gorge footnoted Burlington Northern website that talked about coal trains and the covering of coal with chemicals and a soapy substance, and I think I remember reading, to eliminate the coal, and that seems to be the industry standard. The industry standard isn't to cover coal trains. It's to apply this soapy substance to the top of the trains to limit the coal dust from blowing out of the train cars as they are going down the track. Up to 80 percent, I think is what I read in there, that it eliminates, the coal dust.

MS. ASHLEY: Also covered coal trains, as I remember reading, can have internal combustion.

MR. HANDLEY: This was testified by somebody that said that they have the --

CHAIRMAN HARGRAVE: So my concern with the condition the way it is worded is -- my concern similar to what has been expressed is that it is too prescriptive. You know, we're not in the business of figuring out what's the best way to protect from coal dust, if that's the main intent of the covers.

So if the issue is health and environment, I'm not sure we're in a good position to specify a specific remedy, especially as technology evolves over time. You know, the commission doesn't --

MR. HANDLEY: Can I ask a question of Angie then really quick?

Angie, can you share with us, if coal trains don't even come through the Gorge right now on Union Pacific's lines, how could that be put in there as a condition of approval?

MS. BREWER: Sure. Good question.

Just because they don't come now doesn't mean they won't come later. Everything, as the Applicant has described in their materials, is -- everything is market-driven. Just because it's not here now doesn't mean it won't happen later. We received concerns from several entities, including the tribes, about accumulation of coal dust and relied on a recent study at the University of Washington that addressed coal accumulation on the Washington side of the Columbia River where they do use that spray on the coal that's being carried through.

The lead author on that study happens to be the Columbia River Gorge Air Quality Strategy lead

author and is very familiar with the rules that apply in the Scenic Area and the resources that we're trying so hard to protect and balance these projects with.

So I hope that makes sense. We can't assume that they will never come. And when we have comments at hand, we are trying our best to address them. I did confirm with Union Pacific staff that covering coal was an option and that there were no internal instantaneous combustion or any combustion risks associated with covering coal. When I heard that at the hearing, I was a little panicked, so I made sure to follow up on that.

And it's just the understanding that things might change in the future and what we're looking at right now is a land use decision based on the physical development that's proposed, not knowing what's coming on those rails 50 years from now.

CHAIRMAN HARGRAVE: Did that answer your question?

MR. HANDLEY: Yes.

MR. DAVIS: So I guess my question, based on her response, do we even have to take it out or should it be more properly modified more towards the open-endedness of the future that there should

be considerations if coal --

CHAIRMAN HARGRAVE: Put something in like employ the best industry practices to control coal dust or something.

MR. DEHART: That puts us back in a position, or the County back in a position of having to try and police something like that when it's already going to be policed. The best industry practices and those sorts of things are policed by larger entities than Wasco County.

MS. BREWER: I agree with you completely. And just, again, the reasons these are in there is this is the only path forward. Treaty rights impacts are pretty black and white. So that's why they are in there. I'm not trying to advocate.

MR. DEHART: With all due respect, Angie, when impacts to treaty rights are stated with "mays" and "maybes" and "might," I have a hard time saying that -- you know, saying that there isn't some other avenue to address those.

CHAIRMAN HARGRAVE: Maybe we should vote on this condition. I mean, people have legitimate differences of opinion. I understand your concern. I actually share it, to a large degree. I understand Angie's point, which is, if you want

this to move forward, there are certain things that it needs to address and that's why she has put this in here.

So I --

MS. ASHLEY: I have a suggestion. Change the word "are" to "may be."

CHAIRMAN HARGRAVE: Well, I have a serious concern about --

MS. ASHLEY: That isn't going to help anything.

CHAIRMAN HARGRAVE: -- about specifying a particular recommendation as technology changes very quickly.

MR. DAVIS: If we take 13 completely out, does that put an end to the whole thing?

CHAIRMAN HARGRAVE: Why would you take it out? The problems with it can be fixed. I think, to me, the problem is specifying a particular remedy. I would be quite happy with a statement around "using industry best practices to control coal dust."

And, to your point, you know, maybe that is also monitored by other agencies at higher levels, but what's the harm? It is an issue that we need to address in this proposal. That's Angie's point.

I would be interested in a motion to reword this to -- along the lines of industry best

practices.

MR. HANDLEY: I think I just want to make a motion to remove it altogether.

CHAIRMAN HARGRAVE: Go ahead. Motions are --

MR. HANDLEY: Let's take a vote on that and see how that goes.

I'm going to make a motion to remove condition 13 from this application.

CHAIRMAN HARGRAVE: Anyone want to second that?

MR. DEHART: I second.

CHAIRMAN HARGRAVE: Okay. Discussion.

MR. SCHANNO: Can we ask Angie, if 13 is taken out, does it automatic -- I mean, does it put an end to it?

MS. BREWER: So, again, it's the Planning Commission's decision as to whether or not you reach -- if you reach a different conclusion about treaty rights impacts than staff has, you are certainly allowed to do, but based on our analysis, staff feels that that's a necessary condition.

CHAIRMAN HARGRAVE: My input, Chris -- and I have studied this far less than Angie, so I pay attention to what she is saying. I have sat here for a very, very long time, though, well over a decade. It does not seem like a deal breaker to

me. If I understand the way the treaty is worded and the way the concern is, taking this condition out doesn't feel like a deal breaker to me.

MS. ASHLEY: I agree. I can't see how -- when I read the treaty, I have gone back and forth, there weren't even coal trains when the treaties were written, but I can't see how -- I'm sorry. I'll just -- let's vote. I'll get myself in more trouble.

CHAIRMAN HARGRAVE: Any other discussion? Okay. All in favor of the motion to take out condition 13, say aye?

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: I'm against it.

Okay. The motion is carried.

The next one we tripped on was 14, which is "Spill response plan is prepared or made available prior to the commencement of construction." Who wanted to do something with that?

MR. DEHART: All I was asking for -- and maybe Angie could answer this. I wasn't clear on whether that spill response plan was for derailments on the railroad or whether it was a spill response plan

for construction activity.

MS. BREWER: My intent was for a derailment incident, an emergency, spill response plan for an emergency event. We are requiring the use of best management practices and other -- not just spill prevention and (inaudible) concerns for construction specifically, so the intent was to be emergency-related.

CHAIRMAN HARGRAVE: So I would be interested in a motion to -- sorry.

MR. SCHANNO: I was just asking Brad if he just wanted to add that language?

CHAIRMAN HARGRAVE: Yes, that's where I was going.

MR. DEHART: I think that's something that's probably already been developed or is being developed in cooperation, hopefully with our fire departments in the area, you know, based on number 17.

CHAIRMAN HARGRAVE: So did you want to take it out then?

MR. DEHART: No. I would like to clarify that it's a spill response plan for derailment and it's not --

CHAIRMAN HARGRAVE: You might want to say

"derailment or other accident," but that's the idea.

MR. DEHART: That's the idea.

CHAIRMAN HARGRAVE: I would be interested in a motion to that effect.

MS. ASHLEY: I move that condition 14 be reworded to indicate for a derailment or accident.

CHAIRMAN HARGRAVE: Or other train accident.

A second?

MR. HANDLEY: I'll second that.

CHAIRMAN HARGRAVE: Okay. Any more discussion on it?

Okay. All in favor?

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

Okay. 15. "UPRR shall stay within the existing range of 20 to 30 trains per day as stated in the application materials."

So, Brad, maybe you wanted to kick off the -- you wanted to take that out, right?

MR. DEHART: I did.

MR. SCHANNO: I wonder if we can change the wording on that to say, you know, within reason. Put some sort of -- to keep them within where they are now within reason, you know.

MS. ASHLEY: Like a percentage?

MR. DEHART: Here is how I have looked at that one. We have already heard that the track as it sits today could accommodate more trains than what we're saying today and that market conditions could increase traffic with or without any control by us.

There is no doubt in my mind that wherever the -- whether this track gets installed or this project goes through or not, that rail traffic is likely going to increase on Union Pacific's line and whatever they can't carry is going to get there by some other means, probably on the highway or by barge or other means.

I believe that -- that rail is an efficient way to transport goods and there is going to be a lot of goods to be transported, not just the ones that people don't want, but the ones that everybody wants as well. I just don't want Wasco County to get in the role or be in the position of having to potentially revoke a permit based on the volume of trains that goes up and down Union Pacific lines.

CHAIRMAN HARGRAVE: Thanks. Here's my thinking on it. You know, I think -- I think we need to understand where we are on the issue of increased capacity. I have two problems with this really.

It's one Brad mentioned, that they are not using all the capacity that's there today so the restriction seems not well-aligned with the project in that respect. That's my first problem.

My second problem is -- are we approving or not? Because the application is to improve the efficiency, i.e., to be able to have more capacity because you have improved efficiency. That's the application.

So if we don't think that the capacity should be increased, and that's really what this condition says. It says, I don't think the capacity should be increased. That would be -- to me, denying it would be the straightforward way to do that rather than this, you know, sort of backdoor way of limiting capacity.

The application, to me, is an application to increase capacity of the track and this condition defies that, so that's my second problem with it.

I -- you know, I don't agree that if you constrain this capacity as it is currently constrained, although they are not running as many trains as they could, they are not running as many trains as they could with increased capacity, if you constrain it, it will get there by other means,

but not necessarily through the Gorge, which has a very peculiar topography.

Running extra capacity through the Gorge is much more problematic in terms of a disaster than running it somewhere else. There are probably other places that are worse, too, so I share your thinking that it is going to get from point A to point B some other way; if there is a supply demand in place, that's going to make that happen, but all routes are not equally safe. That's the other aspect that I'm factoring in.

Nevertheless, I don't think this condition makes sense in that it defies the basic, you know, nature of the application. And it also -- I don't think it's manageable.

Lynne.

MS. ERICKSON: I just wondered how we get at the issue of the Umatilla Indians say that any increase in rail traffic would have an adverse effect to treaty rights protected -- that are protected under the Scenic Area Act.

MR. SCHANNO: In my opinion, I don't know that we're -- by approving this four miles, I don't know that you are increasing the amount of rail traffic that can go of the tracks. So I don't know if it

would be in violation of the treaty to begin with because maybe there is a bottleneck in Mosier at this point. Putting this double track in is only going to move that bottleneck to The Dalles or to somewhere else. I mean, wherever that may be. I don't know where, but there -- there is a finite amount of train traffic that can run over the train tracks.

Unless you were completely to go double track for 176 miles, it's going to double that amount of traffic. There is only so much that can get -- you can only fit so much through a bottleneck and it will be somewhere until you double track the whole thing.

So I don't know that we're in violation of the treaty if we keep that in there because we're probably --

CHAIRMAN HARGRAVE: Take it out.

MR. SCHANNO: Yeah, if we take it out, sorry, because I don't know if we're anywhere near the maximum capacity that they could run if they decided to do it, which they could decide to do it just because.

CHAIRMAN HARGRAVE: Any other -- so did you make a motion -- I have lost track -- to remove it?

Does someone want to make a motion one way or the other?

MR. SCHANNO: I move to remove item 15.

MR. MYERS: Second.

MS. JENKINS: I'm sorry, I didn't see who seconded.

Thank you.

CHAIRMAN HARGRAVE: So what other discussion? We have talked about this extensively. I want to make sure that everyone has had a chance to state their position or point or ask questions.

MR. MYERS: Well, my position is how it affects the overall project as opposed to this particular issue. I mean, we're hearing from our planning director that removing this condition makes it so we're not going to be in alliance with our ordinance, and some of the other conditions that are being removed, but at the same time -- so that's a concern I have.

At the same time, you know, disregarding that concern, I agree it's not something that's manageable and very well might not be something that's enforceable in the first place. So if it's going to be approved, I suppose I -- I agree with taking it out, but I also -- my position would be

that, you know, it very well might be that we're no longer in alliance with our ordinance.

CHAIRMAN HARGRAVE: Yeah, I'm in a similar space, Andrew. I would agree with taking it out because I think it's unmanageable. I also think it's a backdoor way -- you know, if you have an application to increase capacity and you put a condition on it that you can't increase capacity, it's kind of schizo.

I do think it might move us out of -- into an issue with the treaty. I absolutely do. And that's why I voted to deny it, which, to me, is the straightforward land use way of addressing the issue. The condition is not manageable to me.

MS. ASHLEY: I move that we vote.

CHAIRMAN HARGRAVE: You move we vote? We can't quite do that.

Are we done with the discussion then? Any more discussion?

So all in favor of the motion to remove, say aye.

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

Okay. Super.

Which brings us to 16. "So UPRR to adhere to

all ERA" --
MS. ASHLEY: FRA.
CHAIRMAN HARGRAVE: "FRA safety standards, including any safety improvements that are optional."
MS. ASHLEY: It's pretty vague to me.
MR. HANDLEY: I can't imagine making anybody adhere to something that's optional. If it's optional, it's because there is a reason it's optional. Its not -- it doesn't make any sense to me.
I don't mind leaving that wording in. Just get rid of "any improvements that are optional." Get rid of that.
MS. ASHLEY: So strike from the comma on.
CHAIRMAN HARGRAVE: So, Angie, was there a specific optional requirement that --
MS. BREWER: So the reason this is in here is because in the conditional use findings there is a lot of discussion about public health and safety, and a lot of the information provided for staff's review and also from the Applicant and from other stakeholders who have public comments is that some of the safer cars, specifically for oil transport, are not necessarily required yet, but they may be.

You know, with new technology comes new safer, better things, but it takes time to make those changes for federal requirements.

So some of the safest possible ways to transport these commodities of concern are not necessarily requirements yet. They are likely to be in the future and we were suggesting this condition to ensure that it is as safe as it possibly can be if we're going to allow an increase in these commodities coming through.

MR. MYERS: Can I ask you how is that something that's enforceable or how is that something that's determined? I feel like you're always going to find somebody out there who is going to say you could do something safer. Unless it's a generally accepted --

CHAIRMAN HARGRAVE: These are specific FRA --

MR. DEHART: And, as such, as specific Federal Rail Administration requirements, I prefer to leave it in their lap to oversee them than to put us in the middle of it as Wasco County in trying to police something like that.

MS. BREWER: It will, admittedly, be difficult to track and monitor and enforce compliance. I would agree with that. But I would also say that

every application and land use decision that we work through and send out decisions on come with their own compliance issues, and that's part of our job is trying to track down all of these little things and big things that come out of compliance.

CHAIRMAN HARGRAVE: It's a burden, though.

MS. ASHLEY: I would make a recommendation to modify this to just say, UPRR is to adhere to FRA safety standard purely.

CHAIRMAN HARGRAVE: That's already the law.

MS. ASHLEY: If she wants to leave it in there for compliance, just leave it at that.

MR. HANDLEY: There is already federal law that says they have to have that.

MS. ASHLEY: I know there is a federal law, but if you want to leave it in there, just leave it like that and not put the optional thing in there.

CHAIRMAN HARGRAVE: Okay. Is there a motion around this? Who wants to make a motion either to take it out or to modify it?

MR. HANDLEY: I will go ahead and make a motion.

CHAIRMAN HARGRAVE: Or to leave it in.

MR. HANDLEY: I will be quick on the motion. I'm going to make a motion we just take condition

16 out completely.
CHAIRMAN HARGRAVE: Okay. Is there a second?
MR. HANDLEY: It's already covered by a federal law.
CHAIRMAN HARGRAVE: Is there a -- excuse me, guys. You need to use the microphone because we don't want to miss any of yours words of wisdom.
We're looking for second.
MS. ASHLEY: I'll second it.
MR. HANDLEY: You want me to restate it?
CHAIRMAN HARGRAVE: Please.
MR. HANDLEY: I'm going to make a motion -- sorry, a lot going on -- make a motion to completely remove 16 from the application.
CHAIRMAN HARGRAVE: And?
MS. ASHLEY: What?
CHAIRMAN HARGRAVE: Vicki, you were going to second it.
MS. ASHLEY: I will second that.
CHAIRMAN HARGRAVE: Okay. And discussion.
MR. HANDLEY: Discussion. I think it's already covered by federal law and we don't need to be doubling or adding more cumbersome items into something. It just muddies the water, in my opinion.

CHAIRMAN HARGRAVE: Any other discussion or questions?

You had similar thinking, Vicki?

MS. ASHLEY: Well, I had similar thinking that if we wanted to leave it as a compliance factor, just -- I didn't like the part that was optional. And I was going to just say they must adhere to all safety standards and leave it at that if we didn't completely strike it.

CHAIRMAN HARGRAVE: Okay. Any other discussion on it? Okay. All in favor of the motion, say aye.

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

Okay. The motion is carried.

So no issues on 17?

MS. ASHLEY: Yes.

MR. DEHART: There was just a little bit of a concern that I had shared.

CHAIRMAN HARGRAVE: So did you want to change that?

MR. DEHART: I don't know. I don't have a recommendation or a suggestion of how to make that last sentence more objective, but it just concerns me to leave it -- I mean, what one side would consider making a good faith effort versus what the

other side would consider the good faith effort seems pretty subjective. And we know that there are definitely sides here.

So I was looking for some way that we could make that a little bit more clear or objective about what the expectations were. I don't have a recommendation.

CHAIRMAN HARGRAVE: Yeah, so I agree with you. This is wishy-washy. So it's a wordsmithing thing. If someone has the capacity to think of a better --

MR. MYERS: Is it a wordsmithing thing or is it -- I think the first time you mentioned it, Brad, you were talking about maybe allowing the fire department to --

CHAIRMAN HARGRAVE: How do you word that?

MR. MYERS: That UP shall comply with and take part in trainings requested by Gorge fire departments.

MR. SCHANNO: And to solicit local needs for combatting the railroad with fire incident and meet those needs.

CHAIRMAN HARGRAVE: Yes. To me, that sounds a lot meatier and more where this was going.

MR. DEHART: Okay. So maybe it is so simple as to just remove the "and make a good faith effort."

MS. ASHLEY: Stop it after "fire incident."
MS. BREWER: I'm just trying to track these as we work on them. Are you saying that you also would like to take out the word "insist" or would you like -- so is it that they will meet this need or they will assist?
CHAIRMAN HARGRAVE: That's what I'm hearing is remove "make a good faith effort to assist in."
MR. SCHANNO: And then change the word "meeting" to "meet" so it's going to say "and meet those needs."
CHAIRMAN HARGRAVE: I think the issue with that wording, Chris, is that they don't meet it alone, they meet them in collaboration with the local fire department.
MR. SCHANNO: That is still consistent.
CHAIRMAN HARGRAVE: I think however we word it, they are not to be held wholly responsible for meeting the needs. What I liked about the wording once you removed that wishy -- what I see as wishy-washy stuff is you are soliciting feedback. So now you have got something tangible, something hopefully in writing that specifies what the needs are.
So maybe, you know, something like "providing

sufficient assistance to adequately meet the needs," something like that that says you adequately -- you solicited the needs, you are adequately meeting them. You are not doing it by yourself, but your assistance is sufficient to meet the needs. You know, that's kind of how I --

MS. ASHLEY: Let's go with Chris's suggestion of how to word it.

MR. SCHANNO: Just make it "and assist in meeting the needs." They are not assisting them.

CHAIRMAN HARGRAVE: How much assistance? That's where I was choking on it. Everybody is going to help do a little bit.

MR. SCHANNO: You give them a window, they are going to take the least amount, so you got to -- I mean, I don't know how you do that.

CHAIRMAN HARGRAVE: Provide sufficient assistance to adequately meet the needs.

(Multiple speakers - indiscernible)

MR. MYERS: I like the idea of just eliminating that language.

CHAIRMAN HARGRAVE: You want to make a motion?

MR. MYERS: I would make a motion to modify condition number 17 to remove the language "make a good faith effort." So it should read "Related

fire incidents and to assist in meeting those needs." It would read that way.

MR. SCHANNO: I second that motion.

CHAIRMAN HARGRAVE: Any more discussion? Who wants to -- any opinions on that motion?

Okay. All in favor, say aye.

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

Okay. So, look, it's 5:30 plus. We have been going since 3:00. Some of us started a little earlier than that. I want to take a ten-minute break so we have sufficient energy to do a good job in what we're trying do to here. Is ten minutes adequate?

(RECESS 5:29 to 5:39)

CHAIRMAN HARGRAVE: Let us reconvene. For the record, it's exactly 5:40.

Okay. We were up to condition --

MS. ASHLEY: 18.

CHAIRMAN HARGRAVE: Okay. Condition 18. UPRR is required to comply -- Brad mentioned 18.

MS. ASHLEY: I think I had it. Well, we mentioned compliance with fire safety standards so many times, but the one that I got that I just didn't fully understand, and I wanted more of a

clarification on this, "with all future landowners." I didn't understand that.

MS. BREWER: That is standard language of this condition for all land use decisions. It just means that that requirement returns with the land.

CHAIRMAN HARGRAVE: Successors and assigns kind of thing.

MS. ASHLEY: Okay. That's fine.

CHAIRMAN HARGRAVE: All right. That brings us to 20, right?

20. "The proposed development shall not directly result in significantly increased net volume of rail traffic, including number of individual trains, length of trains, or speed of trains." This seems a little déjà vu.

MR. SCHANNO: Is that one that we could leave in that wouldn't necessarily be a restricted number that we could --

MR. DEHART: I think it goes completely against what we know to be the purpose of the project.

CHAIRMAN HARGRAVE: Let's manage it this way. Why don't you make a motion and then we can discuss the motion.

MR. DEHART: I make a motion that we eliminate condition number 20 entirely.

CHAIRMAN HARGRAVE: Is that seconded?
MR. MYERS: Second.
CHAIRMAN HARGRAVE: Okay. So discussion.
MR. SCHANNO: I think Brad already answered my question.
MS. ASHLEY: It's redundant.
CHAIRMAN HARGRAVE: You think it's redundant with what we already dropped.
How do the rest feel?
MR. MYERS: It is the same as the other. I agree with -- I understand how we're talking about it and I understand why it would be removed. I don't know if it's something that's enforceable anyways. I think that, in my view, big picture on the project, I think it takes us out of compliance with our ordinance.
CHAIRMAN HARGRAVE: Angie, could you maybe explain a little bit why that was put in, what's different about it compared to the previous one.
MS. BREWER: Well, again, this is in regards to treaty rights conditions. This one is specifically listed underneath the treaty rights conditions.
CHAIRMAN HARGRAVE: This wording is?
MS. BREWER: Well, you know, let me go up to the other one.

CHAIRMAN HARGRAVE: Because the other one said is not going to increase the number of trains beyond what it is today.

MS. BREWER: So there is -- the first chunk of -- first category of conditions are general conditions and number 15 was that they stay within the existing range of 20 to 30. That was us keeping them at their word. That's what their application states that they would like to do, and so we were simply saying, all right, if that's what you would like to do, we're going to put in a condition to confirm that that's exactly where you are going to be.

And so an example would be if someone proposed to build a house and we would have a condition of approval that says, you will build exactly what you proposed and if anything deviates, come back to us for a revised -- with a revised site plan, revised proposal, so we can assess the impact and make a decision. So that was just a general -- it was intended to be a general requirement.

CHAIRMAN HARGRAVE: That's 15.

MS. BREWER: 15. Number 20 is specific to the treaty rights concerns. Both of them address similar concerns.

CHAIRMAN HARGRAVE: Is there a difference -- so that explains why they are separate and why the wording is a little different.

Is there a specific difference that's material that you see?

MS. BREWER: So the reason that there is more detail in condition number 20 is because it's specifically responding to the letter from the Umatilla. The Umatilla had concerns about volume of traffic increasing and the impacts to being able to cross the tracks safely. They had concerns about the number of trains, the length of trains -- a couple of concerns were brought up -- the inability to pass them safely, but also that if they are longer, they may block multiple access points instead of just -- maybe they block a few now, but they might block more if there are longer trains.

CHAIRMAN HARGRAVE: Okay.

MS. BREWER: It's in direct response to the Umatilla's letter provided prior to the September 6 hearing.

CHAIRMAN HARGRAVE: Thanks, Angie. And there is a motion on the table to remove it, right? And, you know, my thinking on this is just the same as

it was on 15. I do appreciate the differences you've pointed out, but, to me, it's an application to increase the volume and this condition says shall not increase the volume. I think if we were going to do that, we should be more straightforward and simply deny the application to increase the volume. So that was my thinking on 15. It's still my thinking on this one.

MR. SCHANNO: That being said, I don't know that we're increasing volume over what it is. We don't know what the maximum volume is. We know what the volume is today. Was it -- three years ago, was it 50 trains? 2007 was it way higher than 20 or 30?

CHAIRMAN HARGRAVE: We do know that with the increased track that they are proposing, they could -- that their maximum capacity would be greater than it is today. We do know that. No, it would be. The capacity would absolutely be greater and they did agree with that.

The point that they made, which sounds a little different, is that the actual volume is going to be driven by supply and demand, which is a separate equation. The capacity would be increased. I think we do know that.

MR. MYERS: So it's not a condition that really you can have because -- I think UP's position was the capacity, if I remember right, and I could be wrong, capacity-wise this would be like five to seven trains per day or something like that.

CHAIRMAN HARGRAVE: Yes.

MR. MYERS: It goes against the proposal. I thought it was significantly higher than that, but either way.

CHAIRMAN HARGRAVE: Either way it's more. Okay. Is there more discussion?

Okay. All in favor, say aye.

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: All against?

Okay. The motion to pull it out is carried.

21.

MR. DEHART: I was suggest that 21 be removed, but I guess really in listening to Angie, we're trying to address concerns of the tribes around access to the river. And I believe that through some form of this condition, whether it be as it's stated here or as Union Pacific has proposed it in a -- you know, I'll call it the $2 million proposal, or some meshing of those two, I believe that that's how we can get to addressing the

concerns from the tribe, by requiring that there be effort put towards providing additional crossings, safe crossing locations, as opposed to all of the crossing that the tribes say is occurring now in undesignated locations.

So I would like to see some -- I haven't crafted what it might look like, but in reading the Union Pacific's response, I think there is some -- some benefits to some things that they put in there in their proposal as well as some of the stuff that we have got in this original condition.

MS. BREWER: Can I ask or recommend one additional change for your consideration? The Yakama Nation's comment was received after this, after I prepared the recommended changes that are listed below. So the Yakama Nation, you might want to add them to this condition so the language is clear that it's both tribes, not just one, if you all decide to keep that condition.

MR. DEHART: Right. I believe that there are four treaty tribes who have some rights in the Gorge.

MS. BREWER: There are.

MR. DEHART: I wouldn't want to exclude any of them.

MR. SCHANNO: I think we should leave it in there because I don't think that even if it cost them $4 million per crossing, that's really none of our concern. This says they have to supply it and that's -- that's their cost and that's part of them doing business. They need to supply safe crossings for the tribes to access the river.

MR. HANDLEY: There is no good crossing on the east side or the west side.

MR. SCHANNO: Then they can't do it.

MR. DEHART: Well, I think you bring up a good point that there are a lot of other issues that could come into play around the best locations for crossing, like access from I-84 even. I don't know.

MR. SCHANNO: I guess what I'm trying to say is this is a condition of them meeting it. If they can't meet it, then they can't -- they won't be able to do it. So whatever that requires, if it's going to cost them -- I don't care if it costs them $100 million, if that's what they want to put in to doing it, then they are going to have to do it in order to meet it because they have to give the tribes access to the river. They can't block it.

MR. HANDLEY: With a train every 40 minutes, is

that blocking access to the river?

MR. SCHANNO: They are going to have to make that determination with the tribes, per option 21. They have to get in touch with them and they have to talk to them and make sure -- within 45 days, they have to talk to them and come up with all the plans; and if they don't meet it, then they can't do it.

So I would be against taking that out. I don't know about changing the wording or anything, changing it to make sure it has all the tribes listed.

CHAIRMAN HARGRAVE: Does anyone want to make a motion?

Well, Brad, it was on your list initially.

MR. DEHART: My sense is that Union Pacific has shown that they are willing to work on this to a certain extent, you know, to a value at least. What that -- what the appropriate value or cost is, it's hard to say. I have a hard time --

MR. DAVIS: I do think that the cost --

CHAIRMAN HARGRAVE: Sorry, Mike.

What was the next word? You are having a hard time with?

MR. DEHART: I don't want to strike it

entirely, I guess, because I do believe it serves a purpose in showing that we are taking into consideration those access rights and this is a way of achieving those. It's like providing a couple of safer locations, but those -- each one of those locations is going to be a project in and of itself and we're going to be here probably having a discussion similar to this on -- on those applications for those crossings. I don't know.

MR. MYERS: That's a good point.

CHAIRMAN HARGRAVE: Mike.

MR. DAVIS: I guess the point I was going to mention is that, as with Chris, what Chris mentioned, is that the cost shouldn't be part of our decision. To me, what this is is hey, you guys got to get together, you got to talk about the two crossings, and it's not for us to decide that cost or for the location, but what we're really saying on land use is that -- through the tribes, is to get together and you guys figure it out and do this in an immediate sort of way. That's really all I'm hearing here.

MR. DEHART: So one of the things I thought about as I read or considered this condition was, you know, all of the discussion and the letters and

stuff like that have been around pedestrian crossings of the tracks, right? Why did we elevate -- in this recommendation why did we elevate it to at grade vehicular crossings when -- when what they are -- what they are doing today is just pedestrian crossings?

I guess that's a question, Angie.

MS. BREWER: The concerns expressed by the Umatilla and the Yakama were specific to the safety of their fisherman accessing traditional fishing grounds. Most of those locations are not -- did not meet the standard of existing safe crossings, right? They don't have light. They don't have arms. There is no formal crossing. It's even discussed as though it's trespassing in some ways because they are accessing at various points along the tracks.

The tribes feel very strongly that that is part of their treaty rights is to be able to cross wherever they are -- you know, their usual and customary areas are for fishing rights. And so this was our response to ensure a safe crossing. It specifically references lights and crossing arms for safety, but it doesn't say anything about vehicle access.

And it does say that this is a minimum of crossing lights and arms for safety. So it doesn't -- it's not specifically saying you need a new overpass or underpass or anything like that. It's something that needs to be determined through that process in discussions with the tribes.

MR. SCHANNO: And they could put in a walking crossing with arms.

MR. DEHART: I was just thinking about that. There is a case where there are pedestrian crossings on BNSF's lines.

CHAIRMAN HARGRAVE: And this doesn't really say vehicular.

MR. DEHART: It doesn't. You're right.

CHAIRMAN HARGRAVE: I think we could just leave it in.

MR. HANDLEY: Okay. I was looking at this and I don't like to limit just east and west of the project just due to the fact there is no traditional fishing spots in there, why would we make them put in an east access point that no one is going to use or a west access point that no one is going to use? Why don't we strike that and strike the single tribe and just put the four treaty tribes they have to confer with and put two

crossings in somewhere to help with access.
MR. DEHART: Within Wasco County.
MR. HANDLEY: Within Wasco County, yes, sir.
CHAIRMAN HARGRAVE: Are we ready for a motion?
MR. HANDLEY: I make a motion to revise number 21. My motion is to strike the language "one east of the project area and one west of the project area" and replace that with "in Wasco County."
And then I also move to strike "Umatilla Fish and Wildlife Commission" with "Treaty tribes."
CHAIRMAN HARGRAVE: Replace that with?
MR. HANDLEY: "The four treaty tribes."
CHAIRMAN HARGRAVE: The four treaty tribes, okay.
MR. HANDLEY: And then leave the rest alone.
CHAIRMAN HARGRAVE: Is there a second?
MS. ASHLEY: I will second it.
CHAIRMAN HARGRAVE: Any more discussion? Come on. Okay. All in favor?
GROUP RESPONSE: Aye.
CHAIRMAN HARGRAVE: Against? Okay. It's carried.
23. "To the extent practicable" --
MS. BREWER: Sorry, just one quick clarification on number 21. I just want to make

sure that that revision included a replacement of the -- the second-to-last sentence has references to CTUIRR for being the only ones that can request an extension. Was it intended that that was replaced with all four tribes?

MR. DEHART: Good clarification.

MS. BREWER: Thank you.

CHAIRMAN HARGRAVE: Thank you, Angie. "To the extent practicable, rock blasting shall occur in irregular patterns to produce a natural -- a natural-appearing cut face."

Okay. Brad, you had a -- you were thinking we could modify that?

MR. DEHART: When we have projects where we're doing line blasting or split facing and stuff like that and you drill at a very tight frequency in a line, like every two to three feet, or something like that, to get a nice clean face, we usually include a requirement in there that the half cast, which are the half -- the half that's left in that face of the drill line, be chipped away. I think it's a common requirement when you are looking for a natural appearing face and it's a little bit more objective than saying "to the extent practicable."

CHAIRMAN HARGRAVE: So how would you word that

then?

MR. DEHART: Maybe -- I'm just going to take a shot at it because I didn't write down anything, but maybe just striking "to the extent practicable" and saying "rock blasting shall occur in irregular patterns to produce a natural-appearing cut face. Half cast shall be removed." That's a -- I think that's a statement that provides an indication of the expectations a little bit better.

CHAIRMAN HARGRAVE: You want to make that as a motion?

MS. JENKINS: If you do, can you say it slower, please?

CHAIRMAN HARGRAVE: I think he will.

MR. DEHART: I make a motion to strike from condition 23 the wording at the beginning "to the extent practicable" and just state "rock blasting shall occur in irregular patterns to produce a natural-appearing face. Half cast shall be removed."

MS. JENKINS: Okay. Thank you.

MS. ERICKSON: Natural-appearing face or cut face?

MR. DEHART: Cut face is fine.

CHAIRMAN HARGRAVE: Is there a second?

Chris, you seconded it? Mike did. Okay. Okay. Any more discussion? Does somebody want to ask what a half cut --

MS. ASHLEY: It just makes it look natural.

CHAIRMAN HARGRAVE: Any questions or comments? Mike? Angie? Chris?

Okay. All in favor of the motion?

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

Okay. Did you want to talk about 25, Vicki?

MS. ASHLEY: I wanted to include under this scenic resource condition, I thought we could combine 22, 30, 31, not so much -- and possibly 32. We got -- or 33 we agreed we were going to tweak on it, but it's all associated with color and patterns and nonreflective. I thought maybe we could clean all that up and put it into one.

MS. BREWER: Can I respond to that?

MS. ASHLEY: Sure.

MS. BREWER: The reason they are split apart now is because they are in response to different findings throughout the document. So if combining them all into one, if you decide to change other items in the document, it might make it difficult to parse out, how to modify a condition later.

MS. ASHLEY: Okay.
MS. BREWER: There is some reason for it. I'm happy to consolidate.
MS. ASHLEY: It just seemed like a lot of wording on one thing, but if it's all in separate findings, then that's fine.
But 33 we do need to tweak.
CHAIRMAN HARGRAVE: Yes. Can you talk about the tweaking, Vicki?
MS. ASHLEY: Well, I think Brad brought up -- we were questioning whether it was the color of the signpost shrouding and all or if it was the coloring --
CHAIRMAN HARGRAVE: We wanted the signal face --
(Indiscernible - simultaneous speech)
MR. DEHART: I didn't see it as being a concern until it was clear from Union Pacific's response that they had an issue with it, but I believe that -- I mean, we talked about it. We're all in agreement that we're not expecting them to make changes to their signal lights or to the standards for how those signal lights appear from the train perspective, but from the opposite direction or from the side, you know, the support structure and

stuff like that is what we were trying to color, you know, paint.

MS. ASHLEY: Make everything earth tone to comply with the Scenic Area.

MR. DEHART: So maybe -- maybe we could address Union Pacific's obvious concern by stating something as subjective as when it does not interfere with rail safety standards, or something like that.

MS. ASHLEY: Yes, something simple. It doesn't need a lot.

MR. DEHART: They obviously had an issue thinking that what we were going to do or what we were requiring was going to actually make it less safe.

CHAIRMAN HARGRAVE: You know, doesn't interfere with the train operator's ability to operate the train safely, or something like that.

MS. ASHLEY: I think just rail safety.

MR. SCHANNO: I think that's another FRA deal. They are going to put up the signals.

(Indiscernible - simultaneous speech)

MR. SCHANNO: But painting the stands and stuff like that, I don't see a problem.

CHAIRMAN HARGRAVE: It could be -- I mean, if

you read this, it's not clear. I think our intent was more to address viewers, not operators, right? And we don't say that in here.

MR. SCHANNO: "All signal lights and affiliated structures," so maybe that's what's throwing them off. And you can't -- outdoor lighting, so they are saying --

CHAIRMAN HARGRAVE: You could say something, you know, from a viewer's perspective all signal lights, you know, and then have another sentence that says this is not intended to interfere with the operator's ability -- is not intended to change the consistency of navigation up and down the line, or something like that.

MS. ASHLEY: It just should be all rail lights should comply with the National Rail Safety Standards and that all standards for lights.

MR. SCHANNO: I think her point is that their signals and stuff are already in this section.

MS. ASHLEY: The standard masts and all that will be colored, whatever they had, darker tones.

MR. DEHART: If I could ask Angie, you had mentioned when we were talking about this one earlier, Angie, that this is pretty much a standard statement around trying to keep down light

pollution.

MS. BREWER: It is a standard condition of approval. And if you would like me to suggest a revision, the language that I think might be easiest to insert is just right upfront say "where it does not interfere with Federal Railroad Administration safety standards, all signal lights."

CHAIRMAN HARGRAVE: My concern -- but my concern around that is that very likely -- I'm not a railroad expert, by any means, but very likely the system of consistency they have up and down the rail is their own and that they made their own so that it is -- so that it does comply with those standards, but those standards alone, you know, probably wouldn't get them all the way to where they are. There is probably a company standard that's far, far more specific. So if you use that kind of language, you are not really defeating the problem that I see with this.

MR. SCHANNO: The FRA has a set of signals that is standard throughout the federal railroad, all railroads, so same lights mean the same thing.

CHAIRMAN HARGRAVE: But would that completely specify the front face of all their signal

machinery? I mean, there is probably -- you know, probably at their level they are saying green means this, red means that, but when you get down to the specific company, they are saying this shape, this size, this --

MR. SCHANNO: No. They are all covered by FRA.

MR. DEHART: I'm reading through Union Pacific's response and instead of referencing at the beginning, like Angie proposed, that it meet federal rail standards, their response says "Staff proposes here a condition that would require changes to UPRR's uniform signal systems and standards."

So how about if we just revise that, Angie, to say "Where it doesn't conflict with UPRR's uniform signal systems and standards."

CHAIRMAN HARGRAVE: Yes.

MS. BREWER: That's certainly a motion that you guys can entertain.

CHAIRMAN HARGRAVE: Here is where I'm kind of going with it because we do want to make sure that the concern Angie was trying to address in putting this in is still there and, obviously, we don't want them to drive off the rail because they can't read the signals, right?

So I think we're going to have to invest two sentences in this. I think we need a sentence right upfront that says "From the viewer's perspectives," and then it goes into this.

MS. ASHLEY: Which viewer?

CHAIRMAN HARGRAVE: Any viewers, right? It's a scenic area. You've got viewpoints. You've got viewers. You've got people that might be hiking or windsurfing or whatever. But they are not operating trains. They are viewers. That's the distinction I'm trying to introduce.

So you could say from viewers' perspectives and then launch into all this stuff.

MR. SCHANNO: (Inaudible) where it says key viewing areas from noticeably contacting the surrounding (inaudible).

CHAIRMAN HARGRAVE: Right. And then at the end of it I would add a sentence -- just what Brad said, right? Not to be inconsistent with the railroad uniform standards. If you put those two sentences -- so the first one qualifies all of these remedies to be from the viewer's perspective, and then the second one makes it really clear that we don't want you to change your uniform signalling.

MS. BREWER: Chair, for clarification, the key viewing areas are the only things that we can protect the views from. So adding a sentence "the viewers," it makes it a little bit complicated because we often get calls with concerns from people who can view things from their yard or their deck or something and we really don't have the authority to protect those views, only those views from the Scenic Area, which is why the language is crafted the way that it is in that standard condition.

CHAIRMAN HARGRAVE: Well, then let's start off with "from key viewing areas," right? I mean, if that phrase was sufficiently qualifying all of these remedies, we wouldn't have gotten that feedback. So that's fine. We can go with "key viewing areas" rather than "viewers."

Technically it's in there, but somehow, you know, you read their response and I understand the way this is written. It doesn't leave out that all of these remedies are under that qualification, right? I mean, is that perfectly clear to everyone else?

MS. ASHLEY: I think if we leave this alone and just add --

CHAIRMAN HARGRAVE: Just add the sentence Brad said.

MS. ASHLEY: Then we're fine.

CHAIRMAN HARGRAVE: You probably forgot it. So you want to read it out as a motion then?

MS. ASHLEY: I recommend that we add a sentence at the very beginning of condition 33 to state "Union Pacific Railroad has uniform signals and systems and standards across its network." And then just go with "all signal lights."

CHAIRMAN HARGRAVE: I thought we were going to say --

MS. ASHLEY: Did I miss it?

CHAIRMAN HARGRAVE: -- not intended to interfere with UPRR's uniform signal standards.

MS. ASHLEY: Okay.

MS. BREWER: Would you like me to read it back to you? So the way that we had set it forward was "where it does not interfere with Union Pacific Railroad's uniform signal and systems" -- I think I have an extra "and" in there -- "signal systems and standards. All signal lights" --

CHAIRMAN HARGRAVE: Just launch into the rest of it.

(Pause in proceedings)

MS. ASHLEY: I withdraw my motion.

MR. SCHANNO: I move that we amend 33 to read, "Where it does not interfere with the UPRR's uniform signals systems and standards," and then continue into "all signal lights and affiliated structures."

CHAIRMAN HARGRAVE: Okay. Second? Okay. How do you feel about that wording? Any discussion? No? We've had it all, haven't we?

Okay. All in favor, say aye.

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against? Okay. It's carried.

All right. That was the ones that people were passionate about that I captured.

MR. DEHART: 47.

CHAIRMAN HARGRAVE: 47, okay.

MR. DEHART: Actually, I would like to ask for some clarification from Angie about 48, first of all.

MS. BREWER: 48 is in response to the comment letter we received from ODOT in time to discuss the September 6th hearing. They specifically referenced their request to the Applicant for a seismic study, a feasibility study. And we have

since learned that that's actually inside the Mosier urban area. So we had discussed it at the hearing as though it was something we could require, but as it turns out, the location of that, of that request, is actually inside the Mosier urban area and we would strongly encourage it to happen, but we cannot require it.

MR. DEHART: I see.

MS. BREWER: And it's not uncommon to put in recommendations, sort of encouraging words.

MR. DEHART: I was looking at it or wondering whether -- whether it was because it was a request for a study like 47 is a study, but it's because of where it -- where (inaudible) within the city.

MS. BREWER: Correct.

MR. DEHART: So my thinking on 47, I was -- I believe that that would be easier as a recommendation, but I'm afraid that that might -- you might have problems with that.

Can you share with us a little bit more about the details about what we're trying to address with that new recommendation or that new condition?

MS. BREWER: Sure.

MR. SCHANNO: Are you talking about 47?

MR. DEHART: Yes. While you're thinking about

that, I'm wondering whether -- whether the crossing, you know, the work that we're requiring be done with the tribes around the crossing locations can somehow be used to capture or address condition 47.

MS. BREWER: So condition number 47, the language came directly from the Umatilla. And, I apologize, I don't have that letter in front of me. It was a specific request that they made. And it may be something that needs to happen anyway to inform those crossing locations moving forward.

MR. SCHANNO: 21 and 47 are going to end up being hand in hand pretty much.

MS. BREWER: They will be -- I mean, they are related, but this is a request specifically made by the Umatilla and not the Yakama or any other tribe. And so whether or not you want to require that study to address all four treaty tribes or just the Umatilla's concerns would certainly be within your discretion.

MR. DEHART: I'm going to leave it alone. I am anyway.

CHAIRMAN HARGRAVE: So what about -- you know, the Umatilla tribe wrote the letter, but similar to our thinking before, should we limit it to the

Umatilla tribe? Vicki says no.

MR. DEHART: I can't speak on behalf of the tribes by any means, but I don't believe that -- that they would agree that if you include one, you need to include them all.

CHAIRMAN HARGRAVE: Do other tribes have the same interest here? Yakama would, wouldn't they?

MS. BREWER: There are four treaty tribes in the National Scenic Area. There is Warm Springs and Umatilla, Nez Perce and the Yakama. We have only heard from two of them for treaty rights concerns. I would say that they are all very interested, but we have only heard from two of them. We have only received treaty rights concerns from two of them.

MR. DEHART: I'm sorry that I raised the issue. Angie addressed my question. Angie addressed my question around whether this was a recommendation or just clarifying why we were using a recommendation for one study and not for another request for a study. That being answered, I'm okay.

CHAIRMAN HARGRAVE: All right.

Lynne.

MS. ERICKSON: I just had a question relating

to 47. At the bottom it says, "Study shall identify and designate funding necessary to mitigate the impacts of additional trains." And I wondered what is the baseline for additional? Additional beyond what number are we using.

MR. BREWER: So we're looking at the date of the application submitted. That's where we're at right now. Those are the kinds of impacts we're evaluating and is a change from what we currently have today and what we are doing moving forward.

As part of the completeness review and part of our analysis, we did request proprietary information from the railroad and did receive it. It's confidential information, but it does verify that they do, indeed, have an average of 20 to 30 trains as their approximate average.

MS. ERICKSON: So it would be above 30?

MS. BREWER: Correct.

CHAIRMAN HARGRAVE: And so, Lynne, were you thinking that it should be more specifically stated here?

MS. ERICKSON: Perhaps. It raised my attention. Anything that's somewhat nebulous.

CHAIRMAN HARGRAVE: As an engineer, what do we normalize things by?

MR. DEHART: As an engineer also, I would normalize it by what the capacity of the existing configuration is, not what today's train count is. And the capacity, as I recall from what Union Pacific has stated, the capacity of the rail of the system that's in place now was -- I believe it was in the 407 trains per day.

CHAIRMAN HARGRAVE: 40 is what --

MR. DEHART: 40 to 50 trains per day. And, again, the efficiency increase by this project would allow for -- I believe it was five or six more trains per day.

CHAIRMAN HARGRAVE: There were different estimates in that.

MS. BREWER: So the information that the Applicant provided to staff was that there is an existing range of 20 to 30 trains. And, as you have seen in some of our staff summaries, this proposed project would essentially put more days closer to 30 than 20. That is -- and they have said that that is likely to be an increase in five to -- up to five to seven trains, but it would be within that 20 to 30 range.

So I think -- and I can't speak for the tribes, but in their comment letters and in our

conversations with them they have said that that is still an increase in capacity in their perspective, the five to seven additional trains, you could include it to the 30, but the way that staff has almost -- you know, what we are able to address is the current capacity and all we really have to base that on is their average number of daily trains.

And so, Brad, I'm hearing you say something different.

MR. DEHART: We're talking two different things. We're talking capacity, which is a theoretical or an engineering value, I guess, versus current volume. I think that's an important difference.

MS. ERICKSON: I thought we were talking about the impact to tribes. And if the -- if we're used to seeing 20 to 30 trains per day, then anything above that is additional impact. Is that what the tribes would be saying?

MR. SCHANNO: I tend to not agree with that because I think capacity would be -- because if they have the ability to run the 70 trains, only -- because they are only running 20 to 30 doesn't mean that they can't run the 70 and that has nothing to do with this decision today. The capacity and then

the current volume are -- are two separate things.
MS. ERICKSON: True, but I'm -- I'm trying to get to the concern of the tribes and how do we address that.
MR. DEHART: For me, I'm trying to address it in my -- I'm trying to address it by putting conditions in there that will hopefully result in some additional safer locations for the tribes to get access.
CHAIRMAN HARGRAVE: So where you're sitting right now, you're willing to leave this as it is?
MR. DEHART: I am.
CHAIRMAN HARGRAVE: And I am also. I totally appreciate the ambiguous -- the language is ambiguous and -- however, you know, I think if you do a study on it, part of the study will certainly quantify, you know, what's the baseline and what's the -- you know, that's what the study does, so I would kind of rather do that scientifically rather than up here at the end of a long meeting. That's my thought on that. I like the idea of doing such a study.
MR. HANDLEY: Which might be done --
(Multiple speakers - indiscernible)
CHAIRMAN HARGRAVE: So I am content to leave it

as it is. Is there somebody who wants to make a motion about this?

MS. ERICKSON: For what?

CHAIRMAN HARGRAVE: That would be someone that wants to change it or take it out. Certainly not Brad or I.

MR. DEHART: I brought it to table, so if I don't want to make a motion --

CHAIRMAN HARGRAVE: I'm thinking we might be good. Okay.

So we have gone through all the conditions that people had concerns about.

Lynne, yes.

MS. ERICKSON: I still have concerns about number 44 and 45.

CHAIRMAN HARGRAVE: Please.

MS. ERICKSON: I was concerned about the way that it was -- I was concerned about the way it was worded, about UPRR shall work with Oregon Parks and Rec to develop a feasibility study, et cetera. That there was no -- to look at the impacts, but it doesn't have to occur in any set time.

So I asked Angie what, you know, we could do about that and she suggested we could add a temporal component to that as we did one of the

other previous conditions.

CHAIRMAN HARGRAVE: That makes sense. Good catch.

MS. ERICKSON: And so she provided the suggested wording on the memo that was sent out on September 13th to add to that condition number 44.

CHAIRMAN HARGRAVE: Okay. And is that wording short, like you can read it out and we can remember it?

MS. ERICKSON: Yes. It says, "The study shall be" -- after the end of that sentence, "The study shall be initiated with the director of Oregon State Parks following the appeal period within 45 days of the final decision. Improved access, as identified and agreed upon by UPRR and Oregon State Parks as a result of this study, shall be accomplished within two years of the commencement of development. Extension may only be requested by Oregon State Parks."

CHAIRMAN HARGRAVE: Okay. And so I agree with adding a temporal component. That makes sense. I wasn't clear on which of that is new language versus old language, but nevertheless, since you are not voting today, does one of the voting commissioners want to make a motion around this?

MS. ASHLEY: I move that we accept -- that on condition 44 we add to the end of the existing condition the wording, "The study shall be initiated by the director of Oregon State Parks following the appeal period but within 45 days of final decision. Improved" -- was that part of it?

"Improved access as identified and agreed upon by UPRR and the Oregon State Parks as a result of this study shall be accomplished within two years of the commencement of development. Extensions may only be requested by Oregon State Parks."

CHAIRMAN HARGRAVE: So I had a question on that wording.

You made a motion. Is there a second?

MR. MYERS: I'll second it.

CHAIRMAN HARGRAVE: Okay. So discussion. My question is, it seems as if the Applicant is not in the driver's seat here. It has to be initiated by Oregon State Parks. What if they don't, what does that mean to the Applicant? Do they not meet the conditions and their permit gets pulled?

MR. MYERS: No, I think they wouldn't have to do anything.

MR. HANDLEY: They don't do anything.

MS. BREWER: The intent was that they would

initiate, just mirror the language in the other condition. So it says, "The study shall be initiated with the director of Oregon State Parks."

CHAIRMAN HARGRAVE: Okay. "With." I didn't hear "with." Okay. Sorry. I misheard. I thought I heard "by."

MS. ASHLEY: "With."

CHAIRMAN HARGRAVE: "With." Okay. Okay.

Any other discussion on that?

Did you capture that, Brenda?

MS. JENKINS: I can get it off the memo. I'm good.

CHAIRMAN HARGRAVE: Any other discussion?

MR. HANDLEY: My only concern is state parks didn't ask for this.

CHAIRMAN HARGRAVE: That's kind of the way it feels to me.

(Indiscernible - simultaneous speech)

MS. BREWER: State parks provided two comment letters with a laundry list of concerns about noise and access and overall recreation impact to existing established recreation sites. They provided a long list of references to their Gorge unit park plan, which is their comprehensive plan for all the Gorge parks.

And in there there are several references to a desire to initiate a study such as this. And I did try to use the same language that they had in their Gorge unit comp plan and it specifically is to address improved access and address some of the noise concerns.

CHAIRMAN HARGRAVE: Okay. That feels better.

MR. DEHART: So in their comprehensive plan there were specific locations that were mentioned; I believe throughout the Gorge there were five or six specific locations.

MS. BREWER: Yes. And Memaloose was one of them.

MR. DEHART: So are we saying that this study could entail review of all of those locations up and down the Gorge or are we going to focus this in on our county?

MS. BREWER: So the second comment letter we received from them was a more regional approach to the impacts that they are anticipating from a potential increase in rail capacity or traffic.

The scenic area rules allow us to look regionally and we are required to address the cumulative effects. So they are starting with the direct impacts at Memaloose State Park, but also

acknowledging that if there is, indeed, going to be an increase in rail traffic, this would affect all of their parks throughout the Gorge. So the study, again, once it's initiated, it would really come down to what are the effects of the existing established recreation sites? And the focus should be Memaloose, but because of the way the scenic area rules are written and the requirements of those, it would be a cumulative assessment as well.

And that's similar to some of the treaty rights impact concerns we have received is, you know, if there is an increase in rail traffic, you may see that at multiple locations throughout the Gorge, not just at the site of the development itself.

MS. ASHLEY: I don't have any problem with it as long as they requested it in their letter that a study be done. We're just putting a time limit on it, basically.

MS. BREWER: The study is referenced in a couple of their -- their references to their comp plan.

MS. ASHLEY: We're just adding the time limit.

CHAIRMAN HARGRAVE: Can they support the timeline, I wonder, Angie? The 45 days is pretty fast in the world of government.

MS. BREWER: So they have seen this recommended condition of approval and did not provide any additional response.

CHAIRMAN HARGRAVE: But it didn't have the time component.

MS. BREWER: Oh, you're right. I really don't know, but the language would allow them to request an extension if they needed it.

CHAIRMAN HARGRAVE: That's true. All right. Super.

All in favor?

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

Okay. So carried. So that's 44.

MS. ERICKSON: Yes. 45. I wondered -- you know, they talked a lot about -- in their comments about impacts to the recreation uses and that they would have to close the park for part of the time this construction is going on.

And I wonder if the wording on 45 should be "campground must" -- wait a minute. "Construction activities on the road shared with OPRD for the Memaloose State Park campground must occur outside the peak recreation season and trucks used for hauling the blast and crushed materials must be

covered." In other words, removing "either" and removing the "or" and substituting "and" so there is no either/or.

CHAIRMAN HARGRAVE: Well, I think doing it off peak makes --

MR. SCHANNO: There is not going to be really anybody at the park during the process.

CHAIRMAN HARGRAVE: Does one of the commissioner want to make a motion?

MR. HANDLEY: I don't care to make a motion and this is why. It is a shared access point. They have right-of-way through there already. Why are we limiting their right-of-way?

MR. DEHART: I also believe that we need to be realistic in providing some alternatives on when the construction should actually occur. I'm okay with it as it's written.

MR. HANDLEY: (Inaudible).

CHAIRMAN HARGRAVE: Brad said he is okay as it's written and I said what about the part where it says the trucks removing the excavated material need to be covered? Similar to a lot of the discussions that we have had earlier in this -- in this dialogue, we don't want to get out of our -- the business we're in, which is land use,

and how trucks are to run down the highway with material in them is already regulated by ODOT and others. I would just -- why would this be different?

MR. HANDLEY: Tarping trucks is a common practice.

CHAIRMAN HARGRAVE: Sure, okay.

MS. ERICKSON: I think it would be a good idea coming up through the park.

CHAIRMAN HARGRAVE: Does anyone want to make a motion to change this in any way?

MR. MYERS: So we're talking about changing from "or" to "and," is that essentially what we're --

MR. SCHANNO: If you change "or" to "and," then you are saying that they can only do the construction outside of peak recreation season.

MS. BREWER: Please keep in mind that they are further constrained by (inaudible) and things like that.

CHAIRMAN HARGRAVE: I think it's fine. Okay.

Lynne, did you have other --

MS. ERICKSON: No, that's it.

CHAIRMAN HARGRAVE: Okay. We have now gone through all of the conditions. And I think where

we are is that we have decided, based on prior vote, that we're going to approve it with modified conditions. I believe at this point we have now agreed on the modifications that we want to all the conditions.

So my thinking is that we could have Brenda read that back so we're clear on what we might be voting for and someone might make a motion to approve --

All right. Fine. I'll back off on that, Brenda. That's not going to happen but, hopefully, for the last three or four hours everyone was here and recalls what it was we agreed.

We have specific --

MS. JENKINS: I can give it a shot, if you want to know what they were.

CHAIRMAN HARGRAVE: Well, if you can, I would be concerned how this would work afterward.

MR. MYERS: All of the motions have been very clearly stated on the record.

CHAIRMAN HARGRAVE: I thought so. I'm okay with that, if you guys are clear.

MR. MYERS: What do you think?

COURT CLERK: I can read back what the motions were, if you guys want them.

MR. MYERS: Do you think it's necessary?
CHAIRMAN HARGRAVE: No. Do you think it's necessary?
MS. JENKINS: I'm not the one voting on it.
CHAIRMAN HARGRAVE: Right. Brenda is not voting on it.
MS. ASHLEY: I'm happy with it.
CHAIRMAN HARGRAVE: If you're all happy, that's fine. So does someone --
Sorry, what was that, Angie?
MS. BREWER: Just so you all know, I have them captured completely, so if there was any questions about any one of them, I can read it back to you.
CHAIRMAN HARGRAVE: Okay. Does someone wish to make a motion?
MR. DEHART: I'll make a motion to approve -- are you going to make me read something?
I'll make a motion to approve the proposed development with the revisions to the conditions that we have gone through tonight and all other conditions that we haven't specifically made changes to. Is that adequate?
CHAIRMAN HARGRAVE: So it includes all the conditions except as modified in these discussions.
Are you clear on Brad's motion?

MS. JENKINS: I have got his motion. I'm good.
CHAIRMAN HARGRAVE: Is there a second?
MS. ASHLEY: I'll second it.
CHAIRMAN HARGRAVE: Okay. So what are your thoughts? Any discussion?
MS. BREWER: May I ask a question for clarification?
CHAIRMAN HARGRAVE: You sure can.
MS. BREWER: Are there any findings in the staff summary related to these conditions that you would like staff to modify as a result of these revised conditions?
CHAIRMAN HARGRAVE: Perhaps. Are there some you are thinking of specifically?
MS. BREWER: There are quite a few references limiting traffic. And I, you know, the staff -- if you are going to revise one document, it will impact the other one. So just when you make a motion to move forward, just please be clear about whether or not you would like staff to go back and revise those conditions.
CHAIRMAN HARGRAVE: Those findings?
MS. BREWER: I'm sorry, yes, thank you. Those findings.
CHAIRMAN HARGRAVE: So do you need to

(inaudible)?

MS. BREWER: I at least need to acknowledge where they reference a condition of approval that's been struck, I need to go back and acknowledge.

CHAIRMAN HARGRAVE: I would think that they should modify the findings because otherwise you have got kind of spaghetti codes where it says one thing in one place and another in another. So, you know, my thinking is that they should, which I guess would modify the motion a little bit, wouldn't it?

We're saying to approve it with the conditions as modified. I think we should also add to that motion that -- to modify the findings to be consistent with the modified conditions.

MR. DEHART: What we're asking Angie or staff to do then is to go back and rewrite those to --

CHAIRMAN HARGRAVE: Because when they make a finding, it's based on this and we have changed this, so the finding needs to be tweaked.

MR. DEHART: Angie has already made it clear that she may have a difficult time actually getting -- revising the findings to be in line with the modified recommendations or the modified conditions that were --

CHAIRMAN HARGRAVE: She will. That's why she gets paid the big bucks.

I think, you know, this happens -- this happens a lot, right? And Angie's job is to map that out. And I think that she will struggle to make -- to make that complete and convincing. So be it, but I don't think that's any reason to leave it untouched and, you know, completely at odds with different parts of the document. She may go in and at least align them.

MR. DEHART: Understood.

MS. BREWER: So I'm happy to capture what you guys have discussed to date in those findings. Ultimately it's the discretion of the planning commission, not me, for what those findings will say. So I will be capturing what I have heard here and adding those to the findings based on the motions and decisions.

CHAIRMAN HARGRAVE: Yes. So do we need to modify the motion to reflect that?

MR. DEHART: She is going to go ahead and take care of it.

CHAIRMAN HARGRAVE: Okay. Any more discussion? All in favor, say aye?

Lynne? Sorry.

MS. ERICKSON: Just a point of clarification. The variances that were included in the application, is that a separate action or is that incorporated in this action?

CHAIRMAN HARGRAVE: That would be incorporated.

MS. ERICKSON: Okay.

CHAIRMAN HARGRAVE: Okay. That's a good question.

Any other questions? Okay. All in favor of the motion, say aye.

GROUP RESPONSE: Aye.

CHAIRMAN HARGRAVE: Against?

I'm against.

MR. MYERS: Against.

CHAIRMAN HARGRAVE: Okay. Motion is carried. The meeting is adjourned.

(Proceedings adjourned 6:40)

C E R T I F I C A T E

I, Julie A. Walter, CSR No. 90-0173, do hereby certify that the proceedings were taken down by me in stenotype and thereafter reduced to typewriting; and, that the foregoing transcript, Pages 1 to 143, both inclusive, constitutes an accurate record of said proceedings, to the best of my ability.

Witness my hand at Portland, Oregon, this 30th day of September, 2016.

Julie A. Walter

Julie A. Walter
CSR No. 90-0173

WASCO COUNTY PLANNING COMMISSION

Application for Conditional Use

Union Pacific Case File PLASAR 15-01-0004

September 26, 2016

WASCO COUNTY PLANNING COMMISSION
September 6, 2016
Meeting begins at 3:00 p.m.
Wasco County Public Works Building
Conference Room
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russ Hargrave
Brad DeHart
Lynne Erickson
Vicki Ashley
Jeff Handley
Andrew Myers
Chris Schanno

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Mike Davis
Aimee Bell

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director
Dustin Nilsen, Senior Planner
Will Smith, Associate Planner
Brent Bybee, Assistant Planner
Brenda Jenkins, Planning Coordinator

OTHER STAFF PRESENT

Kristen Campbell, County Counsel
Dan Olsen, Facilitator

Chair Hargrave called the meeting to order at 3:04

II. QUASI JUDICIAL HEARING:

File # PLASAR-15-01-004. Union Pacific Railroad and their land use consultants, CH2M Hill, request to expand an existing railroad siding on either side of Mosier, Oregon for 4.02 miles of new second mainline track and realigned existing track; place five new equipment shelters; install drainage structures, a retaining wall, new lighting and signage, and wireless communication poles; modify existing utilities, temporary landing zones for construction; and construct temporary and

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permanent access roads. The request also includes off-site wetland mitigation east of the primary project site.

Chair Hargrave called for roll call of the Commission. He introduced Dan Olsen, who will be the facilitator for the hearing; and Kristen Campbell, County Counsel. He then opened the hearing as follows:

The hearing will proceed as follows:

- County Staff will present the staff report, including identifying the applicable criteria, summarize the proposed requests and staff recommendation.
- The applicant or applicant's representatives will then have an opportunity to testify to explain the proposal, respond to county staff, submit any new evidence or ask questions.
- Persons speaking in favor may testify.
- After that, persons wishing to testify in opposition, who are uncertain, or just have questions may testify.
- The Applicant will then have an opportunity to present any rebuttal, but no new evidence.
- Staff will have an opportunity to make final comments but no new evidence.

The applicable criteria for this application are set out in the Staff Report and Recommendation. Angie Brewer, the Wasco County Planning Director will provide the staff report.

It is important for us to hear from as many people as possible. Therefore, we will not permit demonstrations, applause, questions or comments from the audience or other disruptions as these take up valuable time from persons waiting to be heard.

The County is represented at this hearing by Kristen Campbell, the County's legal counsel. In addition, the county is represented by Dan Olsen. Mr. Olsen will assist me in conducting the meeting and advising on any procedural matters that may arise. He will call the witnesses to testify.

This will be the only opportunity for oral testimony before the Planning Commission. We also will provide additional time for submitting written comments. Accordingly, I first will ask for a motion from the commission to adopt the following process for this hearing:

> Each person will have three minutes. Time spent responding to commission questions will not count against the 3 minute time limit. No one may transfer time to another person. Oral testimony will be limited to 4 hours after the staff report. The total time for the applicant and those speaking in favor will be two hours. If all testimony from proponents is heard before the two hours are up, all remaining time may be used by those in opposition or who are neutral. The applicant will have 15 minutes after the oral testimony period for final rebuttal. No new evidence is permitted during rebuttal.

Do I have a motion to that effect?

Vice Chair Ashley moved to adopt the process and testimony rules as described by the Chair.

Commissioner Erickson seconded.

Chair Hargrave called for a vote.

The motion was unanimously approved 7 to 0, 2 absent (Commissioner Davis and Commissioner Bell).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner DeHart – yes
Commissioner Myers - yes
Commissioner Davis – absent
Commissioner Handley – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – yes
Alternate Commissioner Bell – absent

Chair Hargrave explained the rules regarding testimony and stated that at the end of testimony he will ask for a motion to keep the written record open for until 5:00pm on September 13, 2017; also written responses to these comments may be received until 5:00pm on September 21, 2017.

Chair Hargrave asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter?

Commissioner DeHart stated that he works for Oregon Department of Transportation (ODOT), but he has not been involved in any discussion or work regarding this project.

Commissioner Handley stated that he had something to declare, but it was determined to be ex-parte, not disqualifying interest.

Chair Hargrave noted for the record that all Commissioners have seen the site while driving past on the highway.

Chair Hargrave asked if any Commission member wished to declare any ex-parte contact.

Commissioner Handley stated that he was a member of a The Dalles community page on Facebook. There had been discussions on the page regarding the derailment which he read. He

further stated that when the conversation turned to discussion of the proposal, he left the conversation string, turned off the notifications, and did not read the comments.

Chair Hargrave stated that he met with the Mosier City Manager, and had a conversation where she stated the City Council had become more interested in the project. She had further stated that the council members were concerned and not in favor of the proposal. He asked what the concern was and she replied that it was safety.

Chair Hargrave asked if anyone had objection to the jurisdiction of this body to act on behalf of Wasco County. There were none.

Chair Hargrave asked if there were any questions or objections to the procedure as outlined, or on any ex parte or disqualifying interests disclosed. There were none.

Chair Hargrave called for the Staff Report from Planning Director, Angie Brewer.

See Attachment A for PowerPoint Presentation
See Attachment B, beginning on page 8, for Transcript of Director Brewer's Staff Report Presentation

Chair Hargrave called for questions from the Commission.

Chair Hargrave asked for the ratios on the wetland creation, enhancement, and reparation.

Director Brewer stated that the ratio for wetland creation is 3:1; wetland enhancement is 4:1; and wetland reparation is 2:1.

Chair Hargrave asked if in this case it was 3:1.

Director Brewer stated that was correct.

Chair Hargrave called for additional questions from the Commission. There were none.

Chair Hargrave turned the meeting over to Dan Olsen for the testimony portion of the hearing.

Dan Olsen stated that the applicant will testify first, then he would call persons generally in the order they appear on the sign-up sheet. However, before he calls the sign-up sheet names he will allow elected/public/tribal officials who may have other public meetings or public business to attend to.

As the Chair stated, to provide time for as many people to speak as possible, please refrain from applause, calling out from the audience, demonstrations or other actions that may interfere with the speakers. I will call the speaker and two additional names. If you hear your name, please come to the on deck area so we may proceed efficiently. If you decide not to speak, please just so

indicate. Please avoid repetitious testimony. If an earlier speaker has made your points, you are urged to just state that you agree with that speaker. Please note that you do not need to testify orally to be considered a party – signing the sheet or submitting written comments is sufficient. Testimony must be relevant to the applicable land use criteria. Irrelevant testimony may be ruled out of order. There is a time clock that will indicate when you have 1 minute remaining. Time limits will be strictly enforced. When you come to the microphone, please state your name and address for the record. If you have written material to submit, please hand it to the hearings reporter before or after you testify. The hearings reporter will mark it with a case and exhibit number, and it will be part of the official record.

Dan Olsen then called for testimony from the applicant.

Aaron Hunt, Clint Schelbitzki, and Wes Lujan representing Union Pacific Rail Road gave testimony.
See Attachment B, beginning on page 40, for Transcript of Applicant's testimony

Chair Hargrave called for questions from the Commission.

Commissioner Handley asked how much of the project is occurring outside the Mosier urban area.

Mr. Luhan responded that 3.57 miles is located outside Mosier.

Commissioner Handley then asked for the applicant's stance on the proposed conditions of approval.

Mr. Wyman stated that the rail road has a common carrier obligation which basically means that if someone gives them a load that is properly contained, they must ship it.

Commissioner Handley asked if they had any control on how the railcars are loaded or is it dictated by federal law.

Mr. Wyman responded that to some extent it is dictated by federal law. As long as it meets the appropriate federal standards, that it is in good order, meets all the requirements, the rail road is obligated to ship it.

Commissioner Handley asked if they could dictate higher standards to their customers.

Mr. Wyman responded that it is all set in a series of federal regulations.

Dan Olsen called for additional questions from the Commission. There were none.

Dan Olsen called for testimony from public officials and audience members
See Attachment B, beginning on page 49, for public testimony
dinner recess was taken during public testimony and reconvened at 6:16pm

List of persons providing testimony:

- Jim Appleton, Mosier Fire Chief
- Paul Blackburn, Mayor of Hood River
- Arlene Burns, Mayor of Mosier
- Emily Reed, President of Mosier City Council
- Kate McBride, President of Hood River City Council
- John Nelson, North Wasco School District 21 Board Member
- Deanna Busdieker, Cascade Locks City Council Member
- Nick Hogan, Representing Stevenson Mayor Cox
- Peter Cornelison, Hood River City Council Member
- Loren Clark was called but declined to testify
- Steve McCoy, President, Friends of the Columbia Gorge
- Lauren Goldberg, Staff Attorney, Columbia Riverkeeper
- Gary Kahn, Attorney with Reeves, Kahn & Hennesy, on behalf of Friends of the Columbia Gorge
- Jordan Sector, Departmental Planner & Senior Resource Specialist, WHPacific
- Nathan Baker, Senior Staff Attorney, Friends of the Columbia Gorge
- Ryan Rittenhouse, Friends of the Columbia Gorge
- Kevin Gorman, Executive Director, Friends of the Columbia Gorge
- Michael Lang, Conservation Director for Friends of the Columbia Gorge
- Dan Serres, Conservation Director for Columbia Riverkeepers
- Paul Lestock – left before testifying
- Richard Hodgin
- Michael Berlly – did not respond when name was called
- Jill Barker
- Regina Merrit, representing Oregon Physicians for Social Responsibility on behalf of Dr. Maria McCormick
- Dr. Theodore Tsongas, Oregon Physicians for Social Responsibility
- Dr. Nancy Crumpacker
- Don Steinke
- Alana Steinke
- Jane Elkin
- Dr. Gregory Monahan, Oregon Chapter of the Sierra Club
- Bonnie McKinlay
- Elizabeth Deed
- Jennifer Dalquist
- Kelsey Severida
- Mrs. Severida
- Charlie Boonstra
- Dave Berger
- Chris Turner
- Deborah Porschersky
- Georgia Opherin - did not respond when name was called
- Craig Heverly

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- Laurent Picard
- Cathy Samson-Kruse, Umatilla Tribes
- Charlene Immoda
- Jack Herbert
- Patricia Morgan
- Daniel Rasmusson
- Roberta Lapp
- Rose Christopherson
- Vicki Stifter
- Debra Romerein
- David Ojala – submitted written testimony
- Pat Freberg
- Lydie Boyer
- John Boonstra
- Todd Verdi
- Judy Todd
- Gina Fuller
- Catherine Cozwell – submitted written testimony
- Ken Ferguson
- Stan Corman – didn't respond when name was called
- Lois Bancroft – didn't respond when name was called
- John Olmstead – didn't respond when name was called
- Shannon Hill – didn't respond when name was called
- Katherine Hill – didn't respond when name was called
- Michelle Ryan – didn't respond when name was called
- John Hall – didn't respond when name was called
- Margaret Tula – didn't respond when name was called
- Jeanette Fisntie – didn't respond when name was called
- Susan Froelich
- Ellen Leitham
- Raging Grannies
- Barbara Robinson
- Matthew Kerner
- Edith Gilloil

Chair Hargrave called for rebuttal from the applicant. He stated that rebuttal will be kept to 15 minutes.
See Attachment B, beginning at the bottom of page 164, for applicant rebuttal
(Rebuttal given by Ty Wyman, Wes Luhan, and Clint Schelbitzki)

Mr. Wyman stated that the rebuttal was finished and they were available for questions from the Commission.

Vice Chair Ashley asked if train traffic would increase due to the proposal.

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Mr. Schelbitzki stated that train traffic as a result of this project will not increase. He further stated that the traffic is really dictated by the global market, by the US economy. He stated that when the customers give more goods to ship, the train volumes will increase, or if less given the traffic will decrease, but it has nothing to do with the amount of track that they install in any given area.

Commissioner Myers asked about capacity. There was testimony from opponents that current capacity was in the neighborhood of 30 to 48 trains and after this project it would be in the neighborhood of 75 to 100 trains a day. Could you clarify what your capacity is now and what the capacity will be after the project.

Mr. Schelbitzki stated that he did not have the specific number with him, but that 75 to 100 is false. He stated that there is no way they could move 75 to 100 trains with the track they have there.

Chair Hargrave asked if it were true that train volume could be higher after this project than it could be prior to the project.

Mr. Schelbitzki stated that was correct.

Mr. Luhan stated that they will be able to fit longer trains passing each other after the project. That doesn't mean there will be more trains trying to get out of the way, the trains may be incrementally longer. He further stated that the Portland subdivision on UPRR is 169 miles on an equal ordinance to cross Oregon. There are 28.8 miles of double track. With the addition of the Mosier double track project, the 4.024 miles of double track, the route will have 28.84 miles of double track on the route. That is 17% of the track is double track. Since the majority of the route is single track, the capacity has to take this fact into account. They expect 5 to 7 trains more per day.

Commissioner Schanno asked if Mosier was the shortest siding on the route.

Mr. Schelbitzki stated that it was Bridal Veil. Mosier has 6,388 feet siding and Bridal Veil is comparative with 6,360 feet.

Commissioner Schanno asked if the 25 to 32 trains per day was a current average or a maximum.

Mr. Luhan stated that they provide 25 trains per day, give or take, which is the operating average with a maximum velocity of 5 to 7 increase.

Commissioner Schanno asked for clarification that with the double track, UPRR will still run into bottle neck because they only have 17% double track.

Mr. Schelbitzki and **Mr. Luhan** replied yes, that was correct.

Chair Hargrave called for additional questions from the Commission. There were none.

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Chair Hargrave called for comments from Staff.

Planning Director Brewer stated that she appreciate all the people who came out tonight. She further stated that there were no amendments to the Staff Report.

Chair Hargrave called for a motion to keep the written record open until 5:00pm on September 13th for submittal of new evidence and argument, and until 5:00pm September 21st for written rebuttal, but no new evidence and to continue this meeting to 3:00pm on September 26, 2016 for Planning Commission deliberations.

Commissioner Erickson moved to keep the written record open until 5:00pm on September 13, 2016, for submittal of new evidence and arguments, and until 5:00pm September 21, 2016 for written rebuttal, but no new evidence; and to continue this meeting to a date and time certain. That being, Monday September 26, 2016 at 3:00pm, in the Theater of the Gorge Discovery Center, The Dalles Oregon, for Planning Commission deliberations.

Vice Chair Ashley seconded.

Chair Hargrave called for the vote. **The motion was unanimously approved 7 to 0, 2 absent** (Commissioner Davis and Commissioner Bell).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Davis – absent
Commissioner DeHart – yes
Commissioner Schanno – yes
Alternate Commissioner Erickson – yes
Alternate Commissioner Bell - absent

Meeting adjourned at 8:37pm

_____	_____
Rus Hargrave, Chair	Angie Brewer, Planning Director
Wasco County Planning Commission	Wasco County Planning & Development

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ATTACHMENT A

WASCO COUNTY PLANNING COMMISSION HEARING

Application Number: PLASAR-15-01-0004

Applicant: Union Pacific Railroad

September 6, 2016

The Columbia Gorge Discovery Center & Museum

The Dalles, Oregon

If you wish to provide comment:

- Please:
  - **Sign up to provide comment**
  - Come to the waiting area when your name is called
  - State your name for the record
  - Limit your comments to 3 minutes
  - Be respectful of one another and the process

It is important that as many people are able to speak as possible, please be respectful in your time management.

Hearing Format

- Public hearing begins at 3:00pm
- The hearing will be conducted in the following order:
  - The Planning Commission Chair will open the hearing
  - Staff will provide a presentation
  - The applicant has an opportunity to speak
  - Testimony from those in favor, then those opposed
  - Board to deliberate and decide next steps

STAFF PRESENTATION

Application Number: PLASAR-15-01-0004

Applicant: Union Pacific Railroad

Landowners: UPRR, ODOT, OPRD, Schacht

Read the full Staff Summary online at:
http://co.wasco.or.us/planning/UPRR.html

Proposed Development:

- Expand an existing railroad siding to create 4.02 miles of second mainline track
- Replace 5 equipment buildings and associated equipment
- Install drainage structures
- Fill wetlands and remove vegetation for new ballast
- Blast out a rock wall
- 170-foot long, 25-foot tall concrete retaining wall
- 12 new signal lights
- Required safety signage
- Remove telephone poles
- 5 new monopole wireless communication poles
- Modify existing utilities
- Clearing of vegetation for construction of temporary landing zones
- Improve access roads (grade and gravel)
- Off-site wetland mitigation

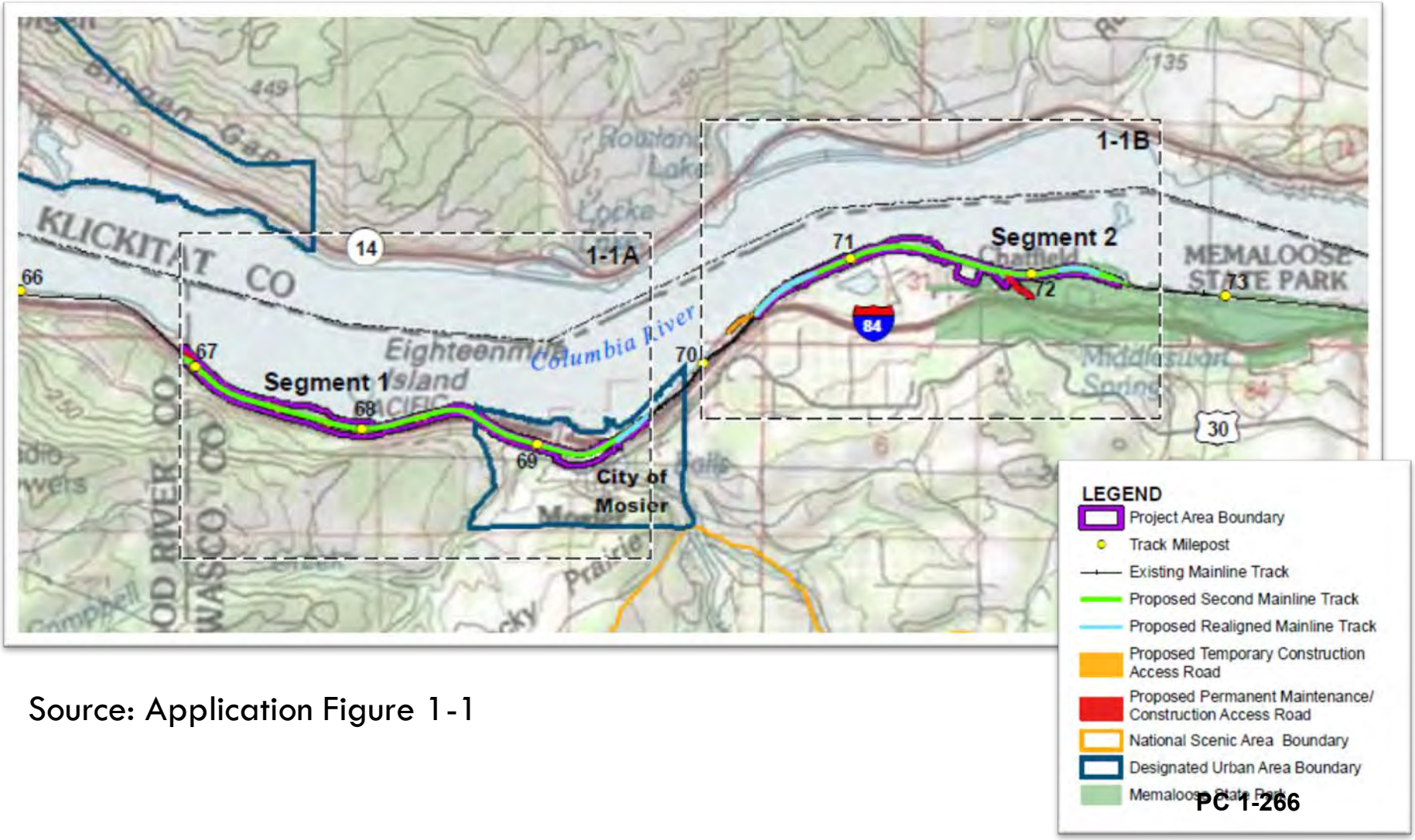
Location and Zoning

- Only those portions located <u>outside</u> of the Mosier Urban Area are subject to the National Scenic Area Act, the Management Plan for the Columbia River Gorge National Scenic Area and the requirements of the Wasco County NSA Ordinance.

- General Management Area Large-Scale and Small-Scale Agriculture, Open Space, and Water; and Special Management Area Public Recreation, Agriculture, and Open Space.

ATTACHMENT A

Site Plan / Vicinity Map



Source: Application Figure 1-1

Applicable Rules

- The proposed development is subject to compliance with the:
  - *Management Plan for the Columbia River Gorge National Scenic Area*, and the
  - Wasco County National Scenic Area Land Use and Development Ordinance (NSALUDO)

Wasco County Staff prepared a staff summary and recommendation to consider the proposal's consistency with the applicable rules.

These documents can be viewed in at: http://co.wasco.or.us/planning/UPRR.html

- NSALUDO Chapters that apply:
  - Chapter 1 – Introductory Provisions
  - Chapter 2 – Development Approval Procedures
  - Chapter 3 – Basic Zoning Provisions
  - Chapter 5 – Conditional Use Review
  - Chapter 6 – Variance Criteria
  - Chapter 11 – Fire Safety Standards
  - Chapter 14 – Scenic Area Review

Chapter 3: Basic Zoning

Proposed Use: Railroad construction, reconstruction, replacement, and expansion		
Zone:	Listed as allowed review use?	Applicable Section NSALUDO:
GMA Large Scale Agriculture	Yes, subject to full review	Section 3.120(E)(20)
SMA Agriculture	Yes, subject to full review	Section 3.120(E)(18)
GMA Small Scale Agriculture	Yes, subject to full review	Section 3.130(E)(14)
GMA Open Space	Yes, subject to full review	Section 3.180(D)(2)
SMA Open Space	Yes, subject to full review	Section 3.180(D)(3)
SMA Public Recreation	Yes, subject to full review	Section 3.170(E)(27)
GMA Water	There are no uses listed for GMA Water. Consistent with past policy, the proposed use is subject to compliance with Chapter 14.	

Chapter 5: Conditional Use Criteria

- Must be consistent with the MP and NSALUDO
- Must be compatible with the surrounding area
- Must not significantly burden public service, including Fire & EMS
- Must not impair traffic flow or safety
- Must minimize noise, dust, odor, in all phases
- Must not reduce or impair sensitive habitat or cause erosion
- Must not adversely effect air, water, or land
- Must not detract from the visual character
- Must preserve historic value and cultural significance
- Must be compatible with agriculture
- Must not significantly increase fire hazard, suppression costs, or risks to personnel

{ Failure to comply with any conditions of approval = revocation of CUP permit }

Conditional Use Criteria – Conditions

- Staff Recommends the following conditions of approval:
  - Non-compliance (at any time) = revoke permit
  - Coal cars shall be covered
  - Adhere to all FRA safety standards, including any safety improvements that are optional
  - Stay within existing range of 20 to 30 trains per day
  - A Spill Response Plan must be prepared prior to construction
  - Provide regular training to Gorge fire departments included in the Mid-Columbia Five County Mutual Aid Agreement
  - UPRR solicit feedback about local needs for combatting a railroad related fire incident and make a good faith effort to assist in meeting those needs.
  - Must comply with agriculture resource protections
  - Temporary traffic impacts must be coordinated with ODOT, Wasco County Public Works, and OPRD
  - Grading, excavation, vegetation removal must be minimized where possible and revegetated as soon as possible. BMPs shall be implemented at all times.

Chapter 6: Variances

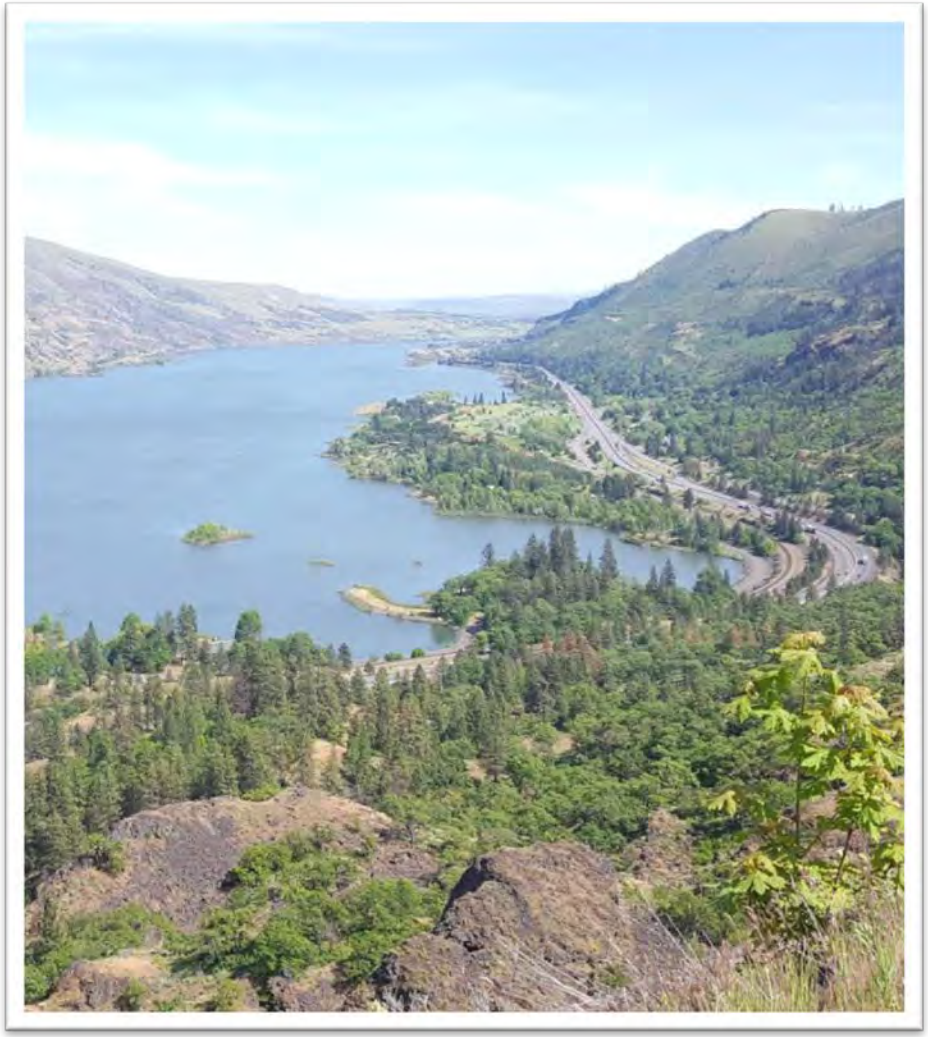
- Requested Planning Commission Variances:
  - Columbia River development setback standards
  - Scenic Travel Corridor (I-84) setback standard
  - Wetland buffer standards
  - Sensitive plant buffer zones

{ Planning Commission Variance = more than 50% variance is requested by the applicant }

Chapter 11: Fire Safety Standards

- Fire Safety Standard Self-Certification Checklist to confirm compliance with requirements of Chapter 11.
- No concerns were expressed by local or regional fire or emergency services during staff consultation.
- **Condition of approval** to require the development of a Spill Response Plan , provide regular training to Gorge fire departments included in the Mid-Columbia Five County Mutual Aid Agreement, and UPRR to solicit feedback about local needs for combatting a railroad related fire incident and make a good faith effort to assist in meeting those needs.

Chapter 14 - Scenic Area Review



- Scenic
- Cultural
- Natural
- Recreation
- Treaty Rights
- GMA and SMA rules are applied throughout.

Chapter 14: Scenic Resources

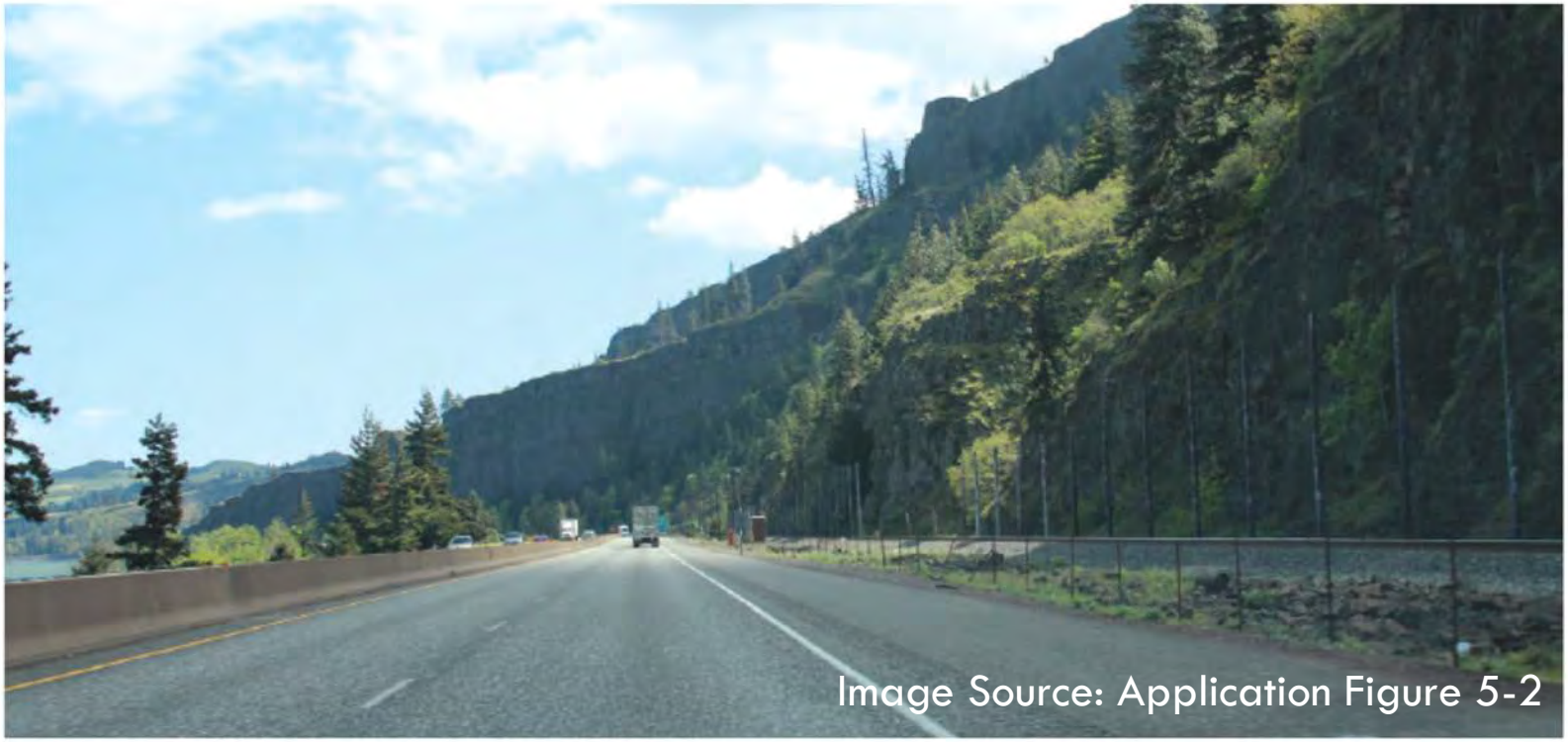
- Key viewing areas:
  - State Route 14; Columbia River; I-84; and the Historic Columbia River Highway
  - Foreground, middle ground and background views
  - Scenic Standards: visually subordinate & visually not evident
- Landscape settings
  - Pastoral landscape setting in the GMA, the Oak Pine Woodland Landscape Setting in the SMA, River Bottomlands Landscape Setting in the GMA and SMA, the Gorge Walls, and the Canyonlands and Wildlands Landscape Setting in the GMA.
- Scenic travel corridors:
  - I-84 and the Historic Columbia River Highway

Scenic – Anticipated Impacts

View from SR14 and Columbia River; foreground and middle ground

Red circles (added by staff) indicate areas of blasting and vegetation clearing

Scenic – Anticipated Impacts



View from I-84; foreground

Anticipated impact = Second track and vegetation clearing as needed construction

Scenic – Recommended Conditions

- Prohibit the clearing of 6.62acre Open Space site east of rock blasting site (scenic and natural)
- Retain all vegetation to the maximum extent practicable
- Rock blasting must occur in natural appearing, irregular patterns to emulate a natural cut face
- Retaining wall must be a basalt rock pattern color treated to blend with surrounding rock wall colors, shadows, and patterns
- Revegetate all disturbed areas immediately with native seed mixes
- All new structures, buildings and signage shall comply with the color and material requirements of the I-84 Corridor Strategy, a plan developed for infrastructure in the NSA
- Buildings must be treated for non-reflective finish
- New lighting shall not cause visual pollution or create a hazard
- Guardrail replacement shall be in-kind to ensure a continuous aesthetic, consistent with the I-84 Corridor Strategy

Chapter 14: Cultural Resources

- There are three types of cultural resources protected in the NSA:
  - Archaeological
  - Traditional Cultural Properties
  - Historic
- A survey was prepared, shared, and amended based on feedback.
- There are no anticipated impacts
- Conditions of approval to cease development upon discovery during construction

Chapter 14: Natural Resources

- **Waterbodies –** will impact wetlands and lakes; mitigation plan approved by USACE, NMFS, NFW, ODFW, USFS NSA.
- **Wildlife habitat –** deer and turkey range, shallow water habitat; mitigation plan approved by ODFW
- **Rare plant** populations – 3 plant species will be affected; mitigation plan approved by ORBIC
- **SMA Priority Habitats –** USFS expressed concerns regarding Oregon white oak impacts and the high quality Priority Habitat areas proposed to be affected

Table 1
Wetland and Water Body Disturbance

Wetland ID	GMA/SMA	Approx. Milepost(s)	Total Wetland/ Waterbody Area (acres)	Open Water Permanent Impacts (acres)	Vegetated Wetland Permanent Impacts (acres)	Total Buffer Zone Impact (acres)
Wetland 7	SMA	72.28 – 72.34	0.17	0	0.17	
Wetland 9	SMA	71.46 – 71.51	0.24	0	0	1.59[1]
Wetland 9B	SMA	71.47 – 71.51	1.78	0	0	
Wetland 11	GMA	70.72 – 70.95	1.15	0.00	0.25	
Lake 11	GMA	70.78 – 70.94	1.86	0.14	0.00	1.01[1]
Wetland 12	GMA	70.69 – 70.72	0.14	0	0.03	
Wetland 17	GMA	68.55 – 68.57	0.08[2]	0.00	0.06[2]	
Wetland 18	GMA	68.56 – 68.58	0.09[2]	0	0	0.20[1]
Lake 18	GMA	68.56 – 68.58	1.21[3]	0	0	
Wetland 20	GMA	66.97 – 67.12	0.15	0	0	0.55
Lake 20	GMA	66.97 – 67.12	1.66	0.02	0	
Columbia River/Bonneville Reservoir	GMA/SMA	North of project area for full project length	-	0.00[3]	0	5.58[4]
Total Impacts to Wetlands, Waterbodies & Buffers				**0.41**	**0.75**	**Temp: 3.52** **Perm: 8.75**

[1] The buffer zones of adjacent wetlands and/or waterbodies overlap in some cases, necessitating buffer disturbance to be reported as a combined acreage.

[2] A portion of Wetlands 17 and 18 are located within the NSA-designated Urban Area; the total wetland/waterbody and impact areas provided in this table constitute only the portions within the NSA and outside of the designated Urban Area.

[3] No permanent disturbance to the Columbia River/Bonneville Reservoir will result from the project; however, approximately 0.01 acres will be temporarily affected during the installation of two culverts proposed to mitigate for potential impacts to fish habitat.

[4] Acreage excludes Columbia River buffer impact areas that intersect with wetland buffers accounted for in above calculations.

Wetland impacts and mitigation proposals:

Natural – Recommended Conditions

- Prohibit 6.62acre Open Space clearing
- Implement the Tooley Lake Wetland Mitigation Plan
- Implement the Sensitive Species and Wildlife Habitat Protection and Rehabilitation Plan
- Remove blasted materials for off-site crushing
- Avoid areas of identified special-status plant populations, priority habitats, sensitive wildlife and plant areas, and their buffer areas to the maximum extent practicable.
- Implement micrositing of development during construction to avoid habitat where practicable
- Remove and conserve, and immediately replant plants that will be directly affected
- Implement weed control procedures to prevent the spread of noxious weeds
- Require the SMA Oregon white oak replacement ratio of 8:1 *(please note this would be a correction to the staff summary)*

Chapter 14: Recreation Resources

- Established recreation sites within vicinity of development: Memaloose State Park & Historic Columbia River Highway State Trail
- Comments from OPRD cite impacts of noise, disconnection from park properties, and resource impact concerns at Memaloose as well as the Gorge region of state parks properties.
- Recommended conditions of approval:
  - (1) to develop a Columbia River access feasibility study to ensure long term impacts of the railroad do not impact established recreation uses or sites. Improved access from State Parks properties to the Columbia River shall be the outcome of this study and any resulting action items. And,
  - (2) minimize impacts of construction to recreation users

Recreation - proximity

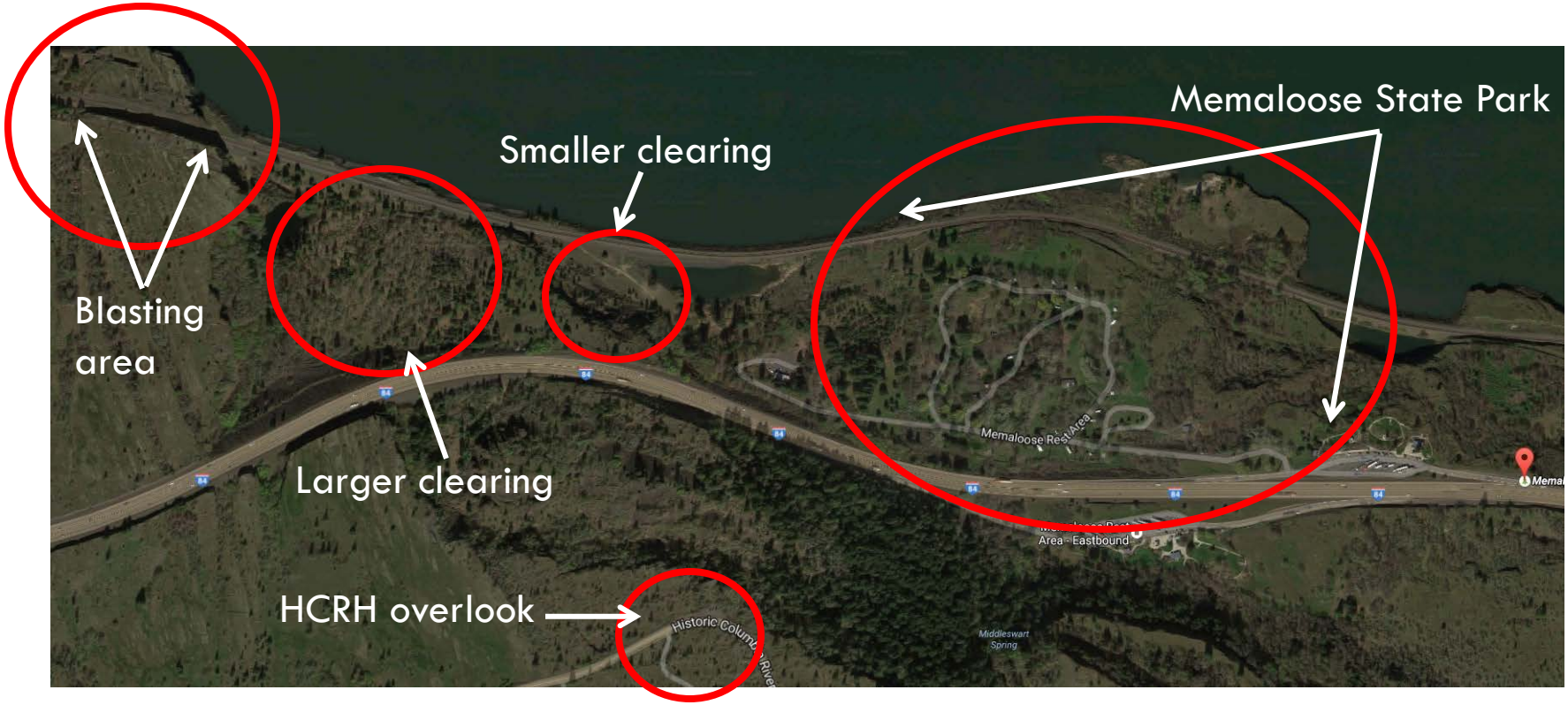


Image source: Google Maps

Oregon State Parks properties are cut by railroad

Chapter 14: Treaty Rights

- Comments received from the Confederated Tribes of the Umatilla Indian Reservation:
  - River access and fisherman safety while crossing
  - Significant natural resource impacts
  - Cultural resource impacts
- Government to government consultation with the USACE
- Anticipated impacts: decreased safety in crossing tracks
- REQUIRED condition to add at least 2 safe crossings
- **Failure to comply = denial of this development request**

Chapter 23: Sign Provisions

- Proposed signage is required by FRA for safety
- Proposed signage is allowed without review; however Staff recommends condition of approval to require compliance with this chapter through the Interstate 84 Corridor Strategy
- *Staff recommends a correction to the Staff Summary to accurately reflect the applicability of this chapter.*

ATTACHMENT A

New Information

Received After 8/30/2016 Staff Summary & Recommendation was prepared.

- Many more public comments expressing concern via email
- Letter from Mosier Volunteer Fire and Rescue citing capacity concerns, requesting clarification of risks, and a fire mitigation plan.
- Letter from Mosier City Council opposing project for public health and safety reasons, river access concerns, noise, and wetland impacts.
- Letter from ODOT requesting structural analysis for seismic stability and expressing support for improved recreation access condition of approval
- Letter from OPRD describing regional context of recreation disconnection, noise and resource impacts
- Letter from Columbia Gorge Windsurfing Association expressing opposition to the proposed development
- Letter from the Confederated Tribes of the Umatilla requesting a study to analyze the impacts on tribal fishing (note this would be a required condition).
- Several large items from the Friends of the Gorge

ATTACHMENT A

Opportunity for Applicant to Speak

Public Hearing – Rules of Conduct

If you'd like to comment, please sign up for comment

- Come to the waiting area when your name is called
- State your name for the record
- Limit your comments to 3 minutes

To provide time for as many people as possible to speak, please:

- No applause
- No calling out comments or questions from the audience
- No demonstrations

Please be respectful of all speakers.

Planning Commission

- At the end of the hearing,
  - Continue or close the public hearing?
    - If the hearing is continued, please specify the date, time and location.
    - If the hearing is closed, the Commission will deliberate at a future public meeting. Please specify the date, time and location.

For additional information:

Wasco County Planning Department

2705 East Second Street, The Dalles, Oregon 97058

(541) 506-2560

Materials related to this case can be viewed online at http://co.wasco.or.us/planning/UPRR.html

Angie Brewer, Director

angieb@co.wasco.or.us

ATTACHMENT B
Hearing Transcript

DRAFT

WASCO COUNTY PLANNING COMMISSION

Application for Conditional Use

Union Pacific Case File PLASAR 15-01-0004

September 6, 2016

CHAIRMAN HARGRAVE: This is the Wasco County Planning Commission and I'm Russ Hargrave, the chairman. I'll open tonight's hearing. This is an application for conditional use approval to expand an existing railroad siding with 4.02 miles of new second mainline track, realigning existing track, replace five equipment shelters, and make related improvements. The applicant is the Union Pacific Railroad, and the case file number is PLASAR 15-01-0004.

This is a quasi-judicial proceeding and the hearing will proceed as follows: The County staff will present the staff report, including identifying applicable criteria, summarize the proposed request and staff recommendation.

The Applicant or Applicant's representatives will then have an opportunity to testify to explain the proposal, to respond to County staff and submit any new evidence or ask questions.

Next, persons wishing to speak in favor may testify; and after that, persons wishing to testify in opposition or who are uncertain or just have questions may testify. The Applicant will then have an opportunity to present any rebuttal, but no new evidence at that time. Staff will have an

opportunity to make final comments, but no new evidence.

The applicable criteria for this application are set out in the staff report and recommendation. Angie Brewer, the planning director -- Angie Brewer, the planning director, will provide the staff report.

So, before we begin the proceeding, let's do roll call.

MS. ERICKSON: Lynne Erickson from The Dalles.

MR. HANDLEY: Jeff Handley from The Dalles.

MR. MYERS: Andrew Myers, The Dalles.

MR. DEHART: Brad DeHart, from The Dalles.

MS. ASHLEY: Vicki Ashley, Bakeoven.

CHAIRMAN HARGRAVE: Russ Hargrave, Mosier.

MR. SCHANNO: Chris Schanno, Dufur.

CHAIRMAN HARGRAVE: There really are a lot of people here, and we appreciate that. And it's important for us to hear from as many as possible. Therefore, we will not permit disruptive demonstrations, applause, questions or comments from the audience or other disruptions, as these take up valuable time from persons who are waiting to be heard. If you want to be heard, we welcome that. Make sure you sign up on one of the sign-up lists.

The County tonight is represented at this hearing by Kristen Campbell, the County's legal counsel. And, in addition, the County is represented by Dan Olsen.

Mr. Olsen will assist me in conducting the meeting and advising on any procedural matters that may arise and he will call the witnesses to testify. This will be the only opportunity for oral testimony before the Planning Commission. We also will provide additional time for submitting written comments. Accordingly, I first will ask for a motion from the commission to adopt the following process for this hearing: Each person will have three minutes. Time spent responding to commission questions will not count against the three-minute time limit. No one may transfer time to another person. Oral testimony will be limited to four hours after the staff report. Total time for the Applicant and those speaking in favor will be two hours. However, if all testimony from proponents is heard before the two hours are up, all remaining time may be used by those in opposition or those who are neutral. The Applicant will have 15 minutes after the oral testimony period for final rebuttal. No evidence is permitted during rebuttal.

Do I have a motion to this effect?

UNIDENTIFIED SPEAKER: I so move.

UNIDENTIFIED SPEAKER: Second.

CHAIRMAN HARGRAVE: Okay. All in favor, say aye.

GROUP RESPONSE. Aye.

CHAIRMAN HARGRAVE: All opposed? So carried.

(Pause in proceedings)

CHAIRMAN HARGRAVE: So, please note that these time limits will be strictly enforced. Testimony is limited to the applicable criteria. We will not accept testimony that is irrelevant, repetitious, abusive, or disruptive. Note that you may also submit written comments, either in addition to or instead of testifying orally. You are not required to testify to be considered a party to this proceeding as long as you sign up on one of the sign-up sheets.

So, if you haven't signed up already and you want to be a party, please do so. Please sign up.

State law provides that failure to raise an issue orally or in writing before the close of the record with enough specificity that the Planning Commission is able to respond may preclude you from raising that issue in a later appeal.

State law also provides that failure of the Applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the County or its designee to respond to the issue may preclude an action for damages in Circuit Court.

At the conclusion of testimony I will ask for a

motion to keep the written record open until five o'clock on September 13th. Any new evidence or argument may be provided until that time. Written responses to any comments may be received until five o'clock on September 21st. This is limited to arguments based on the record. No new evidence is permitted. Well, no new evidence is permitted after September 13th. All comments must actually be received by the Planning Department by the deadline. This meeting will be continued to September 26th for Planning Commission deliberations and either a tentative or final decision at that time. If necessary, that meeting may be continued to October 3rd for a final decision and adoption of findings.

Before proceeding further, I ask the members of the Planning Commission to disclose if they have any conflicts of interest regarding this matter.

UNIDENTIFIED SPEAKER: I'd just like to mention that I work for the Oregon Department of Transportation, but I haven't been involved with any review or processes. I haven't been doing review of application and I don't feel like I have any conflict.

CHAIRMAN HARGRAVE: Okay. So that does not sound like a conflict. Thanks.

UNIDENTIFIED SPEAKER: I have one. During the train

derailment in Mosier, I'm part of the Facebook group Friends of The Dalles -- The Dalles -- and I get my news update from that Facebook post. And then in terms of discussing this application, at this time I discontinued looking at that web page any further.

UNIDENTIFIED SPEAKER: Could you say that louder?

CHAIRMAN HARGRAVE: Okay. So no conflicts of interest noted.

Note for the record that all the Planning Commission members have seen the site while driving by on the highway.

Does any member of the Planning Commission have any ex parte contacts to disclose, including any visit to the site for the purpose of evaluating the application?

UNIDENTIFIED SPEAKER: I'm part of the Facebook group The Dalles Community Members. During the derailment in Mosier I was getting my new information from that site. When that site started talking about upcoming proceedings, I turned off the notification of that site to my Facebook account. I then discontinued reviewing that information.

CHAIRMAN HARGRAVE: Okay. Thanks.

Any other ex parte contact or visits to the site other than driving by?

I have an ex parte contact to report. I met with Kathy Fitzpatrick, the Mosier city manager. She and I had a conversation where she said that council members have

become more interested after the derailment. She said that it seemed that most council members were concerned, not in favor of the proposal. She mentioned a couple council members whose names I can't recall. She also mentioned Arlene, who is the Mayor. And I asked what the concern was and she said the main concern was safety, so that was the conversation.

Any other ex parte contact?

Okay. Does anyone in attendance have any objection to jurisdiction of the Planning Commission to hearing this matter, any procedural objections or to ask about any of the ex parte contacts that have been disclosed?

Okay. Hearing none. So, with that, we will hear the staff report. And you are going to project it, right? We are going to look.

MS. BREWER: All right. Good afternoon, everyone. My name is Angie Brewer. I'm the planning director for Wasco County. I am going to walk you through a PowerPoint presentation that attempts to summarize a 120-page staff report in a brief, concise presentation for you all.

So I want to make sure you know that the entire document is located on our website. And the URL is on the bottom of the screen and that will be on the last slide as well. You can go ahead and check it out there.

I also want to make sure you know the complete record

is online and available. You can see all the comments, letters, and all of the agency (inaudible) and other subject documents that we will review in this hearing.

So, for starters, I am going to let you all know that we received this application from the Union Pacific Railroad on January 11, 2015. We worked with them for quite some time on (inaudible), back and forth with recommendations, proposals, survey requirements, and the application became complete on November 17th, 2015.

As you have probably heard or seen in the media, this hearing has been rescheduled multiple times, and I just want to point out the reasons for why that is. The first time was due to a lack of feedback from our partner agency. Wasco County staff felt uncomfortable moving forward without hearing from some of our partner agencies, who provide us with very important technical assistance for resource protection in this area. We felt we needed more time for that and the Applicant allowed us to move forward on that.

The second time was because when we finally received some feedback, which was -- which was very helpful, it took us some time to evaluate it and really analyze it for what it meant for this proposal.

The third time was a request from the Applicant due to the derailment again, making sure that they were able

to send their staff and responded to that (inaudible) ahead of time to do both at once. So that's how we got here today. It's been a long time coming.

We've been working on this since January, with the pre-application process in 2014 for this. This conversation has been going a long time at Wasco County, but also with our partner agency and the State of Oregon as well.

So on that note, there's one other thing I'd like to make you all aware of, is that the staff report was published and posted online August 30th. We received quite a bit more comments since August 30th that were not available to us at the time of preparing this analysis and recommendation.

I have a summarized list of that information in this presentation and all of those comment letters will be available online. I just want to make sure everyone is aware of that part of the packet.

All right. With that said, it is important to start with a list of what they are asking for. Union Pacific Railroad is specifically asking for expanding an existing railroad site near Mosier to create 4.02 miles of second mainline tracks. They would like to replace five equipment buildings and associated equipment. Those buildings are in existence today. They are not

proposing new buildings in similar locations, and it is a similar siding. (Inaudible)

It will be an installation and in some cases removal of drainage structures like culverts and ditches, filling wetlands and removing vegetation to construct new railroad ballast. It includes blasting out an existing rock wall, which we'll have a photo of later on in this presentation. And in areas where blasting will occur, to stabilize that cut face, they are proposing a rather large concrete retaining wall that will be stamped to appear as though it is naturally occurring rock, basalt.

It includes 12 new station lights, requires safety signage, removal of existing telephone poles, five new monopole wireless communication poles, modification of existing utilities, clearing of vegetation for construction of temporary landing zone, the improvement of a couple of existing access roads that are described as "new" in the application, but as you watch the analysis, you realize they are actually there. Some of them are existing road shoulders. They just need to be regraded and graveled. Some of them are existing gravel roads that just need to be brought up to a little bit higher standards than they use for construction.

They don't propose to pave them. They propose to

gravel them, just so you know. And then there is a rather substantial offsite wetland mitigation proposal that will create a new wetland feature offsite closer to the downtown (inaudible).

So the location and zoning of the project is critical. It is important for us to note that Wasco County Planning only has the jurisdictional authority to review both portions of the project located outside of the City of Mosier urban area because the rules we're applying are the National Scenic Area rules and the National Scenic Area ordinance.

Our rules do not apply inside the City of Mosier and they don't apply inside the urban area. They are physically exempt by the Scenic Area Act. So I'll show you a map in just a minute. Just know there is a large portion of this project that occurs inside the city that this analysis does not cover. Just making sure.

The zoning of the proposed development portions of the project will occur in what is known as the General Management Area of the National Scenic Area; other portions will occur in the Special Management portions of the Scenic Area, and a handful in different zones, including large-scale and small-scale agriculture, open space, and water and Special

Management Area public recreation, agriculture, and open space.

So, as you can see on this map -- I'm kind of scared to touch this map (inaudible).

As you can see on this map, the City of Mosier urban area is this line right here. The portions of the project that we're able to review is this Segment 1 right here on the county line to the urban area line and then a piece of the project from the urban area line where the project terminates Hoodway through Memaloose State Park. Just keep in mind that this piece right here (inaudible).

Before I leave that slide, it is also important to note that there is an existing siding in much of this area that is proposed to be expanded out in either direction east and west.

All right. So applicable rules for this project. It's required to be consistent with the Management Plan for the Columbia Gorge National Scenic Area, Management Plan implemented by Wasco County to our National Scenic Area ordinance, which has been reviewed and confirmed by the Columbia River Forest Commission and U.S. Forest Service National Scenic Area Office and Secretary of Agriculture.

The URL for our website is on that slide, if you

would like to jot it down, and the chapters that apply are as well. So introductory provisions, Chapter 1; Development and Approval Procedure, Chapter 2; Basic Zoning Requirements, Chapter 3; and Chapter 5 includes Conditional Use Provisions.

Chapter 6 are Drafted Variances; and Chapter 11 address Fire Safety Standards, and Chapter 14 includes all of the Scenic Area Review, which is further broken down by scenic, scenic resources, natural resources, cultural resources, recreation resources, tree rights, so that (inaudible) from National Scenic Area.

So this is just a quick table to help illustrate what the current rules allow. It's important to note that the railroad has been in existence before our rules were written. The plan anticipates railroad development; at the very least, railroad maintenance and minor expansion where necessary.

So, as you know, as you'll see in our rules, in each of the zones where this is proposed, the rules actually allow railroad development subject to a full review and it doesn't necessarily mean that the light is green. Don't get me wrong. I don't want to say that, but it is allowed where it is appropriate in the landscape (inaudible), where it does not harm or cause adverse effects to resources, and where it can be

conditional (inaudible).

But it is important to know that the plan does include this kind of development. It is a humongous infrastructure in the Columbia River Gorge and it is anticipated that at some point it will be maintained, prepared, and modified. (Inaudible).

So, with that, I'll jump into conditional use criteria. The conditional use criteria is a pretty significant component of our ordinance. And I'm just going to read through this, because I think it's worth touching on each of these things.

And, Planning Commissioner, I'm not going into humongous detail because it is in that report. If anyone has any questions, please let me know.

The conditional use criteria require a new proposal to be consistent with the Scenic Area ordinance, require it to be compatible with the surrounding area. Use must not significantly burden public service, including fire and emergency services. It must not impair traffic flow or safety. It must minimize noise, dust, and odor in all cases; must not reduce or impair sensitive habitat or cause erosion; must not adversely affect air, water, or land; must not detract from the visual character; should never destroy historic value, and -- excuse me -- must preserve the

historic value and cultural significance; must be compatible with agriculture; must not significantly increase fire hazard suppression costs or risk to personnel.

But I want to point out the bottom screen, you might not be able to see, is that a failure to comply with any conditions of approval, consistent with the conditions of this criteria, is a failure of your permit and so it's a mandatory revocation of the permit.

So, staff recommend going through analysis. And please note we did struggle to get feedback from our technical resource partner on some of these items. Based on the best available information we have, staff recommends the following conditions of approval to address these criteria: We are recommending that coal cars be covered; that Federal Rail Administration safety standards, including any safety improvements that are optional, be required; that the existing range of 20 to 30 trains per day be maintained and no significant increase in rail traffic; that a Spill Response Plan be prepared prior to construction; that training be provided to Gorge fire departments included in the Hood-Columbia Five County Mutual Aid Agreement; that Union Pacific Railroad solicit feedback about

local needs for combatting railroad-related fire incidents and make a good-faith effort to assist in meeting those needs; to comply with agriculture resource protection; to ensure that any temporary traffic impact is coordinated with the Department of Transportation, Wasco County Public Works Department, Oregon Parks and Recreation Department; and the requirement that grading, excavation, and vegetation removal be minimized wherever possible and that revegetation happens as soon as possible; and that best management practices are used throughout the construction, and I let them know that also.

Chapter 6 addresses variances. The Applicant is requesting several Planning Commission variances. In order for a request to be considered -- a Planning Commission variance means they're requesting more than a 50 percent variance. So what they are asking for is a variance from the Columbia River development setback standards, the Scenic Travel Corridor, the Interstate 84 Corridor Setback Standards, Wetlands buffer standards, as well as the Sensitive plant buffer zones.

There are some very specific criteria in our ordinance in order for a variance to be granted. However, there are some situations that are not anticipated by plans, and the staff feels that this may

be one of them.

The railroad occurs immediately adjacent to the river and is sandwiched in by Interstate 84 in both locations. And you are almost always going to be in the buffer when you do anything on the railroad.

So given that the ordinance anticipates railroad development, allows maintenance and a use to occur without any kind of -- excuse me, maintenance and repair to occur without any kind of review and requirements, and the fact that there is an unavoidable buffer in every single location along the railroad, staff does recommend granting a variance, as long as all of the other mitigation proposals are implemented prior to construction and all the anticipated impacts are addressed upfront.

Chapter 11 addresses fire safety standards. Our ordinance requires a self-certification checklist to be completed for every application that was submitted for completeness. Up until, I believe, August 31st we had not heard any concern expressed by local or regional fire or emergency services during staff consultations.

A condition -- based on what staff learned and not based on any feedback, we're recommending a condition of approval, and that's neither here nor there, but a condition of approval to require the development of a

Spill Response Plan, regular training to Gorge fire departments included in the regional Mutual Aid Agreement, and that Union Pacific Railroad would solicit feedback from the local departments about what -- to make sure they have capacity to respond to emergencies in their community.

Chapter 14, Scenic Area Review. And, as I mentioned before, it runs through what we call the SCNR, the scenic, cultural, natural and recreation resources. It also addresses treaty rights. And I just want to note that the General Management Area and Special Management Area rules are addressed here as well.

So, for scenic resources, the important things to note here are the key viewing areas designated as public points and scenic resources protected by our ordinance are Interstate 84, State Route 14, Columbia River, and the Historic Columbia River Highway.

The project will be visible intermittently from the foreground, middleground, and background view, and that the scenic standards that apply to this project are based on the zoning. Some of the zoning requires that standard of visually subordinate, which means it's not the first thing you see, but it does blend with the surrounding landscape and not visually evident in special imagery. Essentially it means you should not be

able to see it. This is not (inaudible).

Those terms are defined in our ordinance, if anyone is looking for the definition.

Landscape settings that apply (inaudible). And this is partly due to the fact that it is such a long, linear project across (inaudible) and many landscape settings. You will find that the vegetation changes from one end to the other (inaudible).

So we have pastoral landscape setting in the General Area, the Oak Pine Woodland Landscape Setting in the Special Management Area, River Bottomlands Landscape Setting in the General Management Area and the Special Management Area, Gorge Walls and Canyonlands and Wildlands Landscape Settings in the General Management Area.

And, finally, scenic travel corridors. The proposed development will occur within the scenic travel corridors of Interstate 84 and the Historic Columbia River Highway.

I have a couple of images that I hope will show up.

Okay. This is one of these views the staff feels will be most impacted by the proposed development. And it is the rock base that is proposed to be blasted for expansion. So, you're looking from the State Route 14. Keep in mind that you are traveling west and probably

driving 60 miles an hour. So this is the view from SR14. And it is also visible from the Columbia River, obviously, but it is not directly visible from Interstate 84 in any way the staff could reasonably achieve and it did not appear to be visible from the east side of the Historic Columbia River Highway, which is only open to pedestrians, but was visible from the Memaloose overlook from the Historic Columbia River Highway gravel road portion from the other side.

This area right here is one of the landing zones proposed to be cleared for development. And there will be (inaudible). The proposed development includes clearing these trees. There is not a lot of screen topography.

What I want to point out is that you -- you make (inaudible) rocks coming out here, but because this intervenes with the existing topography, there is unlikely to be a huge visible cut of the rock inside of this canyon that would be visible. The proposed retaining wall will be just back here, where there is some screening vegetation and with the right stamp and color combination, (inaudible) over here.

Staff is recommending a condition of approval to prohibit this clearing that all of the rock blasted from this area be removed from the site and crushed in a different location outside of the main area.

The other visual aid that we have -- and you can (inaudible) from here, Commissioner -- is from Interstate 84 in the foreground. And I just want to show that there is existing railroad infrastructure there now. There is not a whole heck of a lot of vegetation that needs to be cut out to further expand it and there's no blasting approval in this area.

So visual -- although you will be able to see it in the immediate foreground, the visual impact with the expanded rail will not (inaudible) be a significant detriment to the visual resources in this particular area.

We spent plenty of time on the Columbia River Highway and (inaudible) impacted the existing development, and I just want to make sure you all know that.

So that said, the recommended conditions of approval staff made for you is that you prohibit the clearing of these 6.62-acre open space site east of rock blasting, scenic and natural resources in that area; that you retain all of the vegetation to the maximum extent practicable; that rock blasting occurs in the natural appearing area with a pattern to it that will emulate the natural cut face. The retaining wall must be a basalt rock pattern and color to blend with

the surrounding rock wall colors to comply with the pattern; that all disturbed areas are rededicated immediately with native seed mixes; that all new structures, buildings, and signage comply with color material requirements of the Interstate 84 Corridor Strategy, which is a plan that was developed for infrastructure along the Columbia River Gorge, I believe in the '90s, which is applicable to interstate bridges along the highway and all of the signage that support utilities along the way.

So, just for the record, that does not include the dark earth tone requirement and low-reflective requirement.

We recommend a condition that the small six-by-ten and eight-by-eight equipment buildings be treated with a material to have a non or low-reflective finish; and that new lighting not cause any visual light pollution or create a hazard to drivers, and that any guardrail replacement that has to occur, we go back and rail in-kind to ensure a continuity with the I-84 Corridor Strategy.

Cultural resources. In the Gorge there are three types of them: Archeological, traditional cultural properties, and historic resources. An extensive survey was prepared and shared with

(inaudible) tribes, and the state preservation office as well as national parks. It was amended multiple times based on feedback and questions and requests from those entities. As a result of that complication, there were no anticipated impacts to cultural resources, and the conditions of approval we included are to make sure that any new resources discovered during construction cause the project to stop until the resources can be evaluated and (inaudible) to be identified.

Natural wildlife resources. The Scenic Area ordinance addresses categories of wildlife, habitat, rare plants, Special Management Area Priority Habitats. As you can see in the application materials and the extensive wetland mitigation proposal, quite a few wetlands will be impacted by the proposed development. Part of that is because the railroad created quite a few water bodies when the ballast was constructed in the late 1800s. So there are quite a few little lakes and wetlands that nestle right up against the existing ballast that will be impacted when the ballast is expanded to create the width and length for the double track.

So I will get into the mitigation strategy in a little bit, but I -- just so the public knows, the mitigation

plan was approved by the Army Corps of Engineers, the National Marine Fisheries Service, National Fish and Wildlife, Oregon Department of Fish and Wildlife, and the Forest Service National Scenic Area office. (Inaudible) coordination also went into the creation of that document to ensure that all of the mitigation ratios required by the Scenic Area were met.

The mitigating ratios in the National Scenic Area are more expensive and higher than the Corps of Engineers requires or any of the other federal agencies or state agencies listed in this list, and so it took quite a bit of land to be able to mitigate in a way appropriate to make sure that the kind of habitat that would be considered appropriate for the kinds of habitat that will be mitigated directly.

Wildlife habitat proposed to be affected includes deer, turkey range, shallow water habitat, and the mitigation plan was approved. Some of it (inaudible) but there is a separate habitat mitigation plan that was approved through the Oregon Department of Fish and Wildlife.

There are several rare plant populations, three species that will be affected. (Inaudible) The Oregon Biodiversity Information Center in our natural (inaudible) program testified in the same set of rules, they reviewed the proposal to mitigate the impact that will occur, and they

confirmed that they are comfortable with the level of impact and the techniques that will be used to mitigate them.

The Special Management Area Priority Habitats were reviewed by the Forest Service, and the Forest Service National Scenic Area provided two comment letters expressing concerns about the impacts, particularly (inaudible) the staff recommending prohibiting (inaudible).

The Forest Service also recommended a condition of approval to have the Oregon white oaks replaced at a ratio of 8 to 1, which is required for critical habitat area, and staff recommends adding that to the staff report, based on things that do not get caught in the original conditions of approval. With a correction.

This is just a clip from the application for those of you that have not seen it. The Applicant provided an extensive table of the wetlands that were identified in their surveys, the kinds of impacts that are likely to occur and whether or not they would be temporary or permanent impact. So for those of you that haven't seen it, there is a survey and table impact in there.

This is an image -- and I don't know how well you can see it with the lighting, but the upper photo is a picture of the lake called Thompsons

Lake. It's a larger lake near Memaloose State Park that is supposed to be partially filled to allow for the new ballast to be constructed there.

The image below is a Google Earth snapshot that shows the general location of where the offsite mitigation will occur. I don't know if you can see that, but it says "Tooley Lake" and it is on the bend of Interstate 84 as you are coming into The Dalles near the Discovery Center. There is a couple of lower elevation agricultural properties down there. It's proposed to a current landfill. One of those farms in that location -- you can kind of see this -- this did translate here. That (inaudible) wetland feature.

And the reason it's so far away, part of the extensive review process we went through to try to find an appropriate location is that there is not much of this habitat in the Gorge. There are not many wetlands to add to or modify in a way that would have been directly applicable to what is being proposed here.

So in order to mitigate, they had to create, which is a higher ratio, and at the end of the complication it was felt strongly by the resource agencies that creation of new habitat of a

high-quality level would not necessarily be a bad thing because we are lacking it in some different parts of the Gorge.

We asked them to look far and wide, including the entire Columbia River Gorge watershed, which is allowed by our organization. They looked as far as the Sandy River and the Deschutes and also looked in Washington (inaudible) where this kind of wetlands mitigation can occur.

That said, I will -- I do want to note that the City of Mosier is going through a process to identify wetlands mitigation projects in the city or near the city (inaudible). That was not brought to staff's attention until after the (inaudible), but it was generally discussed that there were simply no locations that could meet the needs on a scale that we were requiring for the ordinance.

So that is not meant to seem as though we don't encourage that mitigation to happen past the city of Mosier. That's up to the City of Mosier to inquire to (inaudible) support that. This proposal was considered to be the best fit for what the impact was at the outset to the city and required by the city.

So natural resource conditions of approval

recommended by staff, they include prohibiting that open space clearing, specifically the big open space clearing that is (inaudible); implementing the Tooley Lake Wetland Mitigation Plan; implementing the Sensitive Species and Wildlife Habitat Protection and Rehabilitation Plan; removing blasted materials for off-site crushing; avoiding areas of identified special-status plant populations, priority habitats, sensitive wildlife and plant areas, and their buffer areas to the maximum extent practicable; implementing micrositing of development during construction to avoid habitat where practicable.

What that means is when they're actually doing the construction, there are options available to them to minimize (inaudible) on the ground to (inaudible).

Removing and conserve, and immediately plant -- replant plants that will be directly affected; implement weed control procedures to ensure the containment of any noxious weeds; and to require the SMA Oregon white oak replacement ratio of 8:1. This would be a correction to our recommendation.

Recreation Resources, Chapter 14. I'm sure

that most of you know that not only state parks is included in this proposed project, Oregon state parks is one of the affected landowners and they -- I'll show you a map in just a few minutes of the property that would be affected by this proposed development.

The Historic Columbia River Highway is located closer to Segment 1 on the east side where you will be able to see the development from the Historic Highway, but it will not occur on the Oregon state parkland in that area.

We did receive comments from Oregon State Parks Department citing impacts from noise, disconnection from park properties, and resource impact concerns at Memaloose State Park as well as the Columbia River Gorge region of the state park properties.

And in our conversations with them, what they are referring to is that the railroad cuts through most of the park properties along the river because they own property on either side, and there were concerns about if the proposal did include more rail traffic, then access should be discussed and there should be an effort to minimize conflict wherever possible and that is to include the relationship that resulted in (inaudible) if there

was going to be increased rail traffic, what does that mean for the enjoyment of their user as well as -- let's see, resource impact during development occurring within the vicinity of this affected plant property, wildlife (inaudible) had their own process for protecting resources on the property.

The recommended conditions of approval of staff, after consultation with Oregon State Parks, (inaudible) the Columbia River Access Feasibility Study to ensure long-term impacts of the railroad do not impact established recreation uses or sites, and that improved access from State Parks properties to the Columbia River shall be the outcome of the study and resulting action items.

The second recommendation of approval we had for recreation, to minimize impacts of construction on recreation users. There is a shared road between -- on that map there, this is the Memaloose State Park overnight camping. There is not a lot of day use at this park, but there is some (inaudible). There are some informal trails that come right down toward the bottom, but there is no formal access to this park property on this side of the track.

This is the railroad track. The rest stop on

Interstate 84 is over here and the Memaloose Overlook is on the right side of the highway. So the proximity of this stretch is pretty clear.

The rock blasting area will be in this general vicinity. The larger clearing that we're recommending including is right here, and there is a smaller clearing here in the area that's pretty heavily disturbed already that is proposed in that area.

There is an existing access road down and it actually leaves park property and goes on through this property in this general vicinity.

Treaty Rights is Chapter 14. We received several comments from the Confederated Tribes of the Umatilla Indian Reservation regarding fisherman access and river access and safety while crossing the tracks.

We received comments about natural resource impact associated with potential disaster and the effects of particular coal trains.

Then there is also concerns of impact of cultural resources. It's important to note that the treaty rights that have been entered into with government complication are included in here. I have an outside (inaudible) Wasco County process,

but they didn't keep us in the loop. So we have been following that conversation, but that is a separate conversation than what we have been (inaudible).

The anticipated impacts based on these comments and the application materials is that there could be an issue of safety in crossing the track. If the track -- if the trains don't have to stop to pass each other, then hypothetically the result would be you wouldn't want to cross because the trains are not running. So -- it is not a designated safe crossing. So it's important to note.

We also want to point out that when it comes to treaty rights, the National Scenic Area (inaudible) do not allow us to move forward with a project that would have any impact on tree growth, so these conditions of approval, the conditions of approval that I'm about to list to you, would be required, are not optional. If for some reason you didn't want to include them in the final decision, we would not be able to approve the decision.

So we are requesting or recommending that you include conditions of approval to require at least two new state crossings for traveling fishermen on

either side of the project area. The location of the crossings should be developed in the process with Union Pacific Railroad and the Umatillia Indian Tribes to make sure that the location is feasible, but that, most importantly, it addresses the treaty right impacts on their site; and that that -- I just want to point out that that doesn't necessarily have to happen in Wasco County. It can happen anywhere in the Columbia River Gorge as long as it addresses treaty rights and (inaudible). That would be something that would happen after the (inaudible) issues.

All right. Chapter 23, Sign Provisions. This is more of a correction and I just want to get it on the record. We advertised the proposed project as being subject to compliance with Chapter 23, which is our sign provisions chapter. After (inaudible) the staff in our office and going through some of the other presentations, we realized that that chapter doesn't actually apply because the kinds of signage that are proposed are required signage for safety and required by the Federal Rail Administration.

One sign qualifies for being a match, such as (inaudible) required for safety standards. There

is a provision that allows that to occur without any kind of review, but they do require them to have -- to adhere to the color (inaudible) requirements.

So we are still recommending the condition of approval that the signs all comply with the Interstate 84 strategy, which would (inaudible) single-sided sign (inaudible). But I just want to make sure the Chapter 23 does not actually project (inaudible).

All right. So, as promised, I have a slide summarizing (inaudible). I'll just read through this very quickly. We have received many more public comments and concerns. You will receive them. You have most of them in front of you, but we continued to receive them this past weekend.

We received a letter from the Mosier Volunteer Fire Department citing capacity concerns, requesting clarifications of risk, and a fire mitigation plan.

We received a letter from the Mosier City Council opposing the project for public health and safety reasons, river access concerns, noise, and wetland impacts.

We received a letter from Oregon Department of

Transportation requesting structural analysis for seismic stability and expressing support for improved recreation access condition of approval.

We received a second letter from the Oregon State Parks and Recreation describing regional context of recreation disconnection, noise and resource impact concerns.

And we received a letter from the Columbia River Gorge Windsurfing Association expressing opposition.

We also received a second letter from the Confederated Tribes of the Umatilla requesting a new study to analyze the impacts on tribal fishing. And just to note, this, again, would be a required condition of approval if you were to move forward.

And then we received several large items from the Friends of the Gorge. Some of them touch on safety and its impact (inaudible) very large.

All right. So that concludes my staff presentation. And I'm going to have time (inaudible).

Dan, would you like me to start the next PowerPoint presentation, or did you want to have them ask questions?

CHAIRMAN HARGRAVE: They can ask questions.

MS. BREWER: Okay.
UNIDENTIFIED SPEAKER: Is this being recorded?
MS. BREWER: Yes, this is being recorded.
UNIDENTIFIED SPEAKER: On the internet?
MS. BREWER: The audio recording will be available on the internet hopefully by tomorrow.
UNIDENTIFIED SPEAKER: Thank you.
CHAIRMAN HARGRAVE: Are you going to sit down?
MS. BREWER: Union Pacific has a couple of short slides as well, so I'm not sure --
UNIDENTIFIED SPEAKER: I have one question for you. What was the ratio on the wetland creation to the wetland (inaudible)?
MS. BREWER: Sure. I have that. (Inaudible). So, for creation, it's 3:1; enhancement would be 4:1; and reparation is 2:1.
UNIDENTIFIED SPEAKER: So in this case it was 3:1?
MS. BREWER: Right.
UNIDENTIFIED SPEAKER: With the recommended site?
MS. BREWER: Correct. And we did -- we did try to block the enhancement opportunities that might be (inaudible).
CHAIRMAN HARGRAVE: Any commissioners have

questions at this time? Okay. (Inaudible) Let's catch up to where we are in the program.

UNIDENTIFIED SPEAKER: Catch up to where we are at with this program.

UNIDENTIFIED SPEAKER: Do we have the ability to get any light in here yet?

UNIDENTIFIED MALE: I think still somewhere slides. So at this time we'll take public testimony and...

(Multiple voices)

CHAIRMAN HARGRAVE: Okay. We will now hear from those in attendance. And at this time I'm going to turn the microphone over to one of our attorneys, Mr. Olsen, to call the names of people who signed up on the sheet. If you have not signed up, you're still welcome to do so. Can you hear me out there?

GROUP RESPONSE: No.

MR. OLSEN: Thank you, Mr. Chairman.

How's that?

GROUP RESPONSE: That's better.

MR. OLSEN: Thank you. We will first hear from the Applicant. After hearing from the Applicant, I will call persons generally to testify in the order on the sign-up sheet as I have them, but first after the Applicant we will first hear from elected or public or tribal officials who wish to testify may have other public

meetings or public business to attend to. If you have not yet signed up on the sign-up sheet and wish to testify or be noted on record as a party, please do so. There's still sign-up sheets at the door. If time permits at the conclusion of public testimony, the Chairman will ask any persons who have not signed up who wish to testify.

As the Chairman stated, to provide time for as many people to speak as possible, please refrain from applause, calling out from the audience, demonstrations, or other actions that may interfere with speakers. I will call the speaker and two additional names. If you hear your name, please come to the on-deck area right there where the staffer is waving and wait there so we can proceed efficiently. There is going to be a lot of people shuffling around, coming and going to their seats.

If you signed up and decide not to speak, please do so state. Please avoid repetitious testimony. If an earlier speaker has made your point, you're urged to just state that you agree with that earlier speaker. Again, please note you don't all need to testify orally to be considered a party. Signing a sheet or submitting written comments is sufficient and all written comments reviewed.

Testimony must be relevant to the applicable land use criteria, those indicated by staff or criteria that you believe staff have met. The relevant testimony may be ruled out of order. There is a time clock and we will try to give you notice when one minute remains of your time. The three-minute time limits are being strictly enforced so we can let as many people speak as possible.

When you come to the microphone, please state your name and address for the record. If you have written material to submit, please hand it to the hearings reporter right there in the corner either before or after you testify. The hearings reporter will mark it with a case and exhibit number and that way it will become part of the official record. And just for your information, the staff report, the application, and all the comments received to this point are included in the record.

And with that, we're going to go ahead and start calling names. As I indicated, we're going to start with the Applicant, and the three names that I have for the Applicant are Aaron Hunt, Clint Schelbitzki,and Wes Lujan.

MR. HUNT: Yes, my name is Aaron Hunt. I am Director of Public Affairs for the Union Pacific Railroad here in Oregon.

And I'd like to start by introducing the Union Pacific team that is here today. So you just called Clint Schelbitzki's name, he's with our networking planning team; Wes Lujan, also from Public Affairs. We also have Linnea Eng, who is our permitting consultant. We have Luke Baatz, here from our engineering. He is our department manager from the engineering side of this project.

We have our in-house counsel Ty Wyman with Dunn Carney. And we have Phillip Houk, our risk manager representative, and also our media relations director, Justin Jacobs. I represent the Union Pacific team here today.

We appreciate each member of the Commission. We understand that this is a lot of work. The staff, everyone that put in many, many hours, obviously, to bring this together today, and we appreciate that. We thank you for your time.

It seems appropriate that I should start by reiterating our apology for the incident in Mosier on June 3rd. And we understand that that was an unfortunate incident, a severe, a severe incident. And we are sincerely sorry for that and every employee at UP works constantly to avoid incidents like that. We were very appreciative of the collaboration that we had from the emergency responders, from hazmat professionals, from public employees who helped us respond, who helped us in Mosier and throughout the Gorge. And we understand that we have to continue to work together

as we continue to operate in the Gorge.

So with that, we appreciate, again, the Commission. And I'm going to hand it off to my colleague Clint Schelbitzki to walk through some of the technical details of the project.

MR. SCHELBITZKI: Thanks, Aaron.

First of all, on behalf of Union Pacific Railroad, I'm happy to be part of this. I'll try to shy away from a lot of the technical details. I think Angie did an excellent job going through the finer points of the project, but I would like to spend a little bit of time talking about the lot, why we need to build this project.

Essentially what we have in Mosier today is just over a mile of double track. When we have trains moving both in both directions, both east and west, this section of double track functions as a place where we can meet and pass trains. Essentially, today when you have that scenario with trains moving in each direction, one of the trains is going to have to go into that second double track and stop and wait, for the other one to be able to pass it before it can proceed on forward. That, for us, represents where the inefficiencies are. What we're attempting to do is extend that the double track segment so in that scenario I just mentioned, when we have a train moving eastward, eastbound and westbound it can reach that segment of double track, a five-mile segment of double track, and continue on, proceed

on without having to stop. That's where the efficiencies are gained with this project. That is driving the need for the project. I should also note the existing siding is just over a mile long. We have trains that are longer than that today. They couldn't even use the siding as a place to meet and pass. Those trains are held out in The Dalles while they are waiting to go bound longer then they need to be. So this project will essentially eliminate a lot of that unnecessary idling that is occurring with the trains that are stopped and waiting to be able to proceed forward.

We also -- we also see that there will be a net reduction in wait associated with this project, because the stopped trains, they're idling, you have locomotive noise coming from that and also there a policy from us when you're passing a stationary train, the train that's stationary has to sound their horn before they start up again. So, if you -- if you have both trains continuously moving, you reduce or eliminate that additional noise. I just want to point out that this project is not about increased trains either. This is purely for efficiency, validity of the network that we operate today. Our traffic frequencies are dictated largely by market, general market, the U.S. economy and global market. The fact that we're extending this segment of double track isn't necessarily going to create any market demand that is going to warrant an increase or

decrease in train traffic over time. Only markets can do that.

But conversely, if the project's not built, that doesn't mean there's going to be less trains over time. If the project's not built, what that means is there's an increase in the U.S. economy and more train traffic is warranted; as a result, that additional train traffic will continue to move in. It will continue to move over the network that's less efficient than it could be, less fluid, and that ultimately will create more congestion throughout the Gorge communities, and that's not good for any of us, that's not good for us, it's not good for our customers, it's certainly not good for those to live in the Gorge.

Thank you. Wes Lujan.

MR. LUJAN: I'm from Union Pacific. I'm based out of Rosewood. I’ve been spending a lot of time in the Gorge, so you know. I just want to touch on my leadership and basically there's a lot of speculation of what we do. And one of the things I just want to say is on August 26th our chairman met with a number of officials from the Gorge community's elected officials, City of Mosier, Friends of the Gorge, Columbia River (inaudible) attended the meeting as well as tribal interest. One of the things we are committed to is making sure we're transparent. So this applies to illustrate how we move in and out of the Pacific Northwest, and how over 1600 employees serve the economy of Oregon. So this is a breakdown:

61 percent of our product is moving in and out on our line here are inner mobile. Inner mobile basically as a direct containment, like a truck on a train. Those double-stack mobile containers you have seen move up and down the Gorge, that’s the equivalent, one of those containers is the equivalent of a truck with a diesel engine attached to a power unit. So one train is equivalent of about 280 of those trucks moving up and down I-84. That's a pretty important statistic to look at when you look at domestic interval service provided in and out of the PNW and into the overall economy of America.

Ag products, servicing a lot of different commodities that are grown here in Oregon, from the port, both Washington and Oregon and move inland, east/west. Industrial products, aggregate, rock, soda ash, you name it. Steel is coming in and out servicing the economy of the Northwest here.

Chemicals, a lot of the 12 percent chemicals here. A large majority of those are tied to agriculture industry, in terms of fertilizers, it is my understanding. I just want to stress here that less than one percent of what we haul is crude by rail in this Gorge area. We started hauling that commodity through Union trains, in December, less than one percent. I just want to reiterate that, less than one percent we haul. Autos, three percent. Obviously, we do a lot of work with Toyota,

a lot of automotive manufacturers coming inbound and outbound to your area. I also have a breakdown of some of those other commodity groups moving import and export. I just want to stress we have had a relationship with your community since the 1880s. We've been serving the economy of your region since that time. We want to grow going forward another 150-plus years and beyond and this is project is critical to be able to facilitate and serve your economy, your future and grow with you. So thank you for your time.

CHAIRMAN HARGRAVE: That's it for the formal UP comments. They will accept questions.

MR. OLSEN: Next the site Commission would like to hear from any elected public or tribal officials that may be present, regardless of whether you are speaking in favor or opposed.

(Pause in proceedings)

UNIDENTIFIED SPEAKER: Okay. I have a question:

MR. WYMAN: Let me introduce myself. Todd Wyman as introduced by Mr. (inaudible) as outside counsel for the railroad. We want to stress, we have submitted a great deal of documentation (inaudible). We are here to answer your questions. So please fire away. I'd like to not personally (inaudible).

UNIDENTIFIED SPEAKER: First question: How much of this project is occurring outside the Mosier urban area? Is it four miles?

UNIDENTIFIED SPEAKER: 3.57 miles.

UNIDENTIFIED SPEAKER: 3.57 miles.

UNIDENTIFIED SPEAKER: And my second question is what's your feeling on the, quote, conditions of approval? I'd like to know if you guys can meet those approval (inaudible)?

MR. WYMAN: Excellent question. Thank you very much.

And so we've only had the staff report for about a week, we certainly recognize the staff, which again, I have worked with the staff in the past, just trying to strike a balance there clearly. There's another factor in the balance. There's another factor in the balance for us, which is that we have a common carrier obligation.

And, Clint, I don't know, maybe you could, you could nod or shake your head, you'd be in the best position to state. I could try. The common carrier obligation is basically if someone gives us a load that is properly contained, we must ship it. And that, as well as Clint's comment about the status of the American economy, is what will drive -- is what drives the train traffic, but that common carrier obligation comes from -- comes from that fact. (Inaudible) So we have to comply with that. What we would like to do here vis-a-vis conditions is just go through them and there's a good chance we'd recommend revisions to them, but we absolutely want to work toward the balance (inaudible).

Do you have any more questions?

UNIDENTIFIED SPEAKER: Do you have any say on how these

truck/railcars are loaded?

UNIDENTIFIED SPEAKER: Can't hear you.

UNIDENTIFIED SPEAKER: Does Union Pacific have any say on how railcars are loaded or what rail cars (inaudible) or is it dictated by federal law?

MR. WYMAN: Dictated by federal law, to some extent. Basically just like dropping a parcel off at the post office or UPS, you're giving that parcel or that product to the postal service for delivery and as long as it is packaged properly and you pay your billing, the post office accepting it and it's really no different than our situation. The way it’s explained to me to (inaudible) that shipper, you know owns that car, owns that railcar, so as long as he meets the appropriate federal standards, meets the requirements, that's in good order, meets all the requirements, we are obligated to ship it. (inaudible)

UNIDENTIFIED SPEAKER: Can you dictate higher standard to your customers?

UNIDENTIFIED SPEAKER: You know, it's really a function of the Requirements (inaudible). So it's all set by a series of federal regulations.

MR. OLSEN: Do other commissioners have questions of the Applicant?

UNIDENTIFIED SPEAKER: Can you come to the microphone so we can hear you.

UNIDENTIFIED SPEAKER: Since there are no other questions,

thank you very much.
If you think of questions during the other testimonies, I will return for (inaudible). Thank you.

UNIDENTIFIED SPEAKER: We will now start.

Correct, we will have our first public official. If you could state your name and address for the record because I don't have a separate list of officials to cross you off the list.

CHIEF APPLETON: Good afternoon. I'm Jim Appleton, Fire Chief of Mosier. As noted, there is a letter submitted and rather than go through that, I'd direct folks to see it online, on the website, Mosierfire,com. I do want to summarize a couple of our points, mainly fire safety, wildfires, and other causes of noted fires have been one of our historically largest sources of fires in the Mosier Fire District.

Let me back up. We have your (inaudible). Your entire project is in the Mosier Fire District. So, we will be responding agency for life safety, fire, hazmat, etc., first line of defense, so that's why we're here.

The basic issue that we have is that the number of trains is undefined, increase of trains is undefined and the impact that has been on the fire and hazmat. So I guess with reference to the conditions, it would be -- if they're verifiable and enforceable conditions that limits the trains, that would be acceptable to us, but it still can affect public safety. The elephant in the room is really hazmat.

And, Wes, I appreciate your comment that one percent of your traffic is oil, but one percent was too much on June 3rd. The fact that it happened again in the same place or worst place, or with worse conditions really is our main concern, but we have no clue. Nothing in that plan that indicates how the mitigation of a hazmat incident, given we were overwhelmed with the best-case scenario on June 3rd. We need to know how -- how we deal with the worst-case scenario moving forward. There's more that I can say, but I think I want to yield time back. Thank you very much.

UNIDENTIFIED SPEAKER: Can I ask you one quick question?

CHIEF APPLETON: Sure.

UNIDENTIFIED SPEAKER: How many fires in the last years -- created by Union Pacific in the last year?

CHIEF APPLETON: In the last year?

UNIDENTIFIED SPEAKER: In the last year.

CHIEF APPLETON: Well, one big one, as you heard, that we had, but going back at least two years there's been at least a couple of others.

Route 66 fire was a railroad-related fire. We had a train that was on fire that didn’t -- I am answering your question. I am out of time. We had a train that was on fire that didn't cause a wildfire land fire.

Going back, you kind of stumped me, but 1988 was the locomotive-caused fire that started it

was several dozen fires between The Dalles and Mosier. (inaudible) Something like 45 acres, two houses lost, and our only to date firefighter lost in the line of duty, who was a fellow who had a heart attack. So some big ones went back in the past year.

UNIDENTIFIED SPEAKER: So one this year and possibly four or five off the top of your head in the last five years?

CHIEF APPLETON: Going back further than five years, yeah, there have been some, yes.

UNIDENTIFIED SPEAKER: All right. Is there more dangerous items that create a more significant risk to your department (inaudible) than just a train? What I am getting at: Is there things on those trains being transported that are more dangerous than crude oil?

CHIEF APPLETON: Undoubtably. I mean, however, the law of averages with the (inaudible) the more of those you run, the more oil moves through the district, and it's again, it's a matter of time. So, I'm not an expert on rail safety, but I can tell you that there are (inaudible) train, thank goodness, and if there's a need for it, a commercial need for it, I think you'd see people up in arms about that as well.

UNIDENTIFIED SPEAKER: Okay. Thank you.

UNIDENTIFIED SPEAKER: Thank you. Jim, three minutes are up. Thank you.

(Pause in proceedings)

MAYOR BLACKBURN: My name is Paul Blackburn. I'm the mayor of Hood River. 4011 South. I decided to venture this far east today, because this is very important to my city. In the weeks after the derailment we achieved a very impressive thing: We got three mayors to agree to the same letter and we will publish in The Oregonian and I will read that to you briefly. But also I would just like to comment on something UP said, that they've been in our community since 1880 and are a very important and valuable partner. I would agree with that. I was very struck to learn that they just started hauling oil in December, so that they had 136 years of good partnership and then it only took them six months to almost burn us down.

And I understand that they're a common carrier and obligated, but I will invite them, as I've invited them before, to lobby with us to change those rules, because when you go to the post office, you don't get to send whatever you want. If it's lithium batteries, they say you may not send it.

UNIDENTIFIED SPEAKER: We asked you to cut the applause because it does make it harder for us to hear and it does take time.

MAYOR BLACKBURN: Here is The Oregonian letter. "This week the cities in the Columbia River Gorge joined a growing list of cities that find themselves in the line of

fire, the fire of an oil train derailment. Two of us dodged the bullet, but our neighbors in Mosier took a pretty solid hit. Through dumb luck, no one was killed, none of the children in the nearby school were burned, and only a small sheen of oil surged through the sewer plant into our mighty Columbia River and easily could have been much worse. The UP Railroad operators are professionals. They know how to move freight by rail, take standard precautions and keep things rolling, but they could not and cannot ensure our safety. Derailments and fires from oil trains are simply a mathematical certainty. The risk analysis is not rocket science, nor is it disputable. These are now regular occurrences predicted to occur monthly, on average. They're going to happen again and again.

We collectively call upon our federal leaders to end oil train traffic through the Columbia River Gorge. Congress acted once again -- once to name this area the nation's largest National Scenic Area. Let them act again before an oil train burns another town. I have had it explained to me many, many times that we cities don't have the authority to stop oil trains through our cities. We have as a council passed a resolution objecting to them, but our best strategy is to make noise about it. So here I am making noise to you all."

Thank you.

MAYOR BURNS: I'm Arlene Burns, the Mayor of Mosier. And our City Council met on behalf of our constituents and recently we have been, as you know, severely impacted by this derailment, and we request the denial of this project. We know that what you guys are talking about is out of the jurisdiction of the City of Mosier. And we are affected more than anyone by this -- this expansion. It will cover the entirety of our town, and our wetlands will not be mitigated by this either.

We also have big issues with access as it is. We have seasonal access under the Rock Creek railroad bridge and no access on the Mosier Creek side. So people are right now jumping over the tracks to get from one trail to another trail. So double tracks would be something that we feel in no way benefits the community and all that we've worked for, for a long time to make it a livable place.

And I wanted to reiterate what Chief Appleton said with regards to the safety issue our town is still traumatized and we know we dodged a bullet. We've enjoyed an incredible winter skiing season this summer. And if this incident on June 3rd had happened on a windy day, it would be an entirely different story as we're sitting here. And whether it's chance or fate or dumb luck, this

is not the normal weather for the Gorge. So we feel that as long as these dangerous materials are carried on train and there's not a way to stop this material, there's no way that we can get behind the increase in traffic.

MS. REED: Emily Reed, resident and Mosier Council. Why would anyone come to Mosier? This is what we've been working on at the council ever since I joined about four years ago. How to attract families and businesses and visitors to those businesses and how do you keep our water system going with enough people to pay for that and a coffee shop, keep that going.

We've done a lot of things in that time, we've changed ordinances. We've painted a mural. We have planted flowers. We put in benches. We did a lot of grants in the County. And we're really trying to really grow a very strong Mosier economy. And sometimes we actually think we have some headway there. And I think we're really moving, but it is tough, because why would people come to Mosier? Originally, the Native Americans came to Mosier for hunting. We know they didn't live there, but used it as a hunting ground. Even Lewis and Clark may have glanced our way (inaudible) as they passed along. Mr. Mosier started with the extraction of trees, logging, and when the ferries opened up, they brought a lot of people to the orchard. Right?

But today our economy is very much built around the natural resources, but in a very different way, thanks to the National Scenic Act. I want to read that real quick, because it says "To protect, support the economy of Columbia River Gorge or Gorge (inaudible) Act, by encouraging growth to occur in existing urban areas, and by allowing future economic development in a manner that is consistent with the enhancement of the scenic, cultural, recreational, and natural resources."

We, in Mosier, are concerned that the second track puts this future in question for us in a number of ways, a number of ways that I already mentioned, including fire and safety. But I just wanted to just touch really briefly on the economy and the business.

I want you to imagine yourself sitting in -- wrapped in cloth -- in downtown Mosier with a beer in your hand or in the Thirsty Woman. You're sitting outside on a beautiful day or maybe you have ice cream at the totem area and a train comes by. Have you been there when a train comes by? And it's not the -- it's not the horn. When a train comes by, all conversation must stop until it passes. It is not -- it is noisy. It is not a conducive area. And instead of looking at the beauty of the river and the trees and surroundings, you're looking at industrial metal going by and you're hearing

a lot of noise. The potential for increasing the number of cars going by really concerns us and that would be -- why would you come to Mosier when there's -- instead of looking at beauty, you're hearing a lot of not very beautiful, loud trains come by. It really concerns our ability to grow our downtown.

There's also the access block, the thought of having a nice walk to the river is dead. If we have that many trains, it absolutely blocks our town.

So, why would a family move to Mosier if there's safety concerns? We're all in this together in Wasco County. A strong Mosier economy absolutely enhances the economy of Wasco County. Our children can go to a good strong school instead of being flooded in the Gorge. And our people who have moved to our area increases your tax base in a way that enhances Wasco County. So, in summary, in today's economy people come to Mosier for its beauty. Instead of industrial extraction, it's for the beauty of those resources. The Scenic Act protects us and we hope it does Wasco County.

PRESIDENT MCBRIDE: Hi. My name is Kate McBride. I'm City Council President for Hood River, The City of Hood River.

Thank you for listening to all the

testimony and reading that exhaustive packet of information. I went through it. It's very (inaudible).

My family has a personal history of fires that started on the railroad tracks in the Mosier area. Twice fires started below the tracks below my great-grandparents' house, 8530 Highway 30, just east of Mosier. It burned within up to 200 yards of the house and one of the fires burned down their barn. So I'm very familiar with fires and railroads over another generation now.

As much as Union Pacific says all they want is a safe as possible train system, it's inherently unsafe. The June 3rd derailment fire and oil spill with the subsequent investigation that deemed that Union Pacific was negligent with unsafe track are the reasons to deny this proposal to protect the citizens of your county and Hood River County.

I'm submitting into the record today Resolutions 2012-15 and 2014-22 from the City of Hood River. Both resolutions oppose increased rail traffic to our city. Adding another track will increase rail traffic, which will allow additional transportation of coal or oil. The City of Hood River cites many reasons for imposing additional train traffic. First and foremost, is

the safety of our citizens that live there. We do not want our town and its citizens to be collateral damage for a particular industry or transportation hazard.

The FAA has strict standards for planes. The Department of Transportation has strict guidelines for roads, but the railroad commission, apparently, does not have rules strict enough, fines large enough, or the capacity to enforce these in a safer rail system. I wish they were stricter rules, but they're not. So we have to protect our citizens by using common sense to limit these extreme dangers when we have criteria in our code that will allow that protection.

Please deny this application. It will just add more disasters on the rail line. It is like having more bullets in the gun when in Russian roulette. Will it be the Dalles, Hood River, or the Columbia River that gets hit next?

I was working in Lyle with a crew here to reduce tall grass for fire prevention on the morning that the Mosier derailment happened and I drove back to Hood River on Highway 14 and I could see the black smoke rising close to Mosier, And then I saw the unit train stretching out to the east. And I got a

sick feeling in my stomach.

I was thinking, what if it was in the heart of Hood River? It could have been right next to the old Diamond Fruit building. That's where it would have been if it was in Hood River, and that's where my daughter works. Your daughter may not work within a hundred feet of the actual rail line, but all of your citizens deserve protection when we have the ability to make a situation safer or at least not add bullets to that gun. Thank you.

MR. NELSON: I am John Nelson. I am school board director for Wasco County Schools.

(Pause in proceedings)

MR. NELSON: John Nelson. I would -- most of my comments have to do with the recommendations from the Planning Department of Wasco County. I would just like to first say -- to commend the Wasco County Planning Department for doing due diligence and providing a thorough review of Union Pacific's proposal. I was very impressed by that review.

However, on the day of the derailment I was in Hood River. And one of the things I noticed that the derailment affected was the ability to transport yourself on I-84. You could not get from Hood River to The Dalles during that derailment. I --

you could on back roads, but that's what I would like to mention.

The -- I really see the need out of this to -- for Wasco County to look at improving the road -- the secondary road systems to serve the public when I-84 is closed because of a train derailment or any other or a fire or any other such thing, it was very obvious.

I'm not going to say a whole lot, because I'm handing this thing in, so, but I do have some questions about points that were raised about -- by the Wasco County Planning Department and their conditions.

Mainly what I saw was that when you are addressing wetland proposals or sensitive plant and animal areas, that kind of thing, there's a lot of conditions that have to do with providing timely reports as to how that's transpiring by being specific, what they have to attend to, but there is -- there's no -- there's no condition for having somebody on the ground to monitor what's going on, which I feel is critical. Because if they're doing the job which is not okay, it's too late after the fact of getting a report a year later. And we feel like you can't undo damage done.

So, I would criticize or at least think about getting some sort of (inaudible). That also goes for the Cultural Heritage case. You know, if there's archeology artifacts that are found there that are important or human remains, who's to know whether that's important or not. And would -- would it -- would you be, in all honesty, if they uncover a skull, report that, because that would mean the whole project would be shut down so --

MR. OLSEN: Your three minutes are up.

MR. NELSON: Thank you very much.

MS. BUSDIEKER: All right. Well, you guys are way more formal than we are in Cascade Locks. My name is Deanna Busdieker. I am a City Council member in Cascade Lodge. And so, I'm not here officially on behalf of the City or the Council.

We did unanimously pass Resolution 1359 on June 13th following the Mosier accident opposing further oil trains through Cascade Locks.

The derailment in Mosier should have been the canary in the coal mine. Those of us who live in the river town have always known it was never a matter of if, but when. Mosier was so lucky. It could have been a lot worse. And Cascade Locks is

largely in the same situation, so we really relate to that.

My first point, as your (inaudible) criteria is that, you know, we cannot significantly -- we cannot significantly reduce the fire hazard. I've seen firsthand that Union Pacific cares more about their profit than our safety. They may say safety is their top priority, but I think we all know by now it's just words. They didn't maintain their tracks properly and only gave minor tweaks to their inspection system to make it look like they are doing something.

The first thing said to Mosier by the Union Pacific's spokesman was "Sorry for the inconvenience." You call that fire an inconvenience? I would not have been nearly as gracious as Mayor Burns if that had happened in Cascade Locks, if I survived at all, because my house is only four blocks away from the tracks.

So many, many broken light bulbs that the ODOT investigation found were broken on the rusted end, which means they had been broken for a long time before the accident. Union Pacific led us to believe it was only a handful. They do everything they can to avoid the costs of making their train

safer than the absolute minimum requirement and fight tooth and nail to keep from being required to implement anything further. Oil is not the only hazardous material moving through our towns. They also carry chlorine, anhydrous ammonia, and propane. An accident with any one of these would be devastating with a great human and habitat cost.

Our towns received no financial benefit from these deals but we bear all the costs of accidents in both lives and property. They may be safer, but they will never be safe, and the risk is unacceptable to our communities.

I also wanted to quickly talk about the treaty tribes. I work closely with many of the traditional fishing people on their water issues. And I fully support them and our obligation to honor their treaties. Like I said before, I don't believe the trains could ever be made safe and then we are not honoring the treaties.

UNIDENTIFIED SPEAKER: Are there double tracks through Cascade Locks?

MS. BUSDIEKER: Yes. Actually, I have heard from the Port that they're pushing to try to get more.

UNIDENTIFIED SPEAKER: Does your community continue to grow double tracked?

MS. BUSDIEKER: Pardon?

UNIDENTIFIED SPEAKER: Does your community continue to grow using that double tracks? Is Cascade Locks getting bigger?

MS. BUSDIEKER: Well, yeah, it is.

UNIDENTIFIED SPEAKER: Okay.

MS. BUSDIEKER: But the trains have nothing to do with that.

MR. HOGAN: Thank you for accepting public comment. My name is Nick Hogan and I live in Stevenson, Washington. That's right across from Cascade Locks. It's on the sunny side of the river.

Mayor Cox couldn't be here today, so he asked me to step in on his behalf and make a few comments.

The City of Stevenson Council passed two resolutions over the past couple of years opposing transporting crude oil through the Gorge, and it stressed concerns about potential adverse impact of increased rail train through the Gorge like many other cities have done.

These resolutions highlight many concerns, and I'll just list a couple of things real quick: Train whistles and poor-managed traffic; train traffic impacting the recreational use of the Columbia River waterfront, which is a key component of the tourism industry in

many of our cities, including Hood River, Stevenson; and it affects the citizens' general quality of life.

The number of oil train cars moving through the Gorge is projected to increase dramatically in the next few years. Derailment poses a significant threat to both specific emergency response plan, including training and equipment to handle such an event. And the city insists that the railroad and barge transportation of crude oil be fully insured against risk of catastrophic fire and explosion, loss of life, environmental destruction, and (inaudible) any other harm that comes with derailment. Complete copies -- I think copies of both resolutions are available on the City of Stevenson website as well as the (inaudible) record. The Stevenson City Council opposes any rail expansion through the Columbia River Gorge. Thank you.

MR. CORNELISON: Hello. My name is Peter Cornelison. I'm a Hood River City Council person. And I live at 1003 5th Street, Hood River. Union Pacific has a very poor track and safety record and the June incident in Mosier was a direct result of poorly maintained tracks. The Federal Rail Administration issued those findings.

Railroad experts refused Union Pacific's contention that this project would only allow five

to seven more trains a day through Wasco and Hood River Counties. Many more dangerous oil trains are likely to pass through the County and my city of Hood River if this project is approved. Not all those trains that pass through Hood River, The Dalles, Mosier will do so safely. We've already seen the result of that. There are dozens of areas where the Union Pacific's double tracking proposal does not meet legal criteria. You already have those examples in the testimony you received in writing. I ask that the County deny the application on many legal grounds that you already have. Thank you.

MR. OLSEN: All right. So, now we will hear from those who have signed in favor of the application, and the first one I have is Jill Parker.

Oh, okay. Wrong.

How about Loren -- Loren Clark, perhaps from The Dalles?

MR. CLARK: I will decline to speak at this time. Thanks.

MR. OLSEN: All right. Mr. Chairman, moving now into those who are opposed. As I indicated before, I'm going to call three names and ask (inaudible) people on deck. Mary Lester. I have Steve McCoy, Lauren Goldberg, and Gary Cox.

MR. MCCOY: I am Steven McCoy, President of Friends of the Columbia Gorge. Since 1980 Friends have been working to protect the scenic, natural, and recreational and cultural resources in the Columbia Gorge. We have about 6,000 members, many who live, work, and play in the Gorge, including in Wasco County and in Mosier itself. Tonight we will be testifying with our friends and colleagues from Columbia Brewery and thank you for being given the opportunity to testify.

In its application, UP said that it was seeking this permit voluntarily and asserts that there is federal jurisdiction over this permitting process. I think it's important for you to know that your work here is extremely important and is not prohibited; without public review, the application cannot be lawfully approved and (inaudible). We would like to highlight some of the conditions of approval that we think move things in the right direction and are not permitted.

First, there is the grants and effects of the Interstate Commerce Commission Termination Act of 1995 where it picked up. It states that the jurisdiction of a service transportation board over transportation by rail carriers is exclusive. Yes, that's pretty broad.

However, due to constitutional principles, courts have repeatedly ruled dicta is not intended to interfere with the role of state and local agencies, including any federal environmental statutes. Of course, the Columbia River Gorge National Scenic Area Act is a federal departmental statute and the early '90s ordinance that implements it. So that means, first of all, that UP needs this permit to proceed. That is extremely important. (Inaudible) that is what is principal to one of the conditions of approval (inaudible).

Ms. Brewer mentioned in the 6.62 acres of woodlands that the applicant has proposed to grade and turn into a rock crushing and staging area. This is not permitted under Wasco County's Land Use and Development ordinance conditions 24, 32 and 34 prevent this and are not permitted under (inaudible).

Another federal law is the Federal Railroad Safety Act, which also has a preemption branch and clause. It, however, is more of an exception to preemption than actual preemption. It says local governments can adopt conditions that are necessary to eliminate or refuse local safety or security hazards.

So condition 15 limits UP train traffic increases today. In its application and statements, UP has said the proposed project is for operational efficiency rather than to increase the number of trains through the Gorge. Condition 15 limits UP to what it applied for. UP gets what it sought then they (inaudible) applied for not a restraint (inaudible). Under County ordinance the application should be denied. However, if it's approved, the conditional approval is critically important to protect the Gorge and her residents. Thank you.

Thank you.

MS. GOLDBERG: Thank you. My name is Lauren Goldberg. I'm a staff attorney with Columbia Riverkeeper. Columbia Riverkeeper has approximately 13,000 members and we have several thousand members that live in Wasco County and the Columbia River Gorge. Our organization opposes the UP project.

Looking at the law and the facts presented in Union Pacific's application, the Applicant failed to do its job. Union Pacific is the nation's largest railroad with incredible financial resources at its disposal. It is Union Pacific's job, not Wasco County's, to demonstrate that this project complies with the law, and it has not.

Friends of the Columbia River Gorge coalition

of public health and conservation organizations, in detailing a number of legal flaws in the Union Pacific's application, we are urging the Commission to carefully consider this testimony and deny this project.

Tonight I'm going to focus on needs for the impact on the Columbia River and wetlands. As many of you know, our region and nation has invested billions of dollars in recovering salmon, strong salmon runs for Columbia River communities, including those in Wasco County. We need to protect our investment and this project undercuts that investment.

Union Pacific's double track impacts specifically three wetlands, nine buffer zones, (inaudible) Columbia River, but it's more than that, it's about increasing rail traffic and risk to the Columbia River, specifically spills. This has been an issue that's been up front and center in the news, the June 3rd derailment and the nation's largest oil by rail terminal proposed just across the river in Vancouver.

What's important to recognize, this is a hot commodity right now. Once this double track project is in place, it will exist for decades, if not

1 centuries to come. And so one question to
2 consider is the risk that it will place on
3 the Gorge and the Columbia River Act for many
4 generations to come with a project of this size and
5 scale. As Union Pacific explained, this project was
6 about improving efficiencies to their system. This
7 is about a private company that wants to pay its
8 shareholders.
9 We are a community in the Gorge, but we
10 are also a community here in the Columbia River.
11 And this project undercuts our investment in a
12 strong Columbia River, in a strong Columbia River
13 community. They have very diverse economies.
14 Economies that depend on the rail line, depend on
15 other factors as well, including clean water and clean
16 air.
17 I, again, encourage you to consider the
18 detailed legal and technical comments in evidence
19 filed by Friends of Columbia River Gorge and deny
20 this application. Thank you for your time.
21 MR. Kahn: My name is Gary Kahn. I am an
22 attorney with Reeves, Kahn & Hennesy in Portland.
23 I'm here on behalf of Friends of Columbia Gorge.
24 I have been involved with legal issues in the National
25 Scenic Area since 1986. Since that time I have seen

literally thousands of development applications submitted to the Gorge Commission, the Forest Service, in five counties. Of all of those thousands of applications I believe the safety ramifications and possibility of (inaudible) and property damage if this application is approved is enormous. It is more so than any other application that I've seen. I think it is inevitable that there will be a problem. There is a problem -- (inaudible). Now I would like to address specifics.

In 2009 the Oregon Supreme Court reached a decision in a case arising in the National Scenic Area that requires the counties to evaluate the punitive impact of projects, including past, present and likely future actions and actions that are individually significant, but cumulatively significant. The management plan has recently been amended to include the requirements. If cumulatively adverse impacts are identified, the counties must require the avoidance of those impacts or the application must be denied. That's the law.

In short, this analysis is a requirement of the act, but the application here falls far short of what is required. I'm going to give you a couple examples.

One requirement is that all sensitive plant species be protected and surrounded by an undisturbed

200-foot buffer zone. (Inaudible) The railroad has acknowledged this buffer zone will not be met and thus has requested a variance. To receive a variance the Applicant must prove that there are no practicable alternatives and all adverse effects would be fully mitigated. Again, right out of the ordinance.

The UP has not completed an adequate practical alternatives test as part of application, it has not considered other reasonable alternatives, nor has it applied the test on a parcel-by-parcel basis as is required by a plain reading of the county ordinance. Rather than meeting the legal requirements for protection of the resources, the 200-foot buffer zone, or the legal criteria for the variance, the applicant merely proposes to, quote: avoid sensitive species and priority habitats to the extent practical. The application cannot be approved in its form.

Second example, the ordinance requires that projects must maintain, protect, and enhance the integrity and function of priority habitat, this must include the consideration of the human impacts. As an example of what the application includes, rather than protecting this oak woodland, UP proposes to cut down all the trees, grade the area and set up a

rock crushing point of operation on it on 6.62 acres. That does not meet the legal criteria, nor does it meet criteria for a variance. We strongly urge that the application should be denied. Thank you.

MR. OLSEN: All right. Next we have Jordan Secter, Nathan Baker, and Ryan Rittenhouse.

MR. SECTER: Hello. My name is Jordan Secter. I'm a landscape architect and departmental planner.

UNIDENTIFIED SPEAKER: Speak up.

MR. SECTER: Sorry. Thank you.

My name is Jordan Secter. I'm with WHPacific. I'm a departmental planner, senior resource specialist. I have been asked here today to discuss the visibility and scenic criteria that was proposed in the Applicant process in their plan.

It's our professional opinion that the Applicant's analysis of the visual impacts provided is inadequate and their findings are not supported by the information provided. Five specific key points that I'd like to discuss are the potential visibility for key viewing areas is understated using available methods, and is incomplete; project features, particularly rock preservation areas are not well described, mapped, or analyzed. They are just diagrammed in the plan. Views from the Columbia River, from the water back to the

project are accounted for as a proponent of the recreation or industrial experience, river base experience. Mitigation measures and simulation showing the reduction of potential impacts were not included in the report. And the analysis fails to address or describe effective environments and impact to visual character and how the project relates to change to the existing features.

As the Planning Commission report describes, the potential visual impacts is significantly understated. The visual quality objective standards for scenic quality in the special management portion of the CGNSA are mostly not visually evident. Meaning no obvious change or contrast in visual subordination, which limits the visual change or contrast within the study area.

There is high potential for this project. That as proposed will not meet either standard. Particularly the east end of the cut-through, the rock mesa, as viewed from one or more of the key viewing areas. While it is possible that the design and mitigation, visual mitigation, could reduce impacts within the scenic area, it's impossible to know without more analysis.

Within our report, which I want to go through now, we've identified some key figures and additional information will need to be added so that we can provide -- so we can provide more analysis and standards.

That said, the additional analysis should include a GIS basis, a GIS base assessment for potential visibility of the project for key viewing areas within at least five miles -- within a five-mile radius. Key viewing areas should be considered from the Columbia River and I-84 and viewing areas above the mesa. A more detailed description of the mapping identified -- identifying proposed staging areas regarding their impacts to the visual condition and provide visual simulations for key viewing areas and potential for visual impacts.

One last point on the visual simulations. In following the traditional methodologies for visual -- for addressing scenic impacts, it's important to understand and to look at the simulations to understand what the proposed project will look like in its proposed condition from their view analysis and great contrast provide (inaudible) the report.

And secondly, from there develop visual mitigation options and re-simulate those options and

to see if we're meeting those visual quality objectives. Without those we're not going to be able to (inaudible). Thank you.

MR. BAKER: Good afternoon. My name is Nathan Baker. I'm a senior staff attorney with Friends of Columbia Gorge. I thank you for allowing us to speak to you this afternoon.

On a procedural note, I just want to support the idea of keeping the record open for seven days after this hearing; the chairman mentioned that. There will be a motion to support that and we do plan on submitting further comments in writing after that during that time period.

Ms. Brewer, I'm generally going to speak about the scenic impacts of the project.

Ms. Brewer described the two scenic standards that applies to this project, which are visual subordinates and not visually evident.

Visual subordinates mean that a project must blend in with the surroundings. And not visually evident means that the observer can see it. And that's a fair characterization of the standard, we would agree with that.

Now the latter standard, not visually evident, applies in the special management areas

portions of the project, which is a very strict standard. Like I said, we can't see the project.

And, yet, the Applicant has not submitted any landscaping plans, has not proposed any new screening trees to screen the development from key viewing areas, none at all. And the application does not explain how much of this project would actually be visible from the key viewing areas. And that is a requirement of the ordinance. The ordinance requires the findings to address, quote, the amount of area of the building site exposed to key viewing areas. So there's no way around it. It must be done. And that information has not been supplied by the Applicant.

So, we don't know -- I mean, this is a large project, one of the largest projects ever proposed in the Scenic Area. There will be a lot of development exposed to key viewing areas and yet, there's no estimate as to how much that will be.

The proposed conditions of approval do require existing screening trees in the few areas that are screening to be retained, but there is no identification of those screening trees. And there's no requirement to replace any dead or dying

trees.

There is a -- there is a setback from the Columbia River, a 100-foot setback, required for clean-up reasons. The Applicant has requested a variance from that setback. In order to get a variance, the Applicant would have to show that without the variance the project site would be "unbuildable." Well, obviously the site is buildable and useable. It's being used right now and will continue to be used if this application is denied.

We will follow up in writing with additional comments but in general, there's simply not enough information or evidence in the record and in the application to justify approving this application and in some areas the evidence that is submitted, the standard will not be met. Particularly, in special management areas the standard is not visually evident.

Thank you.

MR. RITTENHOUSE: Good afternoon. My name is Ryan Rittenhouse. I work with Friends of the Columbia Gorge. I thank you again for this opportunity to speak to all of you. I will be addressing the cultural impacts, specifically that County approval of this proposed double tracking must ensure that community adverse impacts on cultural

resources in a natural scenic area are prevented. Unfortunately, the cultural survey that was completed by the railroad's contractor was incomplete. The railroad already has acknowledged that it failed to survey large areas. Why? Because of blackberries, brambles, and poison oak.

When it became inconvenient to survey for cultural artifacts, the railroad simply stopped surveying. The area that was not surveyed has been identified as having a high likelihood of having historic recontact artifacts by the Oregon Parks and Recreation Department.

Staff of OPRD has called for additional survey work in this area for cultural resources, and we concur that this is necessary. Under the adjudicated decision handed down in the Eagle Ridge decision, this survey work must be done before the County approves the application. Deferring this work for additional approval is not legally adequate.

In addition, due to potentially increased train traffic, the tribes have identified health and safety issues and interference with their treaty rights as well. So due to the likely impacts on cultural resources and the National Scenic Area, we ask you to deny this permit.

How many minutes do I have?

MR. OLSEN: About a minute and a half.
MR. RITTENHOUSE: Oh, great. Can I get a quick show of hands of everybody who is opposed to this rail --
MR. OLSEN: I am sorry, it's impossible for us to capture it that way.
(Pause in Proceedings)
MR. OLSEN: Kevin Gorman, Michael Lang, Dan Serres.
MR. GORMAN: Thank you. My name is Kevin Gorman. I'm the executive director at Friends of the Columbia Gorge. And before I start, I wanted to thank, really on behalf of the entire organization, the County staff. We know it's a lot of work, and it's a tough issue. And I take partial responsibility for several of the large items that you are receiving.
We've all heard that this is a National Scenic Area, you know, the two purposes of the Act. And our take here is that this proposal really is in contrast with both purposes of the act, not only the protection of the resources, but the protection of the community.
My focus here is to really touch on the recreation side. And your County codes require that recreation sites be protected from adjacent uses that would detract from their use and enjoyment.
Now, this project proposal includes rock crushing, road building, collapsing, grading and

trrack destruction on land adjacent to Memaloose State Park. The Applicant even concedes in its application that there would be adverse effects on the recreational resources, yet it did not propose the legally required mitigation measures.

Further permanent degradation of this recreation resource, the state park, would also likely occur due to more frequent train traffic waking campers and detracting from the experience at Memaloose State Park.

In addition, the applicants want a land transfer that would make Memaloose State Park smaller and for a new track to be constructed adjacent to the camping area. Now, reducing the size of the park as UP proposed would unlawfully result in displacement of existing recreation resources.

Now, the Oregon State Parks Commission, after a lot of public outcry, decided not to complete the land transfer on portions of Memaloose that the railroad said in its application was necessary to meet federal safety laws. So, if the land transfer took place, the application would need to be denied because it would harm current recreation resources. If the land transfer did not take place, then the proposed project cannot be completed as proposed and a new

application should be submitted. Either way, due to the adverse effect on recreation, the application cannot be lawfully approved in its current form. Thank you.

MR. LANG: Good evening. My name is Michael Lang. I'm conservation director for Friends of the Columbia Gorge. Before I get started on my prepared testimony, I'd just like to take an issue with one of the statements made earlier, that oil trains started moving through the Gorge on the UP line last December. Actually it was April of 2014, to our knowledge, when the first unit train went through the Gorge. We took pictures of it, and they were published in the Oregonian. There were several articles about it too, so just wanted to clarify that.

I'd like to talk about issues that are included in the conditional use criteria. I also took a few notes on the facts.

First of all, the project would result in significant increases in rail traffic through the Gorge and the entire region. We wanted really to take a close look at this, so we hired two experts, Terry Whiteside and also Gerald Fauth, to perform independent analysis of the rail traffic increases and impacts on this. They have extensive experience

in working with the railroads for many years on these issues. They determined that because of this particular location of the proposed project that this would increase the operational or practical capacity up to 75 to 100 trains per day. So that's just capacity. And also with the lifting of the crude oil export ban, there are a lot of proposals for oil by rail terminals. Our experts determined that with all of the upgrades that Union Pacific is making, the timing is inescapable that they have their eye on serving these oil and possible export terminals.

According to Union Pacific, 25 to 30 trains per day currently move through Mosier. The Union Pacific planned that this could increase five to seven trains per day. Our experts, and this is submitted into the record, found that the current capacity is 30 to 48 trains per day at the current configuration. So what that would mean is that they could accommodate their current increases without this project being approved just with the current single line.

I wanted to also address that Union Pacific was at fault and they have admitted that for the Mosier derailment. The Federal Railroad Administration released a report in June finding that Union Pacific was at fault for that accident.

They didn't follow safety procedures.

Also, overall, the Federal Railroad Administration reports that Union Pacific has more accident statistics compared with their peers. For example, in 2014 they experienced 3.17 accidents per one million miles of road -- of track travel. The industry average is 2.59 accidents per one million miles. If Union Pacific operated all the trains on tracks in the U.S., we would have experienced 2,576 more accidents in 2015 than is currently occurring.

So, I'd just like to conclude, yeah, I'd just like to wrap it up here, including the likely increases in rail traffic, coupled with the poor safety record, would result to harm to Gorge resources, harm to its economy, and harm to its communities, and fails to comport with the required criteria of the ordinance and should be denied. Thank you.

Mr. SERRES: My name is Dan Serres. I am the conservation director for Columbia Riverkeepers. Thank you for your attention to this hearing.

You'll hear a lot during public testimony about oil and coal trains. And that testimony is very relevant to the Wasco County code that applies to this project. Particularly as Michael Lang

pointed out, conditional use criteria (inaudible) oil and coal train by any passage of water to air safety. The staff report didn't have the benefit of all of the testimony we've already heard today, which included testimony from Mosier. And they clearly point out that, for instance, the conditional use criteria holds public safety as one of those standards. And their testimony indicates that increased oil train traffic from this project would have impact on Mosier's public safety, on the ability of firefighters to address that issue.

Oil trains pose a huge risk (inaudible). Best-case scenario. An accident nearly wiped out the town. And what we see in a case of this kind of track extension would be a dramatic increase in not just oil trains, but also coal trains that release coal at such a high volume they (inaudible) the tracks and create safety risks for other trains on the tracks.

So putting these things together, what you will hear from many people in the community, see so many people have packed this room, and maybe not a single person from the public in favor of this project is the fact that oil trains are an overwhelming risk.

The Union Pacific has come here to ask

our permission to facilitate a dramatic increase in oil train capacity. We don't know by the fact that this will all be the same, the traffic will be the same, regardless of the fact (inaudible). Instead it asked permission to allow more oil trains over the Columbia River Gorge. That means you have the right to deny their permission. You are here with the responsibility to protect public safety, to protect wildlife and another conditional use standards, to protect wildlife.

Right now Mosier's dealing with groundwater that's contaminated with high levels of benzene from the type of oil train accident that will be the predictable result of increased oil train traffic. What happened in Mosier wasn't an accident. It wasn't something far from our imagination. It was something we were expecting, we were overdue for based on the amount of oil train traffic you see coming through the Columbia River Gorge.

You have the ability here today to send a message to make to make a statement, to apply your rules the State asked you to apply and deny this project. Thank you.

MR. OLSEN: All right. Next up we have Paul Beefstock, Michael Early, and Judy Parker --

excuse me, Jill Parker.

UNIDENTIFIED SPEAKER: He had to leave. Paul left.

MR. OLSEN: All right. Then let's see, next after that would be Richard Hodgin from Seattle.

MR. HODGIN: My name is Richard Hodgin. And I'm at 6524 26th Avenue Northeast, in Seattle, Washington. I belong to many organizations, but I'm here to speak for myself today.

I am a person of faith. My faith requires me to speak out on moral issues regarding protecting our environment. My faith community teaches us we are on Earth to heal ourselves, our communities, and our world. We have a healing prayer that includes two lines and they read: Help us find the courage to make our lives a blessing. You might note it doesn't say "Give us the courage." We're individually challenged to open our hearts and make our lives a blessing.

This last week we saw that we have a new person in the Catholic Church that's a saint. I want you to know I already submitted the name of Jim Appleton. And let me say that he found the courage to make his life a blessing. And I quote from OPS. You said there that in the past you tried to reassure this town that the Union Pacific Railroad had a

great safety record and that the accidents are rare. After a long night with hazard material teams and firefighters from across the Northwest, Appleton no longer believes shipping oil by rail is safe. "I hope that" -- this is his quote. "I hope this will become the death knell of this mode of shipping this cargo. I think it's insane."

I grew up in the state of Washington. And I've spent many a beautiful day down here in Oregon. We're all neighbors. We're only divided by a river.

In 1966, I was a senior in high school at Mount Vernon High School and I was in the choir. We were wearing white shirts, dress shirts, and green cummerbunds and we traveled to the state legislature in Olympia to passionately sing our state song "Washington. My home."

MR. OLSEN: Sir, I need to have you wrap up.

MR. HODGIN: I'll do that. Thank you.

Let me say because of my neighborly feelings, here is the refrain from that song: "Oregon, my home, wherever I may roam, this is my land, my native land. Washington, my home, our fervent forest green, caressed by silvery streams,

from mountain peaks to hills of wheat, Oregon, my home". I want this state to protect my home and all the homes along the Columbia Gorge.

Thank you very much.

MS. BARKER: Hello. My name is Jill Barker and I live in Mosier, Oregon, P.O. Box 572. And I'm here to ask the Planning Commission to deny this request. I have so many objections to this project that it's hard to focus and narrow it down for this hearing.

It would be a very huge increase in rail traffic in the Gorge. And I believe this would be a huge danger to the environment and to the community in the Columbia River Gorge.

Hello? These dangerous bomb trains, the bomb train, which people are calling them, they literally are bomb trains, are a huge danger to the Gorge. And one of the things I haven't heard anybody say before this hearing, or even discuss, is that these trains are not only derailed because of faulty tracks or faulty trains, they're very often the temperature, high temperatures will cause spontaneous combustion which makes the train explode and that causes the derailment and the subsequent fires. So, that hasn't even been

discussed.

We all know in the Gorge in the summer we often get triple digits temperature wise. And I think that this hasn't even been addressed. So, I think it was in West Virginia where one of the trains derailed carrying explosive oil was -- would do the same thing, I think, spontaneous combustion.

I think it's obvious that the Union Pacific doesn't care about the research of the safety of the communities in the Gorge. They -- especially after the derailment in Mosier on June 3rd, coal trains were going through and oil trains are going through just two days after the derailment and the safety issues weren't even resolved or the clean-up wasn't completed.

The other issue is the devastating wildfires that occur. This will not only affect the City of Mosier, but the environment all around Mosier. And we know that that's one of the problems in the Gorge in the summertime, it's unstoppable. Once a fire starts, it can incinerate the whole area.

MR. OLSEN: I need you to wrap up, ma'am.

MS. BARKER: And this is all for the benefit of Union Pacific foreign oil market. It doesn't benefit the local communities whatsoever. It's

profit margin abuse. Union Pacific is concerned about shareholders and it's completely arrogant and unthinkable. Thank you.

MR. OLSEN: Thank you.

MS. BARKER: Thank you.

Regina Merritt, Dr. Theodore Tsongas, and Dr. Nancy Crumpacker.

MS. MERRITT: Good afternoon. My name is Regina Merritt. I'm here representing the Oregon Physicians for Social Responsibility. On behalf of our 2500 medical professionals and public health advocates, I ask you to deny this application. Most of our substantive comments are included in a letter I submitted to you in August. So today I'm going to read you testimony from my friend and colleague who cannot be here, because she is with her patients this afternoon.

"My name is Maria McCormick and I appreciate the opportunity to have my comments read before the Wasco County Planning Commission. I am a mother. I am a farmer's wife and a family physician. And my family farm is in Mosier. We also grow grapes and have a winery with our extended family right along the Columbia River along the BNSF lines in Washington. You all know what happened in Mosier on June 3rd. That oil train derailed and caught on fire 600 feet

from Mosier Community School.

"Three months ago when the oil train crashed, we didn't know what was going to happen to our town. My husband and I were particularly fearful that day, not just because of the environmental disaster that was happening in our small town, but we recall that in the mid '80s a passenger train on the UP line sparked a fire that (inaudible) in downtown Mosier. That quick-spreading fire destroyed the family home on what is now our land. Accidents can happen, and that one was devastating. There are (inaudible) traveling our tracks now. We cannot describe what happened in Mosier on June 3rd or any other oil by rail derailment as an accident. These are predictable catastrophes and there will be more and more, like the one in (inaudible) that killed 47 and displaced 2,000 people and destroyed much of the downtown of that town.

"It will be that way until we stop them bringing oil by rail. The risk of another catastrophic oil catastrophe in Mosier or anywhere along the UP line means the life of our children, it means our livelihoods, it means the lives of my patients and thier families.

"In Planning Commission documents prepared

for today UP reports that line traffic is not expected to increase in the Gorge as a result of the rail extension in Mosier.

"That people rely on foxes to report (inaudible) chickens (inaudible). Of course traffic will increase, and that means more oil going through the Gorge putting the health and safety of all of us at risk. Please vote no on allowing expansion of the UP line through Mosier.

Thank you. Dr. Maureen McCormick."

DR. TSONGAS: Hi. I am Dr. Theodore Tsongas. 7224 Southest Madison in Portland. I am an environmental health scientist. I am a member of the Environmental Health Work Group of Oregon Physicians for Social Responsibility and a member of the Multnomah County Emergency Planning Committee. I'm going to talk today about fire safety standards.

Since the project will be reviewed for conditional use under the National Scenic Act, it must comply with the fire safety standards, in Chapter 11. The project application does not address the fire safety standards in Chapter 11.

Given the history of wildfires started by railroads in the Gorge, this ommission is particularly glaring and requires denial of the application.

Also, the new track would allow longer, faster, and more frequent trains bearing highly volatile crude oil. The failure of the Applicant to address Chapter 11 is a basis to deny the application. The additional trains that will be enabled by the efficiency improvement proposed by the Applicant, no matter the train content, could have impacts on the National Scenic Area. The Rowena Plan describes the fire conditions to this stretch of track. Given the (inaudible) flashy fuel load, the predominant wind patterns and wild land urban interface, any fire within the planning area between late May and late October is potentially significant.

Light flashy fuel, such as (inaudible) grass, coupled with heat flow and strong west winds, combine to generate explosive fire behavior characterized by rapid rates of spread. Such fire behavior within the wildland urban interface generates significant public and firefighter safety concerns. The Rowena Plan also describes the incidence of wildfires in only this small part of National Scenic Area. Fire statistics from 1992 to 2004 indicates itself 34 fires burned in the planning area within that time period. These fires were all human caused and range in source from fireworks and cigarettes to

railroad, farm equipment, and power lines. Of these 34 fires, nine fires will be classified as significant based on size and complexity.

The new facilities proposed by the Union Pacific Railroad would allow five to seven longer trains to pass through this National Scenic Area per day. This would necessarily result in more fires started to this National Scenic Area. Fires often result in degradation of the scenic, natural, cultural, and recreation resources of the National Scenic Area and damage to property. A permit can't be lawfully issued without taking these adverse effects on protected resources of the Columbia River Gorge National Scenic Area into account.

Thank you.

MR. OLSEN: All right. Next we have Don Steinke, Alana Steinke, and Jane (inaudible).

DR. CRUMPACKER: My name is Dr. Nancy Crumpacker. I am a retired physician. I live in Portland.

I oppose Union Pacific Railroad's application (inaudible) the increasing number and speed of trains cause significant risk to the health of the residents of Mosier and other Gorge communities and also worsening air pollution.

Coal dust and the dangers of oil explosions has certainly already been mentioned. Coal dust inhalation can cause permanent lung disease as well as (inaudible). It contains brain-disrupting minerals like Mercury and lead and cancer-causing chemicals. These train engines burn diesel fuel. The exhaust contains cancer-causing particles and diesel exhaust is related to asthma in children and heart and lung diseases in adults.

The Columbia River Gorge National Scenic Area is currently impacted by air pollution. A 2005 study by the U.S. Forest Service and National Park Service of 12 federally managed areas found the Columbia River Gorge, NSA, National Scenic Area, and our national park had the worst annual standard of visual ranges.

A year 2000 U.S. Forest Service study air quality in 39 federally -- federal visibility protected areas found the Gorge had the highest level of haze and the sixth worst visibility pollution. Residents and future visitors should hope for improved air quality to promote visual enjoyment and health. This is a National Scenic Area.

So I urge the Wasco County Planning Department to reject the application. Thank you for your time.

MR. STEINKE: Hello, I'm Don, S-T-E-I-N-K-E. 4833 Northeast 238th Avenue, Vancouver.

My City Council is officially opposed to oil trains; same way with Spokane, Hood River, Stevenson, Seattle, and Cascade Locks and Mosier. You may not think this is about oil and ethanol trains, but it very likely could be.

The staff recommends that the proposed rail expansion be improved only with certain conditions. But once the rail expansion is complete, how do you control it?

You have no control over the railroads.

One year ago the City of Los Angeles voted 15 to zero to oppose a project involving five oil trains per week. You already nearly have that many and White Salmon has 15 per week. If all the crude by rail projects such as in Vancouver and north are approved, that would be 40 more oil trains per week coming through the Gorge. The City of Los Angeles doesn't want five.

If the coal terminal in Longview is approved, there will be 56 more coal trains coming through the Gorge per week. If you think the city doesn't like a condition they will say, "Sorry, federal law preempts local authority." Declare your conditions, but don't give your approval.

By the time you are invited to dinner, you will

recognize you are on the menu.

For example, a month ago the Spokane City Council tried to ban oil trains and uncovered coal trains. BNSF took out a full-page ad to condemn the Spokane City Council for that. A couple days later the City Council reversed course. Even if no more oil trains ever come through Wasco County, a rail expansion seems inconsistent with the Gorge National Scenic Act.

According to the National Transportation Safety Board, ethanol trains are just as dangerous as crude oil trains. And ethanol is already being shipped through the Gorge and an ethanol terminal is being proposed in Vancouver.

There was an ethanol train fire in Portland in early May of 2011. A log fell off the train, causing the ethanol tank car to be ruptured. Papers were ignited. When the firefighters ran out of water, they had to run for cover. Rough terrain made radio communication difficult. There are places in the Gorge where firefighters can't even get to the train tracks.

MR. OLSEN: Sorry, sir, we need to have you wrap up, please.

MR. STEINKE: Don't approve this project unless the tribes approve and unless your neighboring cities

approve. Thank you.

MS. STEINKE: Good afternoon. My name is Alana Steinke. I'm from Vancouver, Washington. There are so many reasons to deny this rail expansion. One reason is that, according to rail traffic experts, there will be a tenfold increase in train traffic along the Columbia River.

As a retired RN and someone who has asthma, I'm concerned about the effects of this on our health. The World Health Organization reported that air pollution killed 7 million people in 2012. This study confirmed air pollution is now the world's greatest single environmental health risk. One in every eight deaths is linked to it.

Dr. Kirk Straif, head of the International Agency for Research on Cancer, said that we now know that outdoor air pollution is not only a risk to health in general, but it's also a a leading environmental cause to cancer and one of the greatest contributors to outdoor air pollution is diesel exhaust.

Diesel exhaust contains more than 40 toxic air pollutants. And each coal and oil train has three to four diesel locomotives. I saw them this morning on my way here. Some of those

pollutants have been named before: nitrogen oxide, sulfur dioxide, aromatic hydrocarbons. The exhaust also contains cancer-causing agents, including formaldehyde, benzene, and nickel. One of the most dangerous pollutants is particulate matter, especially PM 2.5. These are microscopic particles that can get into the lungs and then into the bloodstream, resulting in heart attack, stroke, cancer.

Particulate matter can also enter the placenta, resulting in increased incidents of autism spectrum disorder, lower IQ, and increase behavioral symptoms of anxiety, depression, social problems, and aggression.

A Columbia River Gorge air quality report in 2008 indicated the Columbia River Gorge is home to the worst haze in the Western United States. The Washington State Department of Ecology says that air pollution in Vancouver is already so high that they fail to meet Federal Air Quality Standards, and that nearly happened last year. Clark County is already on a maintenance program for the past month compliance. Since you plan to put conditions on the project, here's one more you should include: Insist that the railroad use only Tier 4 locomotives. Better yet,

deny this project to protect the health of every person in each community along the railroad. Don't allow us to be sacrificed to the rail and fossil fuel corporations.

MS. ELKIN: Hello. My name is Jane Elkin and I live in Mosier, Oregon. I've worked in first Wasco County for over 25 years. So first I will object. Thank you very much. And I support -- I'm fortunate that most of the facts -- I'm a rehabilitation therapist, so I don't come armed with this many facts, like everyone else. What I do come in with is just to ask for you -- for us to take a look at human nature and the nature of business. The best way that we can ensure, number one, safety; number two, Scenic Area noise, is to deny this proposal. There are rules at many levels.

I'm a mother of a teenager and the best way to ensure that, you know, my son does not take out a brand-new Jeep with a beer is not to give it to them. And so, we know who the Applicant -- I mean, I drive a car. I, actually, you know, sometimes hear trains go through my town in a very nice rumble. Most of the time I cannot open my window. So, I mean, we have trains, but where do we want to go? We've got one of the most beautiful areas in the entire country. There isn't the need for this. There's other areas. If we say no, with your help, expansion will happen

in other more appropriate areas. Everybody will get their goods and it could be a win-win plan. I would ask you to look at all the information as would a jury and that be sure that with -- without a shadow of a doubt that this is good for not only Wasco County, the entire Gorge, the entire country. Thank you very much.

MR. HARGRAVE: Okay. We're going to take a pause in the testimony. We're going to take a five-minute break and then we'll reconvene. Thank you.

MR. OLSEN: Just so the people know, the next people up are Gregory Monahan, Bonnie McKinlay, and Elizabeth Dietz.

(Recess.)

CHAIRMAN HARGRAVE: Okay. Thanks for your attention. At this time, we'll resume the public testimony.

MR. OLSEN: All right. Chairman, first of all, the next speakers that I called were Gregory Monahan, Bonnie McKinlay, and Elizabeth Dietz.

A lot of people have asked about how many people are left on the list. Some people have left, others have signed on, so I don't have a totally accurate count, but I'm guessing somewhere between 65 and 70 more speakers, so just one more reason to keep your comments as short as possible so we can get through with this.

Sign-up sheets got a little confused. I'm doing the best we can. In terms of the order, I did have one person with young kids here. If they could raise their hands. (inaudible).

All right. If you want to line up next, we'll take you next. All right. I think we're ready to go.

DR. MONAHAN: My name is Dr. Gregory Monahan. I'm a resident of Portland, Oregon at 7225 South 13th Avenue. I'm here speaking on behalf of the Oregon Chapter of the Sierra Club, where I am the chair of the (inaudible) gas and oil team. The area chapter of the Sierra Club is strongly opposed to granting of this permit for this project for all the reasons listed in our original submitted comments. Should the Planning Commission decide to allow this project to proceed, we fully support the project limitations and the staff recommendations (inaudible). We ask that a method of monitoring and enforcing the traffic volume be (inaudible) permit if you decide to grant one. Perhaps you requiring Union Pacific to furnish certified monthly reports of traffic through the permit area would be a solution for monitoring. I cannot imagine how you could enforce the limitations.

Lastly, if you determine that you cannot impose and enforce a limit on rail traffic as the railroad seems to suggest, we ask that you deny this permit. Thank you for your time.

MS. MCKINLAY: I am Bonnie McKinlay from Portland. Thank you for the opportunity to express my concerns about granting the Union Pacific rail extension. More oil by rail traffic is not beneficial to the Pacific Northwest treasures that is the Columbia River Gorge, its people, its wildlife.

Every June for 30 years as an elementary teacher I joined my students in the giggling joy of the last few days of school. Students and teachers share memories of the past school year and eagerly look forward to the summer ahead. Summer, that vast magical unknown adventures land, free of (inaudible) free of due dates, of grades, of school complete. We did this together; we celebrate together.

Six days after the oil train derailment on June 9th I came to the Mosier Community School not to see the delight of children wiggle with the thrill of imminent vacation, but to join a solemn assembly of the Northwest Tribal Leader officials and understandably exhausted community members speak of oil trains and their fierce

conviction to oppose them. On that day the school building was not a happy, youth-supporting center, but an efficient disaster operations site with hardworking members of state and federal agencies addressing the derailment clean-up.

Because of the oil train derailment, the students of the Mosier Community School were denied those last auspicious days of school. Of course, the unfortunate outcome is nothing compared to the unthinkable tragedy that could have unfolded in this community without the grace of that unusual windless Gorge day of June 3, 2016. I say "unthinkable" because I don't want to think of it; none of us do.

To stop these terrifying thoughts we have stopped the free rein of oil industry to put school children and their loving parents at perpetual risk. In Oregon alone, 284 schools containing over 101,000 students are within the mile-wide radius of an oil by rail blast zone. To the long list of reasons to deny Union Pacifics application, which includes maintaining air quality, honoring tribal fishing rights, preservation of the Columbia River Gorge National Scenic Area, please add the protection of our school children.

MS. DEED: Elizabeth Deed, (inaudible),

Washington. I live in the Gorge and I agree with everybody who has spoken before me. All the reasons that have been brought up are all good reasons, but if you look out and you see hundreds of people have spoken against this. Nobody has spoken in favor of it. So if you go ahead and accept this proposal, then you are not representing the people who elected you. You're not representing the people of the Gorge. I don't know who you're representing. You have to decide that who you're representing.

JENNIFER: Hello, my name is Jennifer (inaudible) and I am here on behalf of all the children in the Columbia River Gorge.

On June 3rd in Mosier an oil train derailed, 250 (inaudible). It was full of oil. We were evacuated and not allowed back in for a full week because that (inaudible) was filled with some toxic in there. Oddly, enough no one was injured. The children, no one wanted to know what they thought. So, I set up interviews with the kids and families and asked them to talk about how they felt. Now the families, many of them are here. However, even more strongly than that, it was really apparent that they trusted the adults in charge to make the right decision for them. They honestly believed the teachers, the principals, their parents, you, would do the best for them no matter what.

Transporting oil by rail is not safe. Expanding the ability for Union Pacific to transport such a volatile commodity is reckless. Kids are not collateral damage for greed. It is not okay to save money for my well-being. Kids of the Columbia Gorge are trusting you with our safety. We are trusting you to be responsible with our future, with my future. Please say no to the Union Pacific Expansion request. Please do not let us down.

CHAIRMAN HARGRAVE: I have a few questions for you. How old are you?

JENNIFER: I am 11.

CHAIRMAN HARGRAVE: And where do you live?

JENNIFER: I live, technically, I live out in Hooddle of nowhere. The closest town to me is White Salmon.

CHAIRMAN HARGRAVE: Okay. Where do you go to school?

JENNIFER: I am home schooled.

CHAIRMAN HARGRAVE: Thank you very much.

JENNIFER: You are welcome.

MR. OLSEN: Anyone else --

KELSEY: My name is Kelsey.(inaudible)

MS. DEMALIES: I'm Kelsey's mom, Marty.

MR. OLSEN: Last name?

MS. DEMALIES: (Inaudible).

I live at 204 Wilson Street, Mosier, Oregon. You guys have an awesome responsibility right now.

You don't get to make the decisions because of how we feel or what we say, you have to look at the law. And I get it, but a lot of brilliant people have brought a lot of great law to you to allow you to say no.

My daughter was at Mosier school on June 3rd. I work in town. I saw that train explode. I wasn't going to bring that up tonight. More tracks are going to mean more trouble. You guys are doing your job. I get it. You don't live in Mosier near the trains every day. Do you realize how much more traffic is going through town? Do you realize the disruption it causes in the school? We are a town of 430 people. We're not just an easy place to run tracks through because you thought we would ignore it. (Inaudible).

You made a statement in June that brought a lot of attention to your lack of standards in maintaining your tracks. You weren't maintaining them. You admitted on your own you were not maintaining them. So why in the world would we allow you to put a second track through our town, our county, our community, our Gorge?

I thank you all for your time and the very difficult position you're put in, in finding the rule of law that allows you to say no. And I thank you for the time of speaking and allowing my daughter to speak.

MR. OLSEN: Please use the silent clapping. After this young lady we have Cedar Croppingham, Chris Turner, and Dave Berger.

MR. BOONSTRAY: Hello. My name is Charlie Boonstray. 18 years old. I am from Hood River, Oregon. Cascade Avenue. I'm here today to make it very clear that I stand in utmost opposition to Union Pacific Rail traffic expansion. I am so blessed, like many others, to call this place my home, but the Gorge is changing. In fact, the world is changing. Climate change has altered the Earth in ways we cannot even fathom. It is because of us. We are burning so much fossil fuel that is fundamentally changing our world. Out of the four and a half billion years as the Earth has existed we have managed to force the extinction of one-quarter of the Earth's animals due to climate change in just a few thousand years. We have managed to create more intense storms and drought in just a few thousand years.

Do you enjoy being outside? Do you enjoy taking your children to the park on weekends, looking at the grand trees and the flowing rivers? Imagine it gone. That's the exact trajectory we are headed in. This expansion of the railroad track to get more oil and coal that is killing my future. It's wrong. It's immoral.

Unlike many who are older than me, I have

grown up with fear that the planet might not be habitable for my children or my grandchildren or my favorite animals. I cannot urge you any more strongly to reject this project with pride. Please take steps to help your grandchildren not have to fight quite as hard to save our planet when they get older. Thank you.

MR. OLSEN: Peter Brogensten, Chris Turner, and Dave Berger.

MR. TURNER: Okay. Well, thank you for your time. I'm against this project because of safety issues. I live in the flat area. And I want to talk real quickly about (inaudible). I oppose this train for safety reasons. Trains are statistically more likely to have accidents if there's more tracks, and we've already had accidents. Earthquakes should be added into the site, because remember from Hiroshima there's also an addition of another possible accidents occurring. Train speeds need to be reduced. Trains now are ripping through Lyle at speeds like I've never seen with 100 cars or more and oil attached to them. We need to look at the communal impact of the trains regarding air emissions and impacts on water. We have to look at toxic loadings of all these things in the air and the water as well. And as far as -- we also need to get background data on what's in the air

and water right now so you can compare things to the future.

As far as efficiency is concerned, which is what that is all about, why don't we have the two corporations on each side of the river talk about running the trains in one direction one way and the other direction in another; then we don't need to keep expanding tracks.

You're looking at blowing up a wall to create, you know, more space for tracks. And if you blow up that wall, you got to look at noise and because, in fact, walls reflect noise, and that's going to cause a greater impact everywhere.

So you need to have accoustical consultants to look at the impact. You need to treat the trains like you treated me when I put up my solar panels; they made me look at three options for mitigation, just for my solar panels. And then they asked me to put up trees in front of my solar panels. So I want the trains to be treated like me. You guys are surrogates of the Gorge Commission. You need to do the Gorge Commission best.

And the insanity of it relates to the burning of fossil fuel. So if we are going to look at the burning of the fossil fuel and we are going to ship stuff overseas, we need to think about well, the coal in the ground could be beneficial to the American people. The oil could be beneficial to the American people. We need a national

energy standard. The Gorge Commission which you, again, are a surrogate of, should be pressing for priorities and how we extract energy, what we do with energy, how we create jobs of energy, and whether we're sending any of this stuff, including coal, overseas.

So I really appreciate your efforts up to now. The covering of the trains is a huge difference, but we can't stop these things from exploding. If you want to add another thing, add a standard about how fast the trains can go through towns and add a standard of about how protective these trains should be based on speed, and it can't be 15 miles an hour. They don't go 15 miles an hour. We need a kind of train -- a train with brakes would be very nice.

MR. OLSEN: I call Peter Brodgenton and Chris Turner.

MR. TURNER: All right. My name is Chris Turner. I live in Cowlitz County. I have never seen a region in this country that is so hell-bent on destroying the beautiful land and scenery that matches the Pacific Northwest, especially in the Columbia Gorge and Columbia River.

In going to all of these hearings, one of the things the railroad companies have always stressed to us is that they
have plenty of infrastructure to be able to deal with any

of the proposals that are being put in application for the Columbia Gorge. They say they don't need any more infrastructure improvement.

This project should be considered new construction. And the reason I'm saying that is because of all the things that it's going to do. You try to (inaudible) 50 percent variances in your rules. You're messing with plant and wildlife habitat. Destruction is going to increase, increased train traffic, of above 20 or 30 trains a day that you have, maybe by two times that amount.

You're going to be encroaching on buffer zones in the Columbia River. You're going to be encroaching on setbacks that are set. You're going to be blasting hillsides down. You are going to be stressing the fireability of the Gorge. You're going to be clearing hillsides. (Inaudible). This sounds like what the Wasco County residents felt was a minor repair, maintenance, or even slight expansion of the railroad system.

his should be considered new construction. The proposed project is being created to make a parking lot, a train yard switching area right next to the Columbia River. Who wants to see trains that are sitting right next to the Columbia River? And we -- on both sides of the Gorge, either before or after the Gorge, not be parking them in the middle of it.

I would suggest that to the Planning Commission that you deny this for concerns of public health and safety. And all the ordinances, rules, and codes you have in place that this is going to violate.

And as far as Union Pacific, please spend more time and money in maintaining your own tracks that you already have that apparently you have not been maintaining. Thank you.

MR. OLSEN: Next we have Deborah Porschersky, Georgia Opherin, and Craig Cumberland. Any of those people, Deborah Porschersky, Georgia Opherin and Craig Cumberland. Thank you.

MS. POSCHERSKY: Hi my name is Deborah Poschersky. It's a tough one. Don't worry about it. I won't ask you to spell it.

Hello, members of the council, the Commission, whatever. I'm sorry, I do not hear so well, but I live in Portland, Oregon. My address is 16005 East Burnside. I am in the edge of what you call the last evacuation zone of the railroad tracks on the Columbia River. I border Northeast, East Portland, and Gresham. The Portland Metro contains right now 700,000 people, so if you're looking at who might all be affected in the blast zone, you're talking about several hundred thousand people, not

only in Portland, but there are all communities that go up and down the beautiful Columbia River and the Columbia River Gorge.

I watched your graphics and saw how you said out of the northwest corner of Oregon we import and export 12 to 20 percent of the chemicals on the rails. I couldn't see oil, so I am assuming you put oil as chemicals. I'm only assuming that. I have a big, big issue with chemicals, as many of the people who talked about air pollution, water pollution, soil pollution, and, of course, our beautiful scenic and river pollution.

I was disabled at a very early age. My body was poisoned by five chemicals. I am what they call the canary in the coal mine. People who respond very sensitively and terribly to chemicals, to poisonous chemicals. Mercury, arsenic, and hexavalent, chromium, hexium chromate are just some of them.

Our locomotives in the United States are outdated. They're not even (inaudible)-- compared to some of the rest of the world. They deposit and emit into our air, our soil, and our water.

Union Pacific will be greatly served to update and enhance their safety protocols, their locomotives

be a model for the United States. Be a model for Oregon. Be a model for the world.

We talked about renewable energy for the country, but yet we keep and keep and keep putting into fossil fuels.

If one life is of no value, then no lives are of value. Whose lives is it okay to -- whose life is it okay to incinerate?

I can't work one to three jobs anymore to support my family and I have very low-wage job due to my disability due to chemicals in our environment. I moved to the Northwest because I love it, because there's some trees left. Trees clean the air, as do rivers and oceans.

I heard of Mosier, Oregon back in the Eastern United States. I read about the cherry trees. I read about Fruit Loop -- I read about the gateway to the Willamette Valley. The Willamette Valley is one of the only places in the world that grows almost every kind of berry. They're the best in the world. This is a special place. Rivers are a special place. People are special.

MR. OLSEN: Thank you, ma'am.

MS. POSCHERSKY: My time I... thank you for all your considerations for all the wonderful people who showed up.

MR. OLSEN: Next up after this speaker are Lauren Picard, Kathy Samson Cruise, and Charlenev Amoda.

MR. HEVERLY: My name is Craig Heverly. I live in Portland, down river. I am a retired priest. I am grandfather of three. It is in their name I am coming here tonight to talk to you.

I grew up in Western New York and the native folks in that part of the world have this wonderful tradition, or wise practice of when they were having to decide something important, as you are about to decide something important, they said what effect is this going to have on seven generations down the road? And it served them wonderfully well for centuries. It seems to me that if you look at seven generations down the road, fossil fuels are going to be dead, either because in our wisdom we were able to stop this rush and keep them in the ground and develop the sustainable energy sources or because you kept on doing what you are doing and you became totally devoid of any more fossil fuels. They are all gone.

So I am asking you to play the (inaudible). I am asking you to turn this down. I don't know if it's possible for us to think in terms of seven generations, but I am asking you to think at least

in terms of three generations for my grandchildren. So in the name of Viola and Dixon and Fula, I am asking you to turn this down. Thank you.

MR. PICARD: Good evening. My name is Mark Picard. I served on Hood River City Council for ten years and I've been a firefighter professionally for 20 years. I live at 701 Hazel Avenue, Hood River. Thanks for listening to us tonight.

In the last five years, we've seen numerous train derailments, spills, and fires nationwide. Most recently, despite Union Pacific's assurances that they operate safely, then we see a derailment in Mosier on June 3rd, which could have blown up that town and killed many people.

And the Federal Railroad Administration determined this derailment was caused by Union Pacific's negligence. So, I must admit on a state of disbelief that Union Pacific would have the audacity to ask you approval for more track when we know for a fact that their existing track is unsafe.

I agree with the former National Transportation Safety Board Chair Jim Hall, who wrote in the Oregonian a few days after derailment. And I quote, "We need to phase out rail shipments of crude oil and we need to begin in our nation’s most sensitive

regions like the Columbia River Gorge before the next accident devastates this America treasure".

Section 1.030 the NSA Land Use, Development Ordinances states as one of the purpose is to promote safety from fire and national disaster. If you allow this additional track, which will facilitate more oil train traffic through our region, you'll be doing exactly the opposite of this purpose.

In 2014 the City of Hood River surveyed all four area fire departments on their readiness for derailment and all said they were unprepared for such an event. Our regional fire departments have minimal foam and they have no significant moving materials. Although the railroad seems to have millions of dollars available to lobby federal officials to delay things like safer tank cars, and advance braking system and to preserve their common carrier status, they refuse to provide adequate training and equipment, equipment necessary for our local responders to safely and effectively deal with oil train derailments. There is no teeth in the staff recommendation to ensure they do so.

You rely solely on the good faith of the Union Pacific, who have already demonstrated their negligence and incompetence. To let it burn, is

the railroad's straategy with oil train fires. With the high winds, you all know what would happen if they let it burn. The fire would spread to surrounding hills and we would have a wildland conflagration of cataclysmic portions.

We were lucky Mosier happened on a windless day.

Two of the criteria for this conditional use review requires a determination of proposed use will not burden fire facilities and available services, nor significantly increase fire hazard, fire suppression cost, or risks to fire suppression personnel. In my professional opinion and after years of studying this issue, there is no way the safety requirements can be met.

I ask you to please deny this project on these ground and help protect Gorge residents and first responders from dangerous increasing oil train traffic that this additional track will bring to our communities. Thank you.

CHAIRMAN HARGRAVE: Laurent, one question: You said in your professional opinion? What is your profession?

MR. PICARD: I have been a special firefighter for 20 years. Currently fire lieutenant.

CHAIRMAN HARGRAVE: Thank you.

MR. OLSEN: Kathy Samson-Kruse and Charlene Immoda.

CHAIRMAN HARGRAVE: What were those three names, please.

MR. OLSEN: Kathy Samson-Kruse and Charlene Immoda. That's it.

MS. KRUSE: Kathy Samson-Kruse. I come from a long line of keepers, since, 1855. For those of you that don't know, my father is (inaudible) chief of the (inaudible). He can't be here today. He is (inaudible) with (inaudible) of the treaty. They promised us many things in that treaty of 1855. I am going to leave you a copy of that treaty so that you may know that is what we live by. In that treaty by the President (inaudible) it says the railroad and the highway and those roads will have right way or you will not have this treaty.

In fact, they said up at the (inaudible) Treaty Council, "Your people will be knee high in blood if you do not sign." And that treaty council stood days and days and days trying to make negotiation happen. Chief (inaudible) finally signed and was killed a few days later.

They promised many things in that treaty,

as you will read: A house, furnishings, oxens, land clear from Sumpter Point clear up to the Hood River. None of that came true.

1855 is a long time ago, but we will still stand here. We will still survive. I take this picture of my little Juniper. She's the youngest granddaughter I have. She's Wasco and (inaudible). When you carry that Wasco name, there's a lot of people that stand behind it. Honor it. I speak for them. We know they cannot speak for themselves. Right here in your mountains those (inaudible) live. When we leave this land, they will stand up and they will say how did the people treat you? That salmon will stand up on the other side and he will say, "How did the people treat you?" The roots, the (inaudible), the house, they will stand up. The deer and the elk, they will stand up. How did the people treat you? That is the command witch, that is not written in your paper. It is not even in your book sometimes, but it's in our hearts. That's why I come here today.

I am not an elected leader. I'm only a grandma. They call me Ella. But we when we come with the truth from our hearts, you have to listen. So, I'm the only Native in the room. I'm here.

I'm witness to this today. And I thank all of you for standing for those who cannot speak. Thank you. Good day.

(Applause)

MS. IMMODA: Wasco County Planning Commission, my name is Charlene Immoda. I live in Hood River and I live at -- (inaudible) is the street. 132 (inaudible) Drive, number 28. And thank you, the last two speakers. The fire speaker and the Native American speaker, they are perfect because it set perfect for what I am going to speak to.

So the title. I am speaking today as a mother. Thank you, panel, for this long afternoon, all this patience listening. Thank you for this important decision, a very crucial decision for not only us, as we are saying, but for the children. In my (inaudible) accountability, but a different kind of accountability. Kind of tough mother kind of accountability. Really good mothers are tough and strong. They are a good bunch.

So I want to say something strong. What we are talking about today is having more rail, extra rail, extra track, extra trains. I propose we go the opposite direction, which is that, we need to have

more accountability from Union Pacific about what is on those trains, at what time when they hit the Dalles and Mosier, and Hood River because of the first responders, firemen, how will they know how best to respond. Secondly, what if you're a mother or a father on the tracks and there is a derailment. You're going to want to know, what accountability there is. What gases are coming out, and what (inaudible) is going to happen.

So, as parents, please, we are parents for our children, for our grandchildren. We have to think about this. This is real science, affecting real lungs and real bodies. So, please, everyone, think about accountability. And the eyes, the eyes that are looking at us, the little children, the little Anglo children, the Hispanic children who don't have a voice because they don't have documentation, and Native American children. Please, let's not be accountable to paychecks from bosses.

Let's be accountable to the people who do not have a voice. Thank you.

MR. OLSEN: All right. Next we have Jack Herbert, Patricia Morgan, and Daniel Rasmusson.

MR. HERBERT: Members of the Wasco County Planning Commission, I want to thank you for inviting

us here to listen to us. My name is Jack Herbert. I'm from Cedar Hills, Oregon. I was a VISTA volunteer in Hood River in 1980/1981.

There are two kinds of harm we are all responsible for, global harm from worldwide sources and local harm from local substances. You know, I hope that peer review science said years ago that we need to leave 80 percent of he fossil fuels in the ground unburned. I have heard if we have any hope of meeting the two degree safe, worldwide temperature wise target. That target would be a disaster. So we are hoping to hold it down to merely disaster. And we are all almost to the point where we're going to blow right past it based on we have already emitted. And the warming is going to keep coming. We know that the rest of the world, except for the United States, signed the Kyoto agreement. Our federal government is so corrupt it didn't sign that and hasn't done very much since then (inaudible).

So our federal government is not going to save us.

When Pearl Harbor happened, our federal government was working for us and we all got together and they did the organizing and we pulled

it off.

Now we've got a bigger threat than Pearl Harbor and our federal government is the problem more than just about anybody else. They are owned by people who are driving all this stuff. So it comes back to us here.

We're the ones that have got to stop this. We're the ones that have to do the leadership. We've got (inaudible) you've got the global warming. You've got utter insanity of running oil tank -- oil tanks -- moving oil tanks by rivers. Anybody with any sense knows better than that, but the federal government is so corrupt that they claim they have most of the authority. You've got to use everything, you've got to do the leadership we need here.

In an industrial air quality regulation for DEQ, DEQ found that out of almost 190 air toxins in 1990 Clean Air Act Amendments, one of them accounted for most of the cancer deaths: diesel exhaust. You heard about that. So we tried to get (inaudible) we're working on how can we get (inaudible) in the last 30 years and the newest regulations only apply to new ones. So, you know, we're stuck. We weren't able to get complete conversion.

MR. OLSEN: Time's up.

MR. HERBERT: Okay. So you guys just need to stop more trains coming through and you got to stop shipping fossil fuels. You all know about all this.

Thank you.

MS. MORGAN: Before you start the clock, I have a question. I don't want to take my time asking something I haven't heard: How much money are we paying to do this? Kind of like a Monopoly game. Is there money being exchanged here for you putting those rails? That's a question I had. I don't know if you have that discussion.

My name is Patricia Morgan. I live at 2550 Hollow Road sometimes, but right now living in Lyle, Washington, right in the front of the railroad tracks which rumbles, and I put closed captioning on the television so I can listen to TV, because it's so loud.

We have come to speak. I'm coming from my heart and you come from -- you're speaking money. We speak two different languages. Ours is love; Yours is oil and money. Ours is the environment and all that supports life on this Earth. And yours is power and all that destroys the Earth. They are two different languages for which there is no

translation available for us to understand each other. I hear the words the big money corporations speak, jobs, international trade deals, that supposedly strengthen the economy, tax revenue supports communities, money as well. Do you hear my words and all -- everybody who's spoken in here today? We're speaking fresh water, fresh air, green, healthy forests, fertile soil, (inaudible). Not taking our river bottoms and putting in rails.

I looked up on the internet to see how many rail disasters there have been just in the United States. In 2010 there were five. In the United States. In 2011 there was seven. In 2012 there were 14 train accidents. Listen carefully. In 2013 there were 18 train disasters. One outside of the U.S. was a big one in Canada that destroyed half the town, and killed 47 people. Then we get to 2014 where there are 24 disasters, 24 disasters. One on January 7th, 13th, 17th, January 17th, again, the 19th, the 20th.

Earthquakes, everybody's talking about preparing for earthquakes. What is the difference between an earthquake and oil tank? Earthquake, you just simply shake and roll. What if we dump a whole hundred cars of oils into our rivers? You know, there won't be any help.

I ask you to deny this application. I have lots to say, you know. But if you're going to approve it in any way, make them pay for every 10 miles. Having (inaudible), having full hazmat setup because we don't know where this big next accident is going to happen. We need to protect. This is the most incredible place in the world.

Why do you even consider letting them do what they're doing? And I'm going to point out how my friend here had to work so hard to get his solar panels in so he could be free of oil, free of fossil fuels.

MR. OLSEN: Ma'am.

MS. MORGAN: Okay. Thank you. Please, deny this application.

And there's investors, insurance policies where Canada is suing.

MR. OLSEN: Wrap it up.

MS. MORGAN: Fifteen million dollars, because they didn't need investor quota.

MR. RASMUSSON: I am Dan Rasmusson. 602 Canyon Road in Lyle, Washington. I am a semi-retired science and music teacher at Mosier School, where I did about ten years.

As a middle school teacher, (inaudible)

project involving kids building their own science museum. I have expertise and experience in science museum and I am also a music teacher at the (inaudible) music and (inaudible). I'm fond of telling my classes that Teddy Roosevelt and John York and Cindy Vallick from the National Park System. That people of goodwill and rationality can get together and solve their problems and all those problems may not be solved today but they can be solved in the future.

I'm going to take a little different approach here. A lot of things have been true. We all understand the safety and safety concerns. We also should understand that the railroad is an essential infrastructure. I was impressed by your comment that (inaudible). We're only thinking of the end cost of that product (inaudible). Our trains are (inaudible) infrastructures. Someday it will be (inaudible) rail and you can play music of some sort. It creates structured interference with the sound waves. Acoustically (inaudible).

When I came into Mosier, I came into an environment, in which for 20 years people had been envisioning and thinking about what

Mosier might become. It already has a certain centrality. Psychologically, geographically, topologically and in many ways represent the center of our community of the Gorge, an asset that tens of thousands of people are going through. They have a role to play in the future.

We've envisaged what's called Motion Institute, for lack of a better word, an educational theme park. A place to highlight promising technology to the future in which we can show how we can have a bright future, a democratic institution with respect for the environment. And it's just a really an exciting thing to have done even talking about the future children, talking about clean air, clean water. So that is one of visions sort of for Mosier with the town benefitting from some of the spillover from this institute, working in concert with the school there with laboratories, people coming (inaudible) getting excited about the future, about how Intel, about Boeing, how Google are going to build a brighter future for us all.

So, I suggest that with the smoke signals that happened in Mosier that maybe we could have

a cooperative effort with Union Pacific and learn how to make this a safer way to do things for all of us.

I just got back from Europe early last year and (inaudible) panels and screens for (inaudible) that kind of thing --

MR. OLSEN: Time is up here.

MR. RASMUSSON: Okay. Anyway, that's the point. I want to quote from William James. Everything we do makes a difference because it does.

MR. OLSEN: Thank you. Now we have Roberta Lapp, Rose Christianson, and Vicki Stifter.

MS. LATH: I appreciate your service and the talent that you have. I come from a rural family. My husband (inaudible). I ask the railroad people here if they have any operating experience.

MR. OLSEN: Give us your name, please.

MS. LAPP: I'm sorry. My name is Roberta Lapp. I live in Hood River. My street address is 1110 (inaudible).

My husband started (inaudible). He worked ten years in the Burlington Northern Railroad and put in the computerized freight yard and then he got out of Washington to work on what to do about the southern bankrupt railroad. And so we took over a short line

and had coal-fired electrical plant on that.

And I was asked to find out, it took me two seconds to know that your name is (inaudible). Your number one is to cover the coal. It is my understanding that coal in a car is like logs at the lumber mill before they get milled. They have to put water on those logs or they will combust automatically inside the other logs. I don't know if you've driven by logging places, but that's what they do to keep the fire from happening.

If you cover a coal car, this has been true for the last 33 years I was on the railroad, The coal can combust. That means it automatically starts to combust. So you can't cover coal cars.

So I would ask you to not accept this proposal, because you can't cover coal cars.

The second thing I say is this siding track is like Highway 30 in 1930. It will take the train and safely put it to rest for a while and then put it back on the line. What they're asking for is not an improvement, but it's like a whole new technology. It's like they're asking for interstate highway to be built. And I don't think that it's legal. I mean, I don't know even, but it's immoral to say that this is just replacement of a siding when they're going to have it be mainline standard. And I don't know

if you know the difference, but Class 1 railroad standards for mainline are different than a siding passing.

MS. OLSEN: Ma'am you need to finish up, please.

MS. LATH: Keep the trains on the track. That's your job. And our job is to keep the oil and coal from coming. And I appreciate your help in having all of us do that.

DR. CHRISTOPHERSON: Hi. I am Rose Christopherson. I am a retired VA physician in Portland, Oregon. And I am the head of the Care Creation Ministry Church in Portland.

And I want to say that we all need to take care of this beautiful Earth we live on, whether we call it creation or the planet or whatever. And I thank and congratulate all of you, because in doing your work, you are taking care of this Earth. You're taking care of this small piece of Earth around Mosier and you're taking care of the whole Earth. And you're taking it seriously.

I've been sitting in the front row. I've been watching your faces. I've been seeing you, sometimes tired, sometimes a little bit bored, I will admit, and -- but always very serious and so I just want to thank you for the hard work you're doing for all of

creation.

MS. STIFTER: Good evening. My name is Vicki Stifter. And I'm a United Church of Christ Pastor, a community Church in Hood River, Oregon, also mother and a lover of Earth. And I live very near the cap. I wanted to just with the crowd with me -- I know everybody is getting tired, and I thank you so much for being here and for listening to all of us. How many of you live within a blast zone? That's one mile of the track. Those of you who are here? And how many of you -- how many of you who are working for Union Pacific live in the blast zone?

MR. OLSEN: We need to have you just provide your testimony.

MS. STIFTER: That was just part of it.

So, basically, what I want to say is I am a here as mother, pastor, lover of Earth. I come here today because I breathe the air here. I drink the water here. And I live within blocks and raise my family within blocks of the track. In my Christian tradition, the creation is gift and we treat it as gifts, for ourselves, for our children, and for our grandchildren, pure gift. And so I come here today speaking from that place where I'm concerned about lots of facts. What I am most concerned about is we talk again, again, again, about privatized profit and collective risk. The risk

for there is no benefit to us, none, zero.

The CEO of Union Pacific is now making $9,105,000, about $4,375 an hour. I don't know how well you gentlemen are paid -- I hope it's really -- you deserve a lot of money for being here tonight, but it all comes down to the fact that we're trying to push more and more stuff through. We're trying to push more and more oil through more and more coal, more and more dangerous things through so that somebody else, someplace else who doesn't live here, who doesn't breathe this air and drink this water is making an immense profit.

And I thank you for being here, for listening, for speaking, for asking on behalf of this people in the community who breathe this air, who love these children and who go to school near the tracks. Thank you from the bottom of my heart.

I have heard the definition of insanity was doing the same thing over and over and over again and expecting different results. We know now what happens when we have trains coming through here loaded with oil and coal. You don't need more. We know the result. So, let's be wise and let's act on behalf of our children and grandchildren and do the right thing. Thank you.

MR. OLSEN: All right. We have Debra Romerein,

David Stolic, Beth Lolick.

DEBRA ROMEREIN: My name is Debra. I am from Portland; business owner. You can't get to four by adding one to two. You can't get up north by heading due south. And you can't fight climate change by building more fossil fuel terminals, pipelines, and more rail tracks that will accommodate more and more oil transport.

So a guy named James Black, he was ExxonMobil's senior scientist. He delivered this sobering message back in 1977, he said: There is general scientific agreement that the most likely manner in which mankind is influencing the global climate is through carbon dioxide release from the burning of fossil fuel. He urged ExxonMobil to act. Exxon's response: They launched a colossal 30 million campaign to spread disinformation and to sow confusion about climate change.

One Exon exec was quoted as saying victory will be achieved when the average person is uncertain about climate change. Christine Lagarde, the Head of IMF, not exactly a basket of liberalism. She admonished in 2014. She said the planet is perilously close to a climate change tipping point.

And let us not forget that nine short months ago in Paris 195 nations came together and agreed that global warming is an urgent threat and that all nations must take extreme steps to reduce CO2 emissions.

Did anyone see last Sunday's New York Times? Main headline it said the flooding of America's coasts a consequence of global warming is not 100 years away. It's now. Last Sunday.

Our oceans are rising. Our ice sheets are melting. We have the set record highs for global temperatures for each of last 14 months. Holy cow! And our concentration of C-O2 in the atmosphere last year hit an alarming 400 parts per million. The last time we hit that, there were no humans. It was that long ago.

But as the chief scientists for ExxonMobil found out 40 years ago, we can't depend on fossil fuel companies to make a change. We can't expect rail companies that transport thier payloads to change. We have to do it, us.

Now for the good news: Scientists have estimated that Americans can generate 80 to 85 percent of the power from sun, wind, and water by 2030, a mere 14 years.

MR. OLSEN: Ma'am, time.

MS. ROMERAN: If we all put our full effort in to making that happen and reject more fossil fuel projects like this Union Pacific rail expansion. Thank you.

MR. OLSEN: We've got Pat Freberg and Lenore Boyer and John Boonstra.

MS. FREBERG: Hello. I'm Pat Freberg. I reside at 8327 Northeast 54th Street in Vancouver. For 40 years, I have traipsed over Gorge mountain and trails while enjoying the amenities offered by the Dalles station, Hood River and little towns, like Mosier.

While I'm not a Wasco County resident, I'm invested in this nation's environmental and economic health. Many people here today, probably some of you, remember the Gorge before it was a designated a National Scenic Area and the bloody fight it took to get us to the protections we have today. I am here right now because I am angry; not at you but of the mess you are in.

This mess is like three concentric circles. The inner smaller circle is around Mosier and the Gorge. Today we're focused on the Union Pacific's Application to lay four miles of additional railroad

track so the company can haul ever more fossil fuel products from inland America to the Pacific Coast. Our concerns involves protecting residents and sparing the area future environmental degradation.

The second larger concentric circle involves the corporate world, its power and intent. Union Pacific's interest in Mosier is strictly that as a corporate person. It wants to reap the massive profits by increasing revenues and cutting expenses with intention of returning -- with the intention of rewarding stockholders and corporate officers. This same corporate entity is heavily subsidized by taxpayers. The outrageousness of this system in balance makes me angry. It's corporate tyranny over the environment, over U.S. government, and over U.S. citizens.

The third and largest concentric circle involves the planet, the possible climate change, possible extinction of our species. At the very least, there will be serious and definite suffering for our children, our grandchildren, great-grandchildren and beyond. And they will have to deal with heat, desertification and storms that are caused by a tumultuous planet that has no polar ice caps.

This really makes me angry. So what can we

do? You, who make decisions that affect the smallest circle, the Gorge, have plenty of ammunition in Chapter 5, the Conditional Use section, to deny this application. I urge you to make your decision based on the best interests of the local (inaudible), -- your local environment and the Columbia River, not on the need of the Union Pacific. If you do that, your decision will ultimately have an impact on the outer concentric ring. It will both affect the corporate world and may eventually affect our planet's future. Deny this application. Thank you.

MS. BOYER: Good evening. My name is Lenore Boyer. I live in White Sands, Washington. And I can attest firsthand to the terror of evacuating from a railroad-related accident. I don't know if perhaps you recall, but on a windy September day several years ago there was a grinder -- a spark caused by a grinder on a rail line that ignited the hillsides around (inaudible) Hill and obliterated the hill and surrounding neighbors' homes. It's as terrifying as it was profoundly preventable. It wasn't intentionally set, but it happened.

In my hand is a 73-page list of rail accidents that have occurred within the past six years, actually just little over five-and-a half. In them scores of

innocent people were killed, countless more being injured, not to mention the destruction of property and natural environment. None of the accidents had been planned. That you insist optimal measures will are and continue to be taken to ensure accidents won't happen is as unrealistic as it is irresponsible. Accidents have happened and accidents, many of them fatal, will continue to happen in spite of your best intentions or policy/procedures.

The accident in Mosier underscored the point that the Columbia River Gorge is no place for additional coal or oil trains, let alone rail expansion. I am in envy as perhaps many of you are as well. And the Columbia River Gorge is our backyard and is something that we would like to see it preserved and protected for future generations.

So with that in mind, I'm just hoping that -- not even hoping, just imploring you that you will reject this ill-begotten project and keep it out of our backyard. Thank you.

MR. BOONSTRA: Good evening. My name is John Boonstra. I live in Hood River. I am a creation justice minister for the Central Pacific Conference of United Church of Christ, former executive minister Washington State Association of Churches and now an

organizer with the Columbia River Gorge Private Climate Action Network.

It is my conviction that the proposal before you diminishes and disregards the collateral damage to our communities and dares us, dares us to grant socializing to business practices that will cause certain dangers and risks to everyone. I urge you to not put your stamp of approval on this project. The motives behind this project are cast in terms of economic profits and efficiency. We've heard a lot today that they are environmentally unsustainable, socially irresponsible, economically unacceptable, medically indefensible, and morally unconscionable.

We need to try to be very honest about the big picture at stake in today's hearing. It is profoundly relevant. I urge the Planning Commission to play your role in unveiling the truth about this bold, in-your-face railroad corporate denial of what's giving rise to climate change.

This project aims to strengthen lethal fossil fuel infrastructure. The project aims to accelerate a short-sighted private business plan whose goal is to empower and build what some systems analysts have said is a carbon combustion complex. It's not a legacy that you want to leave as your footprint on a dangerously

warm planet. Business as usual in the face of global warming can never be exchanged for the health of our families, our neighborhoods, and our environment. I urge you to play your role in the ultimate defeat of this double expansion track. Thank you.

MR. OLSEN: All right. Next we have Todd Verdi, Judy Todd, and Gina Fuller.

MR. VERDI: My name is Todd Verdi from Washington, Washougal; on the Washougal River. I live right on the Gorge. I think I am the only person from Washouhal. I have lived in Washougal for about 50 years. I urge you to reject this application. And we know the railroad really isn't telling the truth about the purported safety that they're going to do. It's not going to be any safer than it was, because there won't be any controls. And they are working for their shareholders, and their top two guys that are making 25 million a year. They don't care about folks within the Gorge that are living in the hinterlands and they are not going to care until when it happens, they incinerate some people. Fifty people were killed in Quebec. Fifty homes were destroyed, and it's very likely that, given the numbers, it will, in fact, happen again with the flammability of the oils.

So, since we -- I don't think that we can trust them. I think that we need to plan for two to three times the accident that happened in Quebec. And that means that we need to have those folks put up a performance bond of somewhere between 2 and 5 million and if their safety accidents or incidents go down, the bond will become cheaper if they go out in the marketplace to buy it. If, like we have heard, they're sloppy compared to most people, or operators, that performance bond will become more expensive. You guys have the power to do this and I don't think it affects interstate commerce, because you can -- you can plan for your own local safety.

So, again, we need a performance bond up around 3 to 5 million so the taxpayers, when they're injured, they don't have to pay, because, as we know, in America, it seems like the little people always pay and the big guys get away with it. So, I say be the little people's hero and you protect us, even if we're from Washougal.

So, don't poison the children for cheap oil going to China. I urge you to reject it and I urge you to make these guys pay. Thanks.

MR. OLSEN: Todd, what was the amount of that fund?

MR. FLAHERTY: Well, I was just thinking that my

calculation would be 3 to 5 million, because if you -- if you burn -- let's say you burn 50 kids and they're alive, but they are alive and they need nursing care for the rest of their lives, you're talking probably seven to $15 million each. That right there is a billion bucks.

CHAIRMAN HARGRAVE: Okay, thanks.

MR. FLAHERTY: That doesn't include the property damage. You have to deal with it. It is going to go wrong. It's just a fact.

MR. OLSEN: Thank you.

MS. JENNY: Good evening. My name is Jenny. I live in Portland, Oregon. I started out in one place today listening as you began your process and I find myself in a very different place now. I am here to ask you to deny this permiting. I think you have the facts. I think some of what's being shared as the day has gone on has been heard perhaps more than once, maybe more than twice. I don't think it's going to be useful to malign anyone or to point a finger. I have noticed I've been learning while I've been sitting here. I've been learning a little bit about each of you since I've observed you in your process. And I appreciate that it requires a lot of due diligence to do what you're doing. And I'm glad that you have signed on for that, to do your due diligence, to do it to the best of your clients

and good people working with you to provide you information. I trust that if you follow that, you'll make the right decision for the community.

I think there's an underlying more difficult decision to talk about or to be presented here. It's one thing to look at a corporate enterprise and to figure out how to fit it into the communities in which we live, whether it's oil, gas, railroads, it's kind of -- it's corporate America. So, how do we live in a context of corporate America who, by law, is acting legally but by a fact it's a different reality for the citizens who are living on the ground in the places that are the sacrifice zones.

I had the good fortune in 2014 to spend three months walking and I walked across most of the Southwest and through five states of the East. And I started in Arizona and I ended in Washington, D.C. What I saw on that walk sleeping on the ground night after night, talking to people in community after community, what I saw was that we are creating the sacrifice zone called the United States of America. And those who are sacrificing are the people, the animals, the creatures, the waters, the air. It's one place after another that is being overcome or overburdened by its inability to do what we're asking. Thank you.

Thanks for tonight.

MS. FULLER: My name is Gina Fuller. I live in (inaudible). Over the past couple of years the number of trains and the size of trains through the Gorge has increased drastically. It's really impacted people's quality of life. It's impacted the beauty of the Gorge. When you're driving on Highway 14 now, the normal view of the river is a train. It's very rare that you see the river these days because the trains are so many and so long. And if you approve this project, it will increase that negative impact not only on the Gorge, but, of course, on the world nature of the oil trade and if that impact includes so that trains can be bigger, that increases the scope of the disasters that can happen. I think you've been presented plenty of justification to disapprove this and I hope that's what you will do.

MR. OLSEN: All right. Next we have Ken Ferguson, Catherine Cozwell, and John Corbin -- excuse me, Stan Corbin.

MS. COZWELL: I'm not speaking. I am writing (inaudible).

MR. OLSEN: All right. Thank you.

MR. FERGUSON: Hello My name is Ken Ferguson. Legal resident of the state of Oregon. I attended

earlier this year the hearing at the Oregon State Parks Commission (inaudible) state park area. That was prior to the Mosier derailment. And of course, that permit was denied.

I oppose any extension of rail in this area. (Inaudible). First responders can't deal with this. We got lucky in Mosier. So, you know, I'd like to see less rail traffic in the Gorge Scenic Area. Just a couple months ago I was up in North Lake, which is about seven miles from a train. I couldn't sleep at night because the trains are so loud. I was seven miles through the (inaudible). There is a lot of noise coming down the Gorge (inaudible). This is a National Scenic Area. This is not fossil fuel transport (inaudible).

We do share a water supply. We're seeing a connection between this pipeline (inaudible) on rails coming through the Gorge and the opposition to that pipeline. We need to keep it in the ground and stop any of those routes to get this dangerous cargo to -- (inaudible). Threatening water supplies of the Missouri River or the Columbia River. None of us can survive without clean water and we're rapidly running out of it on Planet Earth. This river needs to be protected. Honor the trees. (Inaudible).

We need informed consent of tribal nations. A lot of the people that were representing Yakima Nation -- Joe (inaudible), they were in the Mosier press conference, they said zero tolerance. They certainly don't want you expanding this railway. (Inaudible). You know, they have been on the road to try to stop this pipeline. I wasn't sure they would be here.

I mean, this is the thing, this hearing was delayed. It was supposed to be closer to the derailment date of June 3rd. Of course, wait a couple months, then we'll try to get it through.

MR. OLSEN: Sir.

MR. FERGUSON: Closer to that date. Now there's larger issues on these the same.

MR. OLSEN: Sir, we need to have you wrap it up.

MR. FERGUSON: Please deny the permit. Thanks.

MR. OLSEN: All right. We have Stan Foreman, Lois Bancrot, John (inaudible). Kirwind from Hood River. All right. Katherine Hill, Michele Bryant, John Halls, Margaret Sulla, Jeanette Conn.

MR. HARGRAVE: If you have already signed up, come up one at a time and state your name.

(Pause in proceedings)

MS. CROWLEY: I'll make this quick. My name is Susan Crowley. I am a business owner, and a resident of Mosier.

First of all, thank you all so much for being here and sitting through and listening to all of our testimony. It's a challenge to have gone through such a complicated application procedure. And also thank you for holding public hearing, finally. It was a little bit frustrating always having the rescheduling, but I am glad we are here now.

First of all, you know, I am not going to repeat a lot of points already made. There were many points to deny this application. And I really hope you have the strength and courage to deny this application. It will take some strength and courage to do so.

I -- there is a plaque atop the Mosier twin tunnels that the Columbia River Gorge is a ational treasure that deserves the protection of a lifetime. And that is really something we need to keep reminding ourselves; that in all the changes that are coming, we still need to protect that area that can't speak for itself, not just wildlife, that's the Scenic Area, that's the trees and the land.

One thing that we keep talking about that I haven't seen in a study is the noise. Of course, living in Mosier,

we hear the trains. We hear a lot of trains. It's not just the whistle that they have been blowing recently to let us know that they're there, but it is the wheels and the -- you know. Depending on if it's a double track, or double container load, we hear the squeaking, the squealing a lot more loudly than if it's a single car. So, I think that if there's any way to do some studies on noise, that would be great because that does adversely affect fish, wildlife, plants, what have you.

And one of the things you talked about is that this application or this thing must not adversely affect air, water, or land.

I'm going to hurry through this. So, it is a National Scenic Area. It has its own rules and regs. You, as the Planning Commission, adhere to those, know the rules and regs and deny this application.

One of the things terms like "being railroaded" definitely came from high-powered manipulation at the national level when railroads and tracks were being laid, so that's a term we all know. What I would like to suggest is don't let that happen to us. Show your strength to the people here in the Gorge and deny this permit and develop a better thing that says we stopped them in their tracks. Thank you very much.

MS. ELLEN: My name is Ellen. I am a 50-year

resident of Oregon. I am grandmother. I am a retired teacher. For fun, I have done research for people who are members of a group called Oregonians for Tax Fairness which (inaudible) project.

First of all, I want to say how much I admire your attention and your intelligent (inaudible). Thank you. Thank you very much and thank you for the chance to speak. I want to quote I think the first person who spoke, but it might have been the second. Every employee at Union Pacific works constantly to prevent incidents like that. We have to work together to prevent these accidents. And then somebody said that it's intermodal transport, which is what I do research on for Oregonians for Tax Fairness. Every employee of Union Pacific works constantly to prevent incidents like what happened to Mosier.

One of the research projects that I did for Oregonians for Tax Fairness involved reporting reports to OSHA on the retaliation or complaints filed for unsafe practices. Union Pacific, in fact, seven of the top ten offenders for retaliation from employee complaints about unsafe practices, Union Pacific, is number two on the list of ten. The top seven are all railroads. So, remember that when you're considering Union Pacific's plans; they retaliate against whistleblowers. Thanks for your time.

UNIDENTIFIED SPEAKER: There are three left, because-we're here representing the (inaudible) international group. And we do testimony, but usually we do it with song. Sometimes we do a little theatre, but today --

MR. OLSEN: Did each of you sign up?

UNIDENTIFIED SPEAKER: Yes, we signed up as (inaudible).

MR. OLSEN: Definitely don't want to interrupt the song.

UNIDENTIFIED SPEAKER: Okay. It's just one testimony. It's less than three minutes. And we've done it before for other groups.

MR. OLSEN: We just to make sure we have names for each one.

UNIDENTIFIED SPEAKER: Jean (inaudible), Portland, Oregon. I will give testimony later.

UNIDENTIFIED SPEAKER: Ellen, you have me. So this is our testimony usually in song. And music goes to a different part of your brain and different emotional space. (Inaudible). Ready.

THREE WOMEN SINGING: Oil train, oil train going through, carrying more oil or coal, all you do. Please don't blow up any town. Keep that crude right in the ground. Mosier, Oregon, may be small but what happens there says keep them all. Stop destructive coal and oil, don't let our Gorge be soiled. Oregon is big enough to

make a huge difference if we are tough. Demand to keep it in the ground so our Gorge is safe and sound.

No oil trains in the Gorge.

Please deny this. Okay.

MS. ROBINSON: My name is Barbara Robinson. I am at P.O. Box 682, Mosier, my address. I actually live in The Dalles now, but I have lived around Mosier for years. I have been involved in conservation of the oak woodlands and the Gorge since 1970. (Inaudible). My daughter went to Mosier School, and I lived in Rowena for quite a while. I was evacuated in the last Rowena fire, the one before that, 1998.

When this happened, you know, a lot of people have said how Mosier the best-case scenario happened, and that's true but nobody has really talked about what the worst-case scenario could have been. I have been visualizing a lot. If this proposal would put more trains in the Gorge and the more trains the more chances are of accidents and more safety hazards there.

Now, I talked to Jim Appleton, the fire chief of Mosier, right after this happened and he said that he -- they fought it for nine hours before they could even start to use the foam. These fires, the foam would have just evaporated. That's what he said you

let an oil fire burn. And he said to me that if it had been the day before, 24 hours earlier with the 35-mile-an-hour winds we had, that car would have ignited the next car, the next car, pretty certain.

Now, also I talked to the people who own the ice cream and Porsche repair shop in Mosier, they were sitting outside. They heard it. The smoke started rising. (inaudible) got up to go toward it and her husband said, "No that is toxic smoke."

Now, this smoke is different from a forest fire. It is oil smoke. It is toxic. Visualize-- all those oil cars go pretty quickly. You get all that smoke going up. Smoke inhalation kills people; even regular smoke is enough. Toxic oil smoke. Imagine all the little valley of Mosier covered in smoke. I-84 closed because nobody could see to drive. I-30 closed because nobody could see to drive. The west winds carrying it westward in the Gorge.

The Dalles, everywhere else. (Inaudible), but just smoke. The smoke would go up the valleys. Maybe people could get out of town by going up (inaudible) Road, maybe up (inaudible) Road. Imagine you are in Mosier and with all the smoke coming at you. Where do you go? What do you do? You can't even think. The whole town could have been killed,

I think.

What you need is to have some expert, not me, but some expert do a study on the worst-case scenario. What would have happened if Mosier-- 24 hours before, if this had happened? What if it had happened a month later when things are even dryer in the Gorge? It was pretty dry right then. We would have had forest fires. You couldn't stop the fire on the train.

MR. OLSEN: Wrap it up.

MS. ELLEN: Okay. Anyway, so say no to this, but also do studies on what would happen in the worse-case scenario.

MR. OLSEN: I don't have your name on the list. Could you come by and put your name and address down?

MS. ROBERTSON: I'm on one of your lists there, but I'll be happy to do that.

MR. OLSEN: Okay.

MR. KERR: My name is Matthew Kerr. I'm a relative newcomer to Mosier. I moved there in 1988. Here and that time I served as town water operator. I can't stress sort (inaudible) how fragile a community like Mosier is. The morning of the train derailment just proved nothing simpler than a tiny

little telephone connection and we had a reservoir that was at six feet of water. It should have been at 30 feet of water.

We'll go through those sort of numbers, when I am then scrambling that afternoon in incident command that evening, when they're asking me, you know, how much water do we have because we want to put 1500 gallons a minute of water at this fire, I said, "I'll give you a thousand minutes." And that's still 8,000 gallons in reserve in case there was a structure fire. A couple of the people on the crew said -- they looked at me and they snickered and said, Thank you very much. And they were fortunate enough to go and find a source of water somewhere else.

So, I guess in closing, in all this, is I'm not going to be a water operator on this next event, because there will be another event, just because it's a case of railroad roulette. I mean, it's fragile and in the same -- I'm sorry to say it, but in the same way that someone can go out and buy a lottery ticket and win and go out and buy another lottery ticket and win again. I mean, disaster isn't going to just visit us once. This will happen again and it's more likely to happen

because there's increased capacity this project will put forth.

So, I appreciate it. I want to first thank all of the responders that couldn't be in attendance tonight, because there were so many of them that I've worked with first on the initial charge in. And they left their families, their jobs, they left it all to jump in. And I want to thank them who aren't in attendance, as well as thanking you for listening. Thank you.

MS. GILLOIL: Again, my name is Leda Gilloil. I live in 4626 SE Clinton, Apartment 53, in Portland, Oregon. And one of the things that I'm not hearing anyone mention is the signs and evidence that we have that the risk is going to increase much more than exponentially and much more and worse in many areas the more variables they have been mentioning.

And, therefore, we need to have a fund set aside by UP to cover the costs of all those, far greater than any of the costs the people have been talking about. For example, the steel of the rails, the fasteners, the switches is being degraded. The vibration, because we're having more trains pass with higher weight. We are having fluid in the

cars that's not being stopped of the vibration because of (inaudible). The steel is worse, being replaced from China, where they don't have the quality control. We don't have the big trees for the -- for the type of steel that we used to have.

The fasteners and the switches are degraded, because we have the coal dust which has a lot of toxic chemicals we didn't have before, gumming up with lethal fill, the pollen and tree sap. We are having more gumming up. We don't control them. We are having more problems (inaudible) switching because when we have increased temperature changes from global climate change, when we have shifting from the rail beds from the train at higher speed and variety of different types of vibration. We're also having harder rain, less snow melt, and so we're having more water erosion so we're having the rail bed underneath erode out. We're having more vibration from the train tracks, from the tracking, from the drilling, from the sonar depth, from the sonar testing, military testing, and from the fracking, and that causes us to have less of the oil and the coal lubricants and shock absorbers. We have less of that, more frequent earthquakes. There is going

to be worse earthquakes, and they are going to spread farther, do more damage. We have that, plus the extra heating methane into the air.

We're going to have more global change, which means we're going to have more death of the different microorganisms in the soil, which are holding the water in place, so we're going to have more shifting. We're having more shifting, plus we're having more heat expansion of the steel, we're going to have more steel fatigue. And so we're not going to have the tracks to be able to maintain it. Plus, the train cars themselves are being eroded.They're having constant decay. And they are having heat expansion so they are becoming weaker and more volatile. And we're going to have more explosions and fire.

They've been talking about the earthquakes (inaudible) and then having the methane fire spreading.

So please look at the extra cost, the extra risk that I am talking about. We need to have the wetlands to protect our rail bed. We can't destroy our wetlands.

MR. OLSEN: Thank you. Can you give me your last name one more time.

MS. GILLOIL: Gilloil. Gill like the fish. Oil like spilled oil.

MR. OLSEN: All right. Is there anyone else later on the list or not on the list who wishes to testify in opposition or just to raise a question?

Thank you. I think that's everybody.

CHAIR HARGRAVE: Thank you. I know many of you actually put in more time in this speaking than us. We came locally. Some of you came from some distance. We really appreciate the testimony. It is an absolute critical part of our process and we really appreciate not only the richness of the comments and the input, but also the cordiality of the way you -- the way everyone handled themselves; Some clapping. It's really been a good experience, as well as a learning experience.

So at the conclusion of this testimony, the staff --

(Multiple voices)

UNIDENTIFIED SPEAKER: Does the Applicant get a chance for rebuttal first?

CHAIRMAN HARGRAVE: Okay. Well, I think 15 minutes, is that right, for rebuttal? But no new evidence.

UNIDENTIFIED SPEAKER: I agree with Chair

Hargrave. Wow. And the "wow" really goes to you. We admire your stamina, and you will be pleased to know that we do not intend to test that stamina and (unaudible) will not take 15 minutes. There has been lots of testimony. There is not way (inaudible).

I actually would like to start with a procedural matter, and it may be addressed by Mr. Olsen, but Mr. Baker in particular, I believe, when I took his comments about the request to hold the record open (inaudible).

In Oregon, in Oregon land use cases, it is very, very common, but do you agree that the question is off the table besides? (Inaudible).

CHAIRMAN HARGRAVE: For the record, that was my intention.

UNIDENTIFIED SPEAKER: Mr. Chairman, the Wasco County code provides for a seven-day comment period. And chairman indicated at the beginning of the meeting that it was the intent of the Planning Commission to take written comments for seven days and then provide a short period of time for responses to those written comments, but no new evidence.

The seven, seven, and seven rule that's typical

in Oregon does not apply to this proceeding because of the National Scenic Ordinance statute.

CHAIRMAN HARGRAVE: Okay.

UNIDENTIFIED SPEAKER: (Inaudible). As I said, I think the plan is to have seven days and then a short period of time for rebuttal for the evidence procedure, for the seven-day procedure.

UNIDENTIFIED SPEAKER: Okay. So our thought is to -- is to respond to what we all heard in the last several hours during that time.

One of the issues that we have been hearing about frequently, and Mr. Olsen described it as the elephant in the room, is that it is straight off of -- I don't know if you can hear me, but it certainly struck a cord is the safety one. (Inaudible) direct response to one of the questions that was asked and Mr. Olsen enjoined us from answering it.

I have raised two children and lived within a mile of the railroad tracks. I can tell you when I started as outside counsel for this company in about 2007, 2008, I was immediately amazed at the priority they put on safety. They start every meeting when you get into a room with a safety check. Who has -- what is it -- the CPR?

UNIDENTIFIED SPEAKER: CPR?

The CPR. Who has CPR training? Who is going to call 911? Et cetera, et cetera. They simply take it absolutely seriously for the simple reason, we all have -- we all have children. We are all working with our friends and colleagues. We all want everybody to get home at the end of the day.

But I really want to bring Wes Lujan on, if I can, just for a moment just to emphasize a hypothetical. He can provide a broader survey of what this company does about safety.

MR. LUJAN: You know, I'm just going to speak to what we have been doing in the Gorge in response to the June 3rd incident. You know, a number of folks in the audience and other public persons around the area have heard this, but I thought it would be good for the Commission to hear it directly from me, just reinforcing.

It doesn't matter if you're Lance Fritz or any other of our companies. We're all committed to having every one of our employees go home safe every day. We operate (inaudible) every day with the safest communities. So it's very disheartening to hear some comments this evening, but I assure you of the 45,000 employees that we have working on

our railroad every day, 365 days a week, 24 hours a day, seven days a week, they are all committed to safety every day. So I just want to reiterate that. 1600 of them are here in Oregon, working out of Oregon proper.

Safety recap. You know, we have heard -- we have spoken to the Governor on the communities here in the Gorge. I just want to recap what we did in response to the incident on June 3rd.

So what we have done, we've amended -- we've augmented our discussion practices, so now what we're doing, we are doing a high rail, enhanced high rail inspection three times a week in the Gorge. It used be two times a week and now it's three times a week. So it is a random sampling of lag screws that are in the curves in the Gorge.

We've modified our -- we have (inaudible) a gate (inaudible) so it's a big -- it's a big truck basically with 7,000 pounds of lateral pressure on the tracks. Basically it pushes out, they can test for (inaudible) the lag screw came out (inaudible).

That truck operated after the inspection after we refaced the track in Mosier. We did a testing in the Gorge in Mosier, in that area, to make sure the track was safe in those curves. 7000 pounds of

lateral pressure, a single-engine locomotive pushing out against the tracks.

We are going to do that. Now -- we used to do it every 18 months. Now we're going to do it every four. Okay? And it's operating actually today. I noticed it coming out here. It's in the Gorge. We are replacing 80 miles of lag screws in the curves.

So I just wanted to underscore, we started using lag screws in 2000. As a result of this incident, we're changing that. We're starting here in the Gorge. We will be done by October 15 replacing the eight miles of lag screws in the Gorge with an equally safe fastener -- I want to underscore that -- with the rail strike fastener.

We are replacing those rail strikes with fasteners. Okay. (Inaudible) That's what we're looking at is a hard fastener in the curves. So it will be done by October 15.

Obviously you guys have a -- there is a lot of grain coming in from the East, Eastern Oregon and other places, and also bringing to the ports other commodities (inaudible) buckets are while driving along the track on I-84. (Inaudible)

Another thing we did, we added an inspector. We have intensified our discussion process on the

ground. Once a month an inspector is walking the Gorge corner, the curves in the Gorge, and doing a physical walking inspection of the curves. Okay?

So they are getting out, tapping it with a hammer, like a long hammer, basically tapping it so if they moved, then we know, right? So that's what we couldn't see when a derailment happened. We could not see that it was broken underneath the tie. So that is what we're testing for now.

The number of individuals have gone from two to three. Another thing that I think sort of gets overlooked a lot because it happened in the context of around the same time this was all happening the derailment, unfortunately, is we have purchased six foam trailers for use by the state fire marshall. The state fire marshall is going to decide where they are going. It's up to local governments to work with the state fire marshall to determine their locations, but they are working with them to stage those processes.

UNIDENTIFIED SPEAKER: You mean across the state or in the Gorge?

MR. LUJAN: Across the state, but the Gorge could be a location. That is between, you know, the state fire marshal and the first responders.

I also want to state that we have scholarships. We send people out to Pueblo, Colorado. We do trainings locally. There has just been a drill in The Dalles prior to the incident with the local first responder partners. We are doing scholarships. We are committed to this as part of the coverage in Oregon. We are going to keep moving forward on implementing that.

Our Chairman has doubled our efforts. He committed verbally at our meeting on the 26th. I think Ms. Brewer was there, as well the Chairman of Wasco County, as well as other folks in the room. And he basically said, hey, we are going to do everything we can on safety. We're going to double down on these communities. We're going to do more trainings, more drills locally, so we're going to get that done.

So I just want to reassure you that's happening. That's drills, and that's training at fire stations with volunteers. That's sending people to Pueblo, Colorado, at our expense through the scholarship program we have. And we're going to keep doing that.

Mosier proper. You know, there's a lot of discussion about, you know, how do we move forward

with Mosier? We're going to be doing our presentation at the Mosier City Council tomorrow night. We are working with Team Mosier, which has a Chairman, Mr. Terri Moore. We are having conversations with them. We are going to see how we can move forward together. It doesn't just stop after the initial response. We are going to keep working with them in collaboration to build a dialogue and find solutions that are amicable and reasonable for all parties involved.

There was a shot taken about, you know, our investment, our lack of interest in investing in rail infrastructure, the tracks are falling apart. We spent $572 million since 2011 to 2013 in Oregon. That's just in Oregon. $572 million we have spent as a corporation rebuilding our infrastructure, maintaining our infrastructure, and improving the safety for the residents of Oregon. I just wanted to inform you of that.

Another thing to kind of bring in closing, a lot of folks have talked about access. Access is a big deal. And that was something that came across for in our meeting with the Chairman on the 26th that really was well-articulated by a member of the elected officials and others in the room.

And my chairman is committed to working with the communities on safe and reasonable access. So we're going to see what we can do there. That's noted and that is a condition that you referenced in your report here, but we are committed to working with the Gorge communities on seeing how we can work on access. So that's going to keep coming back and we're going to be here every time.

So Mr. Tyler Stodd, I believe, is going to call and follow up on that and he is coordinating with all of the communities in the Gorge on everything.

So those were just a couple of closing comments. Please let me know if you have any questions. We are going to follow up with a PDF that has the details of our inspection practices that have been enhanced in the Gorge and we'll keep working with you guys.

Thank you for your time.

UNIDENTIFIED SPEAKER: So, yeah, I'm going to close now where I was several hours ago. We are all -- your record has got to be this tall at this point. Every person here, on either side, is here to address your questions.

And I know it's late, but I ask you to take another deep breath and if you have any questions,

we've still got some brain cells left over there. We would be happy to answer them.

Yes?

UNIDENTIFIED COMMISSIONER: One question that came up many times tonight was will or will not the train traffic increase?

UNIDENTIFIED SPEAKER: Clint, why don't you come up. Clint Schelbitzki.

MR. SCHELBITZKI: Clint Schelbitzki at the Union Pacific.

So train traffic as a result of this project will not change.

UNIDENTIFIED SPEAKER: Oh, please.

MR. SCHELBITZKI: It won't increase. Our traffic is really dictated by the global market, by the U.S. economy. When our customers give us more goods to ship, that's when our train volumes will either increase; or if the economy goes down, like it has in the past several years, train volumes could decrease the same, but it has nothing to do with the amount of track that we install in any given area.

UNIDENTIFIED SPEAKER: So how about capacity?

One of the other lawyers, I think from the Friends of the Gorge, gave us some numbers and I

wanted to ask you about those numbers.

I think that they said that right now your capacity was in the neighborhood of 30 to 48 trains and after this project it would be in the neighborhood of 75 to 100 trains a day.

So understanding that's not what you're saying the intent is, but what is your capacity now and what would your capacity be after this project?

MR. SCHELBITZKI: I think the question turns into what is the capacity. We can move a good number of trains, but is it fluid? Is it -- you know, can you do it without the -- without a level of congestion that we're trying to relieve right now?

So I don't have the specific capacity number with me. I can tell you that 75 to 100 is false. There's no way we could move 75 to 100 trains with the track we have there today.

UNIDENTIFIED SPEAKER: With what it is here today, correct, but what -- what will it be with the proposed decision?

UNIDENTIFIED SPEAKER: Just to follow up, I appreciate that you're saying what you actually move is going to be driven by the global economy, pricing, and other macroeconomic factors, but it is

true that you could move -- the train volume could be higher after this project than it could be prior to the project. Is that true?

MR. SCHELBITZKI: That's correct, yes. That's where we have a common carrier obligation to our customers. If they provide us a shipment to move across the country, we don't have a choice in that. We have to move that. And if the economy improves such that it increases our volume as a result, we have to do this at that train crossing.

UNIDENTIFIED SPEAKER: So we have some information for you out of our planning department, like Clint said, but, you know, one of the things our chairman talked about in our meetings is that there will be some incremental -- that trains will get longer. That's something you will see. We'll be able to fit longer trains passing each other. They will be -- they'll be incrementally longer. So that doesn't mean there will be more trains, more trains trying to get out of the way. That's one of the factors you have to think about in this equation.

One other thing is that the experts -- the contention of the experts is that constructing 4.04 miles of double track and having the capacity to go

up to 75 to 100 trains per day, levels blatantly false and misleading.

The Portland subdivision on UPRR is 169 miles on an equal ordinance to cross in Oregon. That's 24.8 miles of double track. With the addition of the Mosier double track project, the 4.024 miles of double track, the route will have 28.84 miles of double track on the route. That is 17 percent of double track.

Okay? So just to repeat that. 169 miles, 17 percent is in the double track. We have a lot of single track railroad, right, Clint, wouldn't you say?

Since the majority of the route is single track, the capacity calculation has to take this fact into account. So, you know, basically we're guessing between 25 to 32 trains per day in order to run a consistent railroad. Okay? That's shrinking the largest single gap (inaudible) gap in usable siding, the double track that we are talking about at this hearing, we will gain capacity to run five to seven more trains per day. So what's where we are, five to seven more trains per day.

UNIDENTIFIED SPEAKER: Of the 25 you run today, give or take?

MR. SCHELBITZKI: Yes.
UNIDENTIFIED SPEAKER: Is Mosier your shortest siding?
MR. SCHELBITZKI: Yes.
No, no. It's Bridal Veil.
Thank you, Luke.
UNIDENTIFIED SPEAKER: So what is your shortest siding?
MR. SCHELBITZKI: Bridal Vail.
UNIDENTIFIED SPEAKER: Where is that?
MR. SCHELBITZKI: It's west of -- it's comparative, but it's Bridal Vail. So Mosier has 6,388 feet siding feet and Bridal Vale is comparative with 6,360.
UNIDENTIFIED SPEAKER: So how many foam trucks are you going to need along the Columbia River Gorge if you have two --
UNIDENTIFIED SPEAKER: I'm sorry. We have finished that input section.
Okay. Are there more questions?
UNIDENTIFIED SPEAKER: So if you're looking at 25 to 32 trains per day, right now is that your current average or is that your maximum right now?
MR. SCHELBITZKI: We provide -- 25 trains per day, give or take, is our operating average with a

maximum velocity of five to seven increase.

UNIDENTIFIED SPEAKER: And that's it for the velocity, picked up by increasing the double track, you're still going to run into bottleneck because you only have 17 percent double track. Is that what you guys are getting at when you say there is only 17 percent in terms of overall double track?

MR. SCHELBITZKI: Yes.

UNIDENTIFIED SPEAKER: Yes.

MR. SCHELBITZKI: This all comes from our engineer and the network planning guys, but the goal is by, you know, getting this build-out that we're going to have, it's going to allow that much more fluidity moving forward. Right now, the trains stop.

Talk about environmental impact. I mean, you know, having a train idle in the community is not ideal. You know, trains moving, in our opinion, are safer trains, because if they are stopped on the siding, you're going to have people crawling through them to get to the river. You are going to have issues with people crawling on locomotives. I mean, it's a number of issues that creates a very bad problem.

CHAIRMAN HARGRAVE: Do any of the commissioners

have more questions?
Okay. I thank you very much for your rebuttal.
And, Angie, does the staff want to say anything further?
MS. BREWER: Just that I appreciate how many people came out tonight. I feel like we learned a lot. Nothing to amend in the staff report.
CHAIRMAN HARGRAVE: Okay. Great. So, Commissioners, is there a motion to keep the written record open until five o'clock on September 13th for submittal of new evidence and argument, and until five o'clock September 21st for written comments, but no new evidence and to continue this meeting to three o'clock on September 26th for the Planning Commission deliberations?
UNIDENTIFIED SPEAKER: Commissioner, we need to have a location for that meeting as well. I wasn't sure where that would be.
CHAIRMAN HARGRAVE: I'm guessing that would be Grant's Point at the Discovery Center.
Angie?
MS. BREWER: Staff has confirmed that the space is available.
CHAIRMAN HARGRAVE: That was fast.
Is there a such a motion?

UNIDENTIFIED SPEAKER: Yes.
CHAIRMAN HARGRAVE: Okay.
Is there a second? Perfect.
All in favor?
GROUP: Aye.
CHAIRMAN HARGRAVE: And any opposed?
Okay. That motion is carried.
So thank you all for coming. The hearing is over.
(Proceedings adjourned)