

1                                   PAUL PEARCE,  
2                   having been first duly sworn on oath,  
3                                   testified as follows:  
4

5                                   DIRECT EXAMINATION

6 BY MS. DRUMMOND:

7           Q.       Could you state your name and address for the  
8 record.

9           A.       Paul Pearce. I'm a commissioner with Skamania  
10 County. The address is 240 Vancouver Avenue, Stevenson,  
11 Washington.

12          Q.       I believe we should make one quick clarification on  
13 your testimony. The county is now officially recognized by  
14 EFSEC as a party. Correct?

15          A.       That's correct.

16          Q.       At the time you submitted your testimony that had  
17 not occurred. Correct?

18          A.       That's correct.

19          Q.       Do you swear that the testimony that you have  
20 submitted is true and correct to the best of your knowledge?

21          A.       Absolutely.

22          Q.       Are there any further changes you would like to  
23 make with them?

24          A.       No, there is none.

25          Q.       With that, Your Honor, I would like to move to

1 admit Commissioner Pearce's rebuttal testimony and the  
2 attached exhibits which are 51.00 and 51.01.

3 (Exhibit Nos. 51.00r and 51.01r offered into  
4 evidence.)

5 JUDGE WALLIS: Is there objection?

6 MR. ARAMBURU: We may objections to certain parts  
7 so we'd ask you to reserve ruling.

8 JUDGE WALLIS: Very well. There's no objection to  
9 the attachment?

10 MR. ARAMBURU: Not from SOSA.

11 MR. KAHN: No, none.

12 MS. DRUMMOND: I would note there was an earlier  
13 motion to strike portions of Commission Pearce's testimony  
14 and the Commissioner did deny that so I wouldn't want to  
15 rehash that again today.

16 JUDGE WALLIS: Very well. Exhibit 51.01r is  
17 received in evidence. We will reserve ruling on Exhibit  
18 51.00r.

19 (Exhibit No. 50.01r admitted into evidence.)

20 MR. HAYES: Your Honor, I have two versions in my  
21 book. Exhibit 50.00 --

22 JUDGE WALLIS: Let's be off the record, please.

23 (Discussion off the record.)

24 JUDGE WALLIS: Let's be back on the record,  
25 please. During a brief recess we noted that the document

1 was submitted under other numbers and with another sponsor,  
2 but the correct version in terms of the title is 51.00  
3 sponsored by Skamania County, and the other documents have  
4 identical text and pagination but the correct caption is as  
5 noted.

6 MS. DRUMMOND: I believe we have admitted the  
7 testimony then and I have no further questions at this time.

8 JUDGE WALLIS: Yes.

9 Mr. Aramburu.

10 CROSS-EXAMINATION

11 BY MR. ARAMBURU:

12 Q. Mr. Pearce, I'm Rick Aramburu. I'm the attorney  
13 for Save our Scenic Area, and I'm going to be asking you some  
14 questions today. Good afternoon.

15 A. Good afternoon.

16 JUDGE WALLIS: May I just interject just for a  
17 moment here. Mr. Pearce, it may be helpful if you pick up  
18 the microphone out of the stand and hold it relatively close  
19 to your mouth because this sound system operates best when  
20 we are very close to the microphone.

21 THE WITNESS: All right.

22 JUDGE WALLIS: Thank you.

23 BY MR. ARAMBURU:

24 Q. Mr. Pearce, I've read your prefiled testimony and  
25 have several questions about your testimony. First of all,

1 on the first page you indicate your present occupation is  
2 Skamania County Commissioner, and you've had that post since  
3 2004. Could you trace your employment history prior to  
4 becoming a Skamania County Commissioner.

5 A. Prior to being a Commissioner, I was a police  
6 officer with the City of Camas for 28 plus years. Prior to  
7 that I was in the Marine Corps for four years, and prior to  
8 that I worked for DNR for three summers.

9 Q. Okay. 28 years as a police officer in Camas?

10 A. About 28-1/2.

11 Q. When did you start at Camas?

12 A. 1977.

13 Q. During this period of time did you live in Camas or  
14 where did you live when you were a police officer?

15 A. I started living in Camas. I moved to Fern Prairie  
16 and then I moved to West Skamania County on Sky Road in 1990.

17 Q. So your first residence in Skamania County was in  
18 1990; is that correct?

19 A. My first residence. I worked in Skamania County  
20 for DNR back in the '70s.

21 Q. Were you a County Commissioner at the time the  
22 Columbia Ridge Scenic Area Act was adopted by Congress?

23 A. No, sir, I was not.

24 Q. At that time you were a police officer in Camas?

25 A. That is correct.

1 Q. You were not living in Skamania County during that  
2 period of time?

3 A. I was not living here in 1986, no.

4 MR. ARAMBURU: Mr. Wallis, there are multiple  
5 sections of this witness's testimony in which he refers to  
6 events that occurred in 1986. For example, at the top of  
7 page 5 the witness says, "opponents' position eliminates the  
8 bargain we struck in 1986", and provided additional  
9 testimony about that. At the bottom of page 5 he describes  
10 the 1986 compromise. That is page 5, line 24, and at other  
11 locations in the testimony, for example. Well, various  
12 other places in the testimony he purports to describe events  
13 that occurred in 1986 using the word "we" at the top of page  
14 3, the County foresaw when the Columbia Gorge Scenic Act was  
15 adopted or was in process that would have an impact on the  
16 citizens, page 3, lines 8 and 9 responding to our concerns.

17 We would move to strike those portions of the  
18 witness's testimony that have to do with references to  
19 events that occurred in 1986 on the grounds that this  
20 witness was not living in Skamania County nor was he in a  
21 position of authority or otherwise connected with the  
22 Skamania County government during that period of time. The  
23 Council has previously struck the testimony of Mr. Mentor.  
24 Mr. Mentor purported to provide sort of the legislative  
25 history regarding the adoption of the act. I think

1 Mr. Pearce without attempting even to demean his credibility  
2 that he was not even a party to the proceedings back in  
3 1986. So I would ask that the Council strike and not  
4 consider in its review testimony about events that he's  
5 testified about that took place in 1986.

6 MS. DRUMMOND: This testimony is very important to  
7 Skamania County. Commissioner Pearce and the county live  
8 and breathe the scenic area every single day. They oversee  
9 the planning department. It plays a key role in how  
10 economic development occurs within the county. Commissioner  
11 Pearce is very familiar with how the scenic area came about.  
12 He travels to Washington, D.C., to address the Scenic Area  
13 Act and from the beginning of his testimony he talks about  
14 funds and so forth that he has lobbied for on the County's  
15 behalf. Commissioner Pearce is very familiar with the  
16 Scenic Area Act and its ramifications on the county and the  
17 history behind that.

18 Counsel, Mr. Aramburu, has not pointed to anything  
19 to suggest that Commissioner Pearce is not familiar with the  
20 history of the act. In fact, he is probably one of the most  
21 qualified persons in this proceeding having been elected to  
22 serve as Commissioner as he has to speak about the history  
23 of this Scenic Area Act and how it came about with respect  
24 to at least what he has presented here. There is no basis  
25 to strike the testimony.

1 JUDGE WALLIS: I believe that this testimony is  
2 distinguishable in a number of respects from the testimony  
3 Mr. Mentor, and Ms. Drummond has identified several of the  
4 factors. The testimony of this witness is based upon  
5 necessarily his experience and his working with the issues  
6 on an ongoing basis and appears to be a recitation in many  
7 regards of the facts that are of public record. So the  
8 objection is denied.

9 BY MR. ARAMBURU:

10 Q. So in 1986, Mr. Pearce, were you interested or  
11 involved at all in the scenic area issues in Skamania County?

12 MS. DRUMMOND: I want to be careful on this line  
13 of questioning. I believe that Mr. Pearce has already  
14 answered that question. I don't want to drag this  
15 proceeding out anymore unnecessarily today.

16 MR. ARAMBURU: That's the first time I put this  
17 question to him.

18 MS. DRUMMOND: We can allow this one question, but  
19 I don't want to go too far down this track.

20 JUDGE WALLIS: Let's proceed, please.

21 BY MR. ARAMBURU:

22 Q. Do you have in mind the question?

23 A. Yes, sir. In 1986, I was familiar with the  
24 enactment of the act, but I did not have interest or  
25 involvement in it, no, sir.

1 Q. Thank you. On page 5 of your testimony you  
2 reference at the very bottom the 1986 compromise. Did you  
3 participate in any manner in the compromise that you  
4 described at that portion of your testimony at the bottom of  
5 page 5?

6 MS. DRUMMOND: Again, I believe this question has  
7 already been addressed, but he can answer if we don't  
8 proceed too far along with this line of questioning.

9 JUDGE WALLIS: Let's not attempt to pursue again  
10 the matters that were addressed earlier.

11 MR. ARAMBURU: May I have an answer to my  
12 question?

13 JUDGE WALLIS: The witness may respond.

14 A. No, sir.

15 JUDGE WALLIS: That is consistent with his earlier  
16 testimony that he was not here at that time.

17 BY MR. ARAMBURU:

18 Q. Let me direct your attention, Mr. Pearce, to page 8  
19 of your prefiled testimony at 4 through 10. There you  
20 describe the unemployment rate for Skamania County; is that  
21 correct?

22 A. On line 2, yes, sir.

23 Q. You indicate that the project would contribute to  
24 temporary construction jobs. Do you know how many temporary  
25 construction jobs might be created by the Whistling Ridge



1 Project?

2 A. No, sir, I do not.

3 MS. DRUMMOND: Susan Drummond. I would just note  
4 that all of those figures are in the Hovee report and are  
5 part of the record.

6 JUDGE WALLIS: Thank you.

7 MR. ARAMBURU: Mr. Examiner, adding testimony from  
8 counsel seems to me is inappropriate if this witness cannot  
9 answer this question.

10 JUDGE WALLIS: I did not hear counsel offering  
11 testimony but only referring to an exhibit in the record to  
12 which there has been no objection.

13 BY MR. ARAMBURU:

14 Q. You indicate that the project would contribute  
15 significantly to jobs in indirect spending. Do you have a  
16 number for us as to how much this indirect spending would be?

17 A. No, sir. That's why it's not in there.

18 Q. Can you provide us with any information as to how  
19 much of the indirect spending would actually occur in  
20 Skamania County as opposed to other counties?

21 A. No, sir, I can't give you a specific number.

22 Q. Your testimony also indicates now as to --  
23 Mr. Pearce, we are at the top the page 8, lines 5 through 7.  
24 It said that the project would guarantee a fixed number of  
25 permanent well-paying jobs. Can you tell us what that fixed

1 number would be?

2 A. No, sir, that's why I didn't say how many.

3 Q. Can you tell us how much these jobs would be  
4 paying?

5 MS. DRUMMOND: All that data again is in the Hovee  
6 report.

7 MR. ARAMBURU: Mr. Wallis, we have the witness  
8 providing testimony, and I understand that counsel may argue  
9 that there is other information in the record. What we are  
10 trying to get at is this witness's testimony and what he  
11 understands and believes out of his testimony. So I'd ask  
12 counsel not to be essentially trying to supplement the  
13 testimony by providing another citation. I think that's  
14 inappropriate.

15 JUDGE WALLIS: The witness may respond.

16 A. I'm not sure what the last question was.

17 BY MR. ARAMBURU:

18 Q. The question was you referenced on page 8, line 7  
19 of your testimony that the Whistling Ridge project would  
20 "guarantee a fixed number of permanent well-paying jobs." Do  
21 you see that testimony?

22 A. Yes, it's right here.

23 Q. You describe these jobs as well-paying jobs, and my  
24 question to you is how much would these jobs pay?

25 A. I don't know the exact figure. I know that they're

1 from the information I've been given both as a member of the  
2 Economic Development Council and through Mr. Hovee's report,  
3 as well as the wind energy projects throughout the  
4 five-county region that these are good family-wage jobs. I  
5 can't give you a direct hard number. That's why I don't have  
6 a number in there.

7 Q. The fixed jobs for the Whistling Ridge Project  
8 those individuals who are employed in permanent jobs could  
9 work in Skamania County or Hood River County or Klickitat  
10 County or Clark County, could they not?

11 A. Certainly.

12 Q. Any reason to expect a lot of these people are  
13 going to live in Skamania County as opposed to those other  
14 counties?

15 A. I certainly hope they're going to live in Skamania  
16 County. I don't have any reason to expect they won't.

17 Q. You also indicate in the next line, again page 8,  
18 line 8 of your testimony the project would "contribute  
19 heavily to the county's assessed value." Can you tell us how  
20 much the assessed value would increase?

21 A. The assessed value for the county is approximately  
22 \$1.2 billion. That brings in about 1.4 million in property  
23 tax. I've been told by my assessor that this could bring in  
24 an additional million dollars.

25 Q. So that is from the assessor's office?

1 A. That's correct.

2 Q. Is that based upon an increase in property value?

3 A. It's based on assessment.

4 Q. Now, going on to page 8, lines 13 through 16, it's  
5 indicated that the comprehensive plan had not been revised  
6 since 1977; is that correct?

7 A. Yes, sir, that is correct.

8 Q. When you came to the office the 1977 Comprehensive  
9 Plan was the adopted comprehensive plan for the county?

10 A. At the time I took over office it was, yes, sir.

11 Q. We've provided to the parties some  
12 cross-examination exhibits respecting your testimony and  
13 other testimonies. Have you been provided with those  
14 exhibits?

15 A. Yes, I have.

16 Q. I don't know what you have in front of you,  
17 Mr. Pearce, but I would like you to look at if you have  
18 appropriately tabbed as Exhibit 2.02c.

19 A. Just a moment, please.

20 Q. Take your time.

21 MS. DRUMMOND: Could you identify the name of the  
22 document.

23 MR. ARAMBURU: It is Comprehensive Plan A Skamania  
24 County.

25 MS. DRUMMOND: It's 29.02 on that. Oh, you

1 submitted those as part of the cross.

2 MR. ARAMBURU: Yes, I think the exhibit numbers  
3 should be 2.04c. It was formally 29.03.

4 A. Okay. I have them in here as 29.03. That's the  
5 same one.

6 BY MR. ARAMBURU:

7 Q. And you're looking at the Comprehensive Plan A  
8 Skamania County?

9 A. Yes, sir, this is Comprehensive Plan A Skamania  
10 County, Resolution 77A.

11 MS. DRUMMOND: Just a point of clarification.  
12 This is not an official copy of the comp. plan. You'll note  
13 there's notes throughout from we're not sure on whether this  
14 was a government official, Mr. Aramburu, but I know you had  
15 put it into the record so it's not an official copy of the  
16 plan.

17 BY MR. ARAMBURU:

18 Q. Have you had a chance to go through Exhibit 2.04c?

19 A. I've looked at 2.04, yes.

20 Q. Does this appear to be the comprehensive plan  
21 adopted by Skamania County in 1977?

22 A. I cannot honestly say that it's the entire plan or  
23 that it's a portion of the plan. I'm not sure. I did not  
24 check it against our planning department.

25 Q. When you were redoing the comprehensive plan in the

1 past couple of years did you consult the 1977 plan to  
2 determine how it ought to be changed?

3 A. When we changed the plan and adopted it in 2007,  
4 yes, sir, we did.

5 Q. You don't remember whether the plan you looked at  
6 was this one or not?

7 A. I recognize the resolution number. I just don't  
8 know this is the entire plan.

9 MR. ARAMBURU: Mr. Wallis, in the exhibits we have  
10 made public information requests through Skamania County for  
11 their 1977 Comprehensive plan, and this is what we have been  
12 provided. We do think it's appropriate for this to be in  
13 evidence for the Council review of land use consistency, and  
14 we would move its submission.

15 (Exhibit No. 2.04c offered into evidence.)

16 MS. DRUMMOND: We have no objection to the Council  
17 accepting. Just note that there are notes and scribbles,  
18 and in the official version of the 1977 plan there would not  
19 be kind the notes and scribbles in here, and it's not  
20 entirely clear that this is the full and entire plan, but  
21 the County is not objecting to its conclusion in the record.

22 MR. ARAMBURU: So the record is clear, when we  
23 asked the County for a copy of the 1977 Comprehensive Plan  
24 what we were given is Exhibit 2.04. It was not marked up,  
25 scribbled on, or anything else by me or anyone else from

1 SOSA.

2 MS. DRUMMOND: We don't know the circumstances.

3 JUDGE WALLIS: So noted.

4 MR. ARAMBURU: So do we understand 2.04 is  
5 admitted into evidence?

6 Thank you.

7 I'm assuming there's no objection from  
8 Ms. Drummond concerning Exhibit 2.04 with the admission?

9 JUDGE WALLIS: No, with the qualifications that  
10 have been noted.

11 (Exhibit No. 2.04c admitted into evidence.)

12 BY MR. ARAMBURU:

13 Q. Toward the bottom of page 8 of your testimony.

14 MR. ARAMBURU: And for the Council Members, I'm  
15 not going to make further reference to this 1977  
16 Comprehensive Plan so if you're busy turning to it you don't  
17 have to.

18 BY MR. ARAMBURU:

19 Q. Now, I'm looking at the bottom of page 8 of your  
20 testimony, and it says and you describe the process of  
21 amendment to the zoning code of Skamania County over the past  
22 several years in the beginning of 2008. Do you see that  
23 testimony?

24 A. Yes, sir, I do.

25 Q. Can you tell us there is a reference there to the

1 Hearing Examiner remanding the matter for further review. Do  
2 you see that?

3 A. Yes.

4 Q. Have you reviewed the actions taken by the Hearing  
5 Examiner?

6 A. Yes, sir, I have. I've read it. I haven't read it  
7 of late, but I have read it.

8 Q. In your packet of materials before you would you  
9 take a look at that again, and one of the other  
10 cross-examination exhibits was 1.17c.

11 MS. DRUMMOND: Again, you're referring to the  
12 findings and conclusions and decision of the County Hearing  
13 Examiner?

14 MR. ARAMBURU: That's correct. That used to be  
15 29 --

16 MS. DRUMMOND: 29.02.

17 A. Thank you.

18 BY MR. ARAMBURU:

19 Q. Would you take a look at that document, Mr. Pearce.

20 A. No, I don't have a 29.02, I apologize.

21 Q. Let me see if we can expedite things.

22 A. Sure.

23 Q. I'm putting before you, Mr. Pearce, a copy of  
24 Exhibit 117c and asking you to take a look at that, please,  
25 and tell me whether or not that is the Hearing Examiner



1 decision referenced at the bottom of page 8 of your  
2 testimony.

3 A. Yes, it is.

4 MS. DRUMMOND: Could you repeat what page you were  
5 referring to? I missed that.

6 MR. ARAMBURU: Page 8, bottom of page 8.

7 BY MR. ARAMBURU:

8 Q. Exhibit 117c that I've handed you is that the  
9 Hearing Examiner decision referenced at the bottom of page 8  
10 of your testimony?

11 A. Yes, sir, it is.

12 MR. ARAMBURU: I move the admission of  
13 Exhibit 117c.

14 (Exhibit No. 1.17c offered into evidence.)

15 MS. DRUMMOND: We are not going to object to the  
16 Hearing Examiner's decision.

17 JUDGE WALLIS: The exhibit is received.

18 (Exhibit No. 1.17c received into evidence.)

19 BY MR. ARAMBURU:

20 Q. Now, at the top of page 9 of your testimony,  
21 Mr. Pearce, you have referenced actions taken by the county  
22 following the decision of the Hearing Examiner; is that  
23 correct?

24 A. Yes, sir, I do.

25 Q. And you said, "the County had three choices." Is

1 that a reference -- at the very, very top of page 9, you  
2 said, "the County had three choices". Is that the  
3 commissioners or the county in general or the planning  
4 department or who were you talking to?

5 A. I meant the County Commissioners.

6 Q. You listed three possible decisions, one of which  
7 was to appeal, one of which was to prepare the additional  
8 environmental review, or to defer to the EFSEC process. I  
9 understand the decision was not an appeal. Exhibit 1.17c,  
10 the decision of the Hearing Examiner, was not appealed?

11 A. No, sir, we did not appeal the decision of the  
12 Hearing Examiner.

13 Q. The second option was to prepare an additional  
14 environmental review which you characterize as likely the  
15 environmental impact statement at the top of page 9 of your  
16 testimony. Did you undertake that action?

17 A. No, sir, we considered it at length and due to the  
18 breadth of the Hearing Examiner decision decided that it was  
19 nearly impossible for a county of our size with our budget to  
20 undertake that review.

21 Q. So were you saying you didn't have enough money to  
22 comply with the Hearing Examiner's decision?

23 A. We did not believe because of the breadth of the  
24 decision that we could comply.

25 Q. And so then what is the status of the proposed

1 zoning code that was originally proposed in 2008?

2 A. Following this decision the zoning code has been  
3 shelved and we're under interim zoning.

4 Q. You mean the zoning code for the proposed amendment  
5 is still applicable in Skamania County?

6 A. Yes, sir, and then there's interim zoning on  
7 unzoned lands within Skamania County.

8 Q. Does the county intend to prepare documents that  
9 would be compliant with the Hearing Examiner's decision so  
10 that the zoning code can be amended?

11 A. At this point we're still considering that and/or  
12 an appeal. We just simply haven't made that decision at the  
13 county commission levels.

14 Q. You also list as your third choice "defer to the  
15 EFSEC process." Do you see that?

16 A. Yes, sir.

17 Q. What actions did the Commissioners take to defer to  
18 the EFSEC process?

19 A. We in a conversation with the Applicant said that  
20 the Applicant should most probably go to EFSEC which I  
21 believe they had already planned on doing, and the County  
22 fully supported that.

23 Q. So you had a private conversation with the  
24 Applicant concerning that matter?

25 A. Yes.

1 Q. And that was Mr. Spadaro or other people involved?

2 A. Mr. Spadaro.

3 Q. Any other commissioners in attendance at that  
4 meeting?

5 A. No.

6 Q. Would it have been possible for the Applicant to  
7 prepare the application for a conditional use permit for this  
8 project under the current zoning?

9 A. As I understand it, on the unzoned land because it  
10 would be under current code if it's not considered a  
11 nuisance, it would be allowed; then, yes, I suspect that they  
12 could have moved forward with a permit based on that. That  
13 certainly did not in my mind seem like a very likely course  
14 based on the appeal of the zoning ordinance to the Hearing  
15 Examiner. EFSEC seemed like a better process.

16 Q. Why wouldn't be it a likely course?

17 MS. DRUMMOND: I have an objection. I don't want  
18 to go down this path too far. Commissioner Pearce is not a  
19 land use lawyer. He's not the planning department. Some of  
20 these questions in terms of the exact legal strategy are  
21 really for a lawyer or for the planning director.

22 JUDGE WALLIS: I think that because of his  
23 position in the county and his familiarity with the issues  
24 he may respond.

25 BY MR. ARAMBURU:

1 Q. Go ahead.

2 A. I'm sorry. I don't remember the question.

3 MR. ARAMBURU: Could you read the question back.

4 (Last question read back.)

5 A. As I said, because of the decision of the Hearing  
6 Examiner the Commission felt that the EFSEC process made more  
7 sense. They are familiar with the process, they have the  
8 authority, and it just made more sense than to attempt  
9 something under the old codes.

10 BY MR. ARAMBURU:

11 Q. Did you advise the Applicant that there might be  
12 problems with proceeding under the old code with a  
13 conditional use application for its wind project?

14 A. No.

15 Q. You didn't tell them that?

16 A. No, absolutely not.

17 Q. But you did indicate that they would be better off  
18 going to EFSEC?

19 A. We had a conversation about EFSEC and we were  
20 supportive of going to EFSEC, yes.

21 Q. You were supportive because of the financial impact  
22 of the county of having to process the application?

23 A. No, sir. I'm having to process what applications?

24 Q. I understand that an option for the Applicant would  
25 have been to file a conditional use permit with Skamania

1 County to approve the wind turbine project.

2 A. We didn't have that conversation.

3 Q. Okay. So that wasn't discussed?

4 A. No.

5 Q. Would you look in your packet of exhibits, please,  
6 for Exhibit 51.01c.

7 MS. DRUMMOND: Can you give us the former exhibit  
8 number and identify the exhibit, please.

9 MR. ARAMBURU: I don't think we had another number  
10 for this, Ms. Drummond.

11 MS. DRUMMOND: Oh, you red-lined letter from the  
12 Department of Interior?

13 MR. BAKER: 51.01c is the letter with the Winston  
14 & Strawn letter. It's a cross-examination exhibit that  
15 Friends and SOSA filed on Monday. It should be in the blue  
16 binders for the Council. It's letter to FERC, but I did  
17 want to point out we have a duplicate number here. There is  
18 a 51.01r and 51.01c. So if it's okay with everyone we would  
19 two like to renumber this FERC letter to 51.02c.

20 (Exhibit No. 51.02c marked for identification.)

21 MR. ARAMBURU: Mr. Pearce, do you have that letter  
22 in mind?

23 A. Yes, I have it right here.

24 BY MR. ARAMBURU:

25 Q. Do you have it before you?

1 A. Yes, I do.

2 Q. Did you receive a copy of this letter?

3 A. This I believe is the first time I saw this. I got  
4 it in this proceeding.

5 Q. And Winston & Strawn are who?

6 MS. DRUMMOND: I don't know if this -- this has  
7 not been formally admitted yet. We don't have an objection.  
8 I'm not clear on its relevance, but we are not going to  
9 object to it. This is a one-page -- two-page letter  
10 actually.

11 MR. ARAMBURU: We move the admission of 51.02.

12 (Exhibit No. 51.02c offered into evidence.)

13 JUDGE WALLIS: Is there any objection?

14 Let the record show there is no objection and the  
15 document is received in evidence as 51.02c.

16 (Exhibit No. 51.02c admitted into evidence.)

17 BY MR. ARAMBURU:

18 Q. Now, in your packet of materials, Mr. Pearce, would  
19 you please turn to these are the packet of exhibits that I  
20 hope are in your notebook there and look if you would at  
21 Exhibit 42.03c.

22 A. Yes, sir.

23 MS. DRUMMOND: Could you identify the name of the  
24 document and the former number?

25 MR. ARAMBURU: Exhibit 42.03c is the Skamania

1 County Quick Facts from the Census Bureau Skamania County,  
2 Washington.

3 MS. DRUMMOND: We are going to object to this  
4 census data. Commissioner Pearce is not familiar with the  
5 data or certainly the County does not rely on these census  
6 figures. I know this data was also rejected when Ms. Bryan  
7 had taken the stand for both. All of the sheets of  
8 Klickitat, Hood River, and Skamania County were rejected.

9 MR. ARAMBURU: I appreciate Ms. Drummond  
10 testifying, but I haven't asked any qualifying questions to  
11 the witness about that so I think we should be permitted to  
12 do that before you rule on the objection.

13 JUDGE WALLIS: You may inquire of the witness.

14 BY MR. ARAMBURU:

15 Q. Have you looked at Exhibit 42.03c? Do you see  
16 that?

17 A. Yes, sir, I have since I received it.

18 Q. Does Skamania County receive and review information  
19 concerning the population and employment in Skamania County  
20 from the Census Bureau?

21 A. I don't know if Skamania County does. I certainly  
22 have never seen these before as Commissioner. We receive our  
23 information about employment data through the state economist  
24 through the EDC.

25 Q. Do you have information, can you tell us how much



1 the County has increased in population over the past ten  
2 years or so?

3 MS. DRUMMOND: If these questions are based on  
4 this exhibit I want to object.

5 MR. ARAMBURU: The question is a question to the  
6 witness. It's not based on the exhibit.

7 MS. DRUMMOND: I believe it's outside the scope of  
8 his testimony as to population increases because his  
9 testimony did not address populations within Skamania  
10 County.

11 MR. ARAMBURU: The witness has testified about  
12 supposed economic issues and problems in Skamania County.  
13 One of the aspects of that would be employment, and I think  
14 it's a fair question to ask the witness.

15 JUDGE WALLIS: I will allow the question.

16 BY MR. ARAMBURU:

17 Q. Do you know whether or not there's been an increase  
18 in population in Skamania County since the year 2000?

19 A. Since 2000, yes, sir. The estimates are that the  
20 population has increased from below 10,000 to above 10,000,  
21 but that's really all I know.

22 Q. Do you know what percentage it increased?

23 A. No, sir, I do not, not off the top of my head.

24 MR. ARAMBURU: Mr. Examiner, we would again move  
25 the admission of Exhibit 4203c.

1 (Exhibit No. 42.03c offered into evidence.)

2 JUDGE WALLIS: Based on the conversations that  
3 counsel have had I will deny that motion.

4 (Exhibit No. 42.03c is rejected.)

5 MR. ARAMBURU: Mr. Examiner, I want my objection  
6 to your ruling to show as a matter of record the document  
7 that is 42.03c is census information compiled by the United  
8 States Department of Census for Skamania County. The  
9 information talks about the employment, talks about median  
10 income, talks about all those things that this witness has  
11 testified to in his direct written testimony that was  
12 allowed, and we think it is appropriate rebuttal testimony  
13 because the Census Bureau keeps regular records. It is  
14 unbiased information. It is an exception to the hearsay  
15 rule if that is the nature of the objection. So I do want  
16 all of our objection to your ruling to show as a matter of  
17 record.

18 JUDGE WALLIS: Your objection is noted, and the  
19 uncertainties regarding the document have also been explored  
20 in the record during its earlier proposal for admission.

21 MR. ARAMBURU: Mr. Pearce, that's all the  
22 questions I have for you for the moment. Thank you.

23 THE WITNESS: Thank you, sir.

24 JUDGE WALLIS: Mr. Kahn?

25 MR. KAHN: Yes, thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. KAHN:

3 Q. Mr. Pearce, good afternoon. Gary Kahn representing  
4 intervenor Friends of the Columbia Gorge. Do you have your  
5 testimony in front of you?

6 A. Yes, sir, I do.

7 Q. If you could go to page 6.

8 A. I could do that, yes, sir.

9 Q. Lines roughly 7 through 15 you go through the  
10 analysis of how many acres Skamania has to develop. Fair  
11 summary of what you've got there?

12 A. Yes, sir, it is.

13 Q. Let's go through that. You say that there's a  
14 million acres, 85 percent of which is National Forest.  
15 Right?

16 A. Yes, sir.

17 Q. So that is about 850,000 acres more or less?

18 A. Yes, sir.

19 Q. Then you say there are coupled with that are 80,000  
20 acres of the scenic area plus 60,000 in state forest trust,  
21 and 40,000 private commercial forestland. Correct?

22 A. Yes.

23 Q. You then go down and that leaves you with what you  
24 say is 30,000 acres or three percent left to development.

25 A. Yes, sir.

1 Q. In reaching a conclusion of 30,000 did you subtract  
2 the entire 80,000 acres that are in the scenic area of  
3 Skamania County?

4 A. No, sir. The 80,000 I believe is not included in  
5 the urban areas.

6 Q. But what I'm asking though is you come up with a  
7 conclusion of 30,000 acres that is developable.

8 A. Yes, sir.

9 Q. To reach that conclusion would you agree that  
10 there's about 80,000 acres in Skamania County within the  
11 scenic area?

12 A. Yes, sir, I would.

13 Q. Are you subtracting all that 80,000 acres from what  
14 you claim is capable of being developed?

15 A. Yes, sir.

16 Q. So it's your contention all 80,000 -- that lands  
17 within the National Scenic Area in Skamania County cannot be  
18 developed?

19 A. Outside of the urban areas where planning is, yes,  
20 sir.

21 Q. Okay. Outside the urban areas. Let's talk about  
22 the general management area. If I'm understanding you  
23 correctly are you saying that outside of the urban areas  
24 there is no National Scenic Area land that can be developed  
25 within Skamania County?

1           A.       Developed for other than residential or  
2 agriculture? I don't believe so, sir.

3           Q.       Does it say that it could -- well, would you agree  
4 that the general management area lands in Skamania County  
5 outside of urban areas is capable of being residentially  
6 developed?

7           A.       Yes, sir, I would.

8           Q.       What about commercial development is that allowed  
9 in GMA land, general management area land?

10          A.       I don't recall that it is, sir.

11          Q.       So your recollection is that commercial development  
12 is not permitted on general management area lands within the  
13 scenic area?

14          A.       That's correct.

15                 MS. DRUMMOND: Commissioner Pearce testified it is  
16 highly restricted in the scenic area.

17                 MR. KAHN: Can we have counsel not testify,  
18 please? I'm asking questions of this witness, not Ms.  
19 Drummond. If she would like to be a witness, we can deal  
20 with that separately.

21                 MS. DRUMMOND: Just a point of clarification is  
22 all, Your Honor.

23                 JUDGE WALLIS: I will sustain that.

24 BY MR. KAHN:

25          Q.       So you indicated you don't think there's any

1 commercial development. Is recreation, commercial recreation  
2 development allowed in the general management areas?

3 A. There are commercial recreation or public  
4 recreation zones, and to the best of my knowledge only one of  
5 them has been developed, and I'm not aware of any others.

6 Q. Isn't it true that the Gorge Commission recently  
7 adopted a management amendment that authorized designation  
8 resorts within a certain general management land specifically  
9 within Skamania County?

10 A. The Broughton Mill Resort was a plan amendment that  
11 was approved.

12 Q. Would you agree that the standard guidelines in the  
13 management plan do not apply to the urban areas?

14 A. I certainly would agree that they do not.

15 Q. How many urban areas are there, designated urban  
16 areas under the Gorge Act within Skamania County?

17 A. Skamania County I believe that there are five.

18 Q. Counting the towns of Skamania County?

19 A. Skamania County Landing.

20 Q. Actually, that's a different designation. It's not  
21 a town center I believe.

22 A. Yes, something different. Yes, sir, I believe  
23 that.

24 Q. So the other --

25 JUDGE WALLIS: I am going to interject here and

1 ask Mr. Kahn to slow down a little bit, and that will help  
2 you and the witness keep you from talking at the same time.  
3 So at the very least as you are slowing down your speed also  
4 give the witness just a moment of silence and then the  
5 witness can speak.

6 BY MR. KAHN:

7 Q. Okay. Would those four urban areas be Stevenson,  
8 Carson, North Bonneville, and Home Valley?

9 A. Yes, sir.

10 Q. Do you know how many acres those four urban areas  
11 total?

12 A. I apologize. I do not know.

13 Q. I've got a number, and tell me whether you think  
14 it's close or not. That's 7,500. Does that sound about  
15 right?

16 A. I couldn't guess. I apologize. I don't have any  
17 idea.

18 Q. And for the most part the Scenic Act doesn't pose  
19 any restrictions on the development within the urban areas,  
20 is that correct, standards and guidelines?

21 A. Yes, sir, scenic areas are exempt.

22 Q. Isn't it true that Skamania Lodge, the very place  
23 we're at, was funded at least in part through the National  
24 Scenic Area?

25 A. And the county, yes, sir.

1 MR. KAHN: Thank you. That's all I have.

2 JUDGE WALLIS: Mr. Marvin, do you have questions?

3 MR. MARVIN: No, Your Honor.

4 JUDGE WALLIS: Does the Applicant have questions?

5 MR. McMAHAN: Not at this time. I would reserve  
6 follow up after Ms. Drummond so we don't end up asking the  
7 same things.

8 JUDGE WALLIS: Ms. Drummond.

9 MS. DRUMMOND: Thank you, Your Honor. I you have  
10 a few questions.

11 REDIRECT EXAMINATION

12 BY MS. DRUMMOND:

13 Q. SOSA asked a bit about tax revenues to the county.  
14 Could you elaborate a bit on how important this project would  
15 be to the county tax base?

16 A. Currently the county is receiving what's called  
17 secure rural schools and community accountability dollars  
18 from the federal government to the tune of about \$4 million  
19 dollars a year, and that is federal money that was approved  
20 for a second time in 2008. That runs out in 2011. The  
21 schools also receive that money. On top of the money that  
22 the county gets there's also a million dollars that goes to  
23 what's called the Resource Advisory Committee which was used  
24 for resource work on the forest and for jobs.

25 The fact is when that money runs out three of the



1 four school districts in Skamania County will within one  
2 year close, and we will layoff somewhere in the neighborhood  
3 of half of the county workforce. The center of the county  
4 has a higher unemployment than either of the two ends, west  
5 or east, mainly because of the distance obviously and lack  
6 of jobs. The county is the largest family-wage employer in  
7 the center of the county, and we have 225 employees. If  
8 this project and other projects help to diversify the tax  
9 base, then that makes our argument to the federal government  
10 about assistance much stronger than if we simply wait until  
11 that money runs out.

12           Secondarily, we are taxing our folks in terms of  
13 property tax at the maximum levy amount, and it still only  
14 brings in approximately \$1.4 million in general tax revenue  
15 and \$1.4 million in road revenue.

16           The unemployment and underemployment in the center  
17 of the county has a lot of impacts on the county in terms of  
18 service levels. We even have a domestic violence shelter in  
19 our county, and in November alone we had 77 bed nights in  
20 that shelter. So we have a very severe economic problem,  
21 especially in the center of our county. That's why a  
22 project like this is very important economically.

23           Q.     With regard to the center of the county, and I'm  
24 assuming you're referring to the Carson area, can you  
25 elaborate a bit on kind of the economic situation within that

1 part of the county such as the number of children on reduced  
2 or subsidized school lunches?

3 A. Those four school districts are wholly within the  
4 county which is Mount Pleasant, Skamania County, Stevenson,  
5 Carson, and Mill A average between in the elementary schools  
6 between 55 and 65 percent free and reduced lunch which is the  
7 number that the U.S. Department of Education uses to  
8 determine poverty level.

9 Q. You were asked a few questions about the  
10 comprehensive plan and zoning code, and in one of your  
11 answers you noted that under the existing zoning the project  
12 in these unclassified lands would be except for a small area  
13 would be actually permitted outright; meaning it does not  
14 need to have a permit. Did I understand you correctly when  
15 you stated that?

16 A. That's my understanding within those unzoned lands.

17 Q. Would this type of project be authorized outright?

18 A. If this project is not a nuisance according to the  
19 code that is my understanding.

20 MS. DRUMMOND: Those are all the questions that I  
21 have at this time.

22 JUDGE WALLIS: Mr. McMahan?

23 MR. McMAHAN: Yes, thank you, Your Honor.

24 ///

25 ///

1 RE-CROSS-EXAMINATION

2 BY MR. McMAHAN:

3 Q. Commissioner Pearce, Tim McMahan here for the  
4 record. Let me ask you the County's position concerning land  
5 use consistency for the Siting Council. What would the  
6 County's position be if the Siting Council determined that  
7 this project is somehow inconsistent with county land use and  
8 planning?

9 A. Then the Commissioners would ask the Council to  
10 preempt us.

11 MR. McMAHAN: I have nothing further.

12 MR. KAHN: I had one.

13 RE-CROSS-EXAMINATION

14 BY MR. KAHN:

15 Q. Mr. Pearce, in response to Ms. Drummond's question  
16 I believe you indicated that in your opinion the project area  
17 except for two small portions would permit this use outright.  
18 Did I capture your testimony correctly?

19 A. As I understand it the unzoned land under our  
20 current zoning codes if it's not a nuisance, then it's  
21 permitted. Now whether it would be a conditional permit or  
22 outright I don't know.

23 Q. Over the last several years I believe you  
24 testified -- I believe you did, and I'm not trying to put  
25 words in your mouth. Things have gotten boggled over a week

1 and a half here -- that you were involved in the discussions  
2 with the Applicant or the Applicant's representative  
3 concerning this project?

4 A. Mr. Spadaro and I had conversations about this and  
5 many other economic development projects.

6 Q. And did you have any conversations --

7 MS. DRUMMOND: I object. This is not directly  
8 responsive to the questions that I asked Mr. Pearce or that  
9 Mr. McMahan asked Mr. Pearce.

10 MR. KAHN: If you let me go one or two more  
11 questions you'll see exactly how relevant they are to the  
12 questions that were asked on redirect.

13 JUDGE WALLIS: We'll allow the questions.

14 BY MR. KAHN:

15 Q. In any of those discussions did any of those  
16 discussions with Mr. Spadaro occur after the Hearing  
17 Examiner's decision that invalidated your comprehensive plan  
18 amendments?

19 A. Any discussions about the project?

20 Q. Yes.

21 A. Yes.

22 Q. Any discussions as to why if you believed the use  
23 was permitted in some way that the Applicant didn't go  
24 through the Skamania County permitting process instead of  
25 filing an application with EFSEC?

1 A. No, sir. We did not have that conversation, not  
2 that I recall at all.

3 Q. Did you ever discuss with Mr. Spadaro your opinion  
4 that this was a permitted project in this zone, in the  
5 unzoned area?

6 A. No, sir, I don't recall having a conversation like  
7 that with Mr. Spadaro.

8 Q. How about anybody else on behalf of the Applicant  
9 for this project?

10 A. Not that I recall. We went directly to a  
11 conversation about EFSEC.

12 MR. KAHN: Okay. Thank you. That's all I have.

13 RECROSS-EXAMINATION

14 BY MR. ARAMBURU:

15 Q. Mr. Pearce, you testified about the consistency of  
16 planning and zoning within consistency of the Whistling Ridge  
17 Project planning and zoning in Skamania County; is that  
18 correct?

19 A. Our consistency determination, sir?

20 Q. You provided some testimony with respect to your  
21 opinion as to the consistency of the Whistling Ridge project  
22 with applicable zoning in Skamania County; is that correct?

23 A. Are we still talking about the unzoned land? I'm  
24 not sure what the question is.

25 Q. Okay. We're talking about unzoned land.

1           A.     Yes, sir, I did say that my understanding is that  
2 if it's not a nuisance it could be permitted, but how I don't  
3 know. The process I don't know.

4           Q.     And the 1977 Skamania County Comprehensive Plan as  
5 I understand was amended by the county in 2007; is that  
6 correct?

7           A.     Yes, sir. We adopted a new comprehensive plan in  
8 2007, yes.

9           Q.     When did you first discuss with Mr. Spadaro the  
10 possibility of a wind turbine project on lands owned by SDS  
11 in Skamania County?

12          A.     I couldn't give you a date, sir. I don't know.

13          Q.     It was before 2007, wasn't it?

14          A.     I'm trying to remember when the plan amendment  
15 occurred on Broughton because I don't recall talking about  
16 wind power or any of that prior to us working through the  
17 plan amendment process on Broughton.

18          Q.     Do you recall that there were a number of  
19 preapplication conferences that Mr. Spadaro had with your  
20 planning staff, including Ms. Karen Witherspoon?

21          A.     I remember discussing those while we were doing the  
22 zoning codes, yes.

23          Q.     Do you recall that those communications between  
24 Mr. Spadaro and planning staff occurred going back to 2002,  
25 2003?

1 MS. DRUMMOND: I'd object to this line of  
2 questioning. Mr. Pearce wouldn't -- I mean if the planning  
3 director were here she could verify when those conferences  
4 happened, but it would likely be difficult for Commissioner  
5 Pearce to testify about this.

6 JUDGE WALLIS: I believe the witness was asked  
7 whether he was aware of this, and that's a fair question.

8 A. Not until we started the zoning code updates.

9 BY MR. ARAMBURU:

10 Q. Would you turn to Exhibit 1.17c, please, which is  
11 the decision of the Hearing Examiner on the SEPA appeal  
12 regarding the proposed zoning ordinance.

13 A. I'm sorry. I don't believe I have it.

14 Q. Okay.

15 A. We did this before.

16 Q. We did this before. I am going to 1.17c.

17 A. Thank you.

18 Q. Mr. Pearce, would you please turn in that decision  
19 to page 8. Do you have that page?

20 A. Yes sir, I have page 8.

21 Q. Would you look at the first sentence, please, of  
22 paragraph 18 found on that page, and if you wouldn't mind  
23 please read it allowed to the Council.

24 A. No. 18, sir?

25 Q. Yes, please. Just the first sentence.

1           A.       "The 2007 Comprehensive Plan does not contemplate  
2 the type of energy facilities described in the planning  
3 commission recommended draft."

4           Q.       Do you agree with that conclusion reached by your  
5 appointed Skamania County Hearing Examiner?

6           A.       Yes, I would agree.

7           MR. ARAMBURU:   No further questions.

8           JUDGE WALLIS:   Is there anything further of the  
9 witness?

10          MS. DRUMMOND:   Just one quick question.

11                           RE-REDIRECT EXAMINATION

12 BY MS. DRUMMOND:

13          Q.       The existing 2007 comprehensive plan does not  
14 prohibit wind facilities, does it?

15          A.       No, ma'am.

16          Q.       Actual two. One last question. Is it your  
17 understanding that with any project there are essentially two  
18 tracks at the local level: one is the environmental review  
19 and one is the zoning and an applicant has to go through both  
20 processes?

21          A.       Absolutely.

22          Q.       Right. So even if the project would be permitted,  
23 they would still have to go through the SEPA, and, of course,  
24 there would certainly be litigation within the county on  
25 that. Correct?



1 A. Yes.

2 MS. DRUMMOND: Thank you. Those are all the  
3 questions that I have.

4 MR. ARAMBURU: Just one more follow-up question.

5 RE-RECROSS-EXAMINATION

6 BY MR. ARAMBURU:

7 Q. For applicants for land use approval in Skamania  
8 County and their processing of their land use application in  
9 the county does the county require that those applicants pay  
10 the cost of processing applications to the county?

11 A. We have costs for recovery. It is not full cost  
12 recovered for applications at this point.

13 MR. ARAMBURU: That's sufficient. That's all the  
14 questions that I have.

15 JUDGE WALLIS: Very well. Thank you for your  
16 testimony, Mr. Pearce. You're excused from the stand at  
17 this time. Let's be off the record for a moment while  
18 Mr. Lang steps forward.

19 (Off the record awaiting next witness to take the  
20 stand.)

21 JUDGE WALLIS: Let's be back on the record, please  
22 Mr. Lang has stepped forward.

23 MICHAEL LANG,

24 having been first duly sworn on oath,

25 testified as follows: