

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

BOARD MEETING)
DECEMBER 8, 2017)

TRANSCRIPT OF PROCEEDINGS

Heard at Room 111 of the Metcalf Building
1520 East Sixth Avenue
Helena, Montana
December 8, 2017
9:00 a.m.

BEFORE CHAIR CHRIS DEVENY;
and BOARD MEMBERS JOHN DEARMENT,
DEXTER BUSBY, TIM WARNER,
HILLARY HANSON, and JOHN FENTON
(All by telephone)

PREPARED BY: LAURIE CRUTCHER, RPR
COURT REPORTER, NOTARY PUBLIC

1 WHEREUPON, the following proceedings were
2 had and testimony taken, to-wit:

3 * * * * *

4 CHAIR DEVENY: Good morning, everybody.
5 I'm Chris Deveny, Chair of the Board of
6 Environmental Review. I'd like to welcome you
7 here. I'd like to call this meeting to order.
8 And Lindsay, would you take the roll call and see
9 if we have a quorum.

10 MS. FORD: Chris Deveny.

11 CHAIR DEVENY: Here.

12 MS. FORD: John Felton.

13 MR. FELTON: Here.

14 MS. FORD: Dexter Busby.

15 MR. BUSBY: Here.

16 MS. FORD: Hillary Hanson.

17 MS. HANSON: Here.

18 MS. FORD: Tim Warner.

19 MR. WARNER: Here.

20 MS. FORD: John Dearment.

21 MR. DEARMENT: Here.

22 MS. FORD: Chris Tweeten.

23 (No response)

24 MS. FORD: I don't hear from him yet.

25 CHAIR DEVENY: So everybody but Chris.

1 We have a quorum. We'll go ahead and continue.
2 This is the first telephonic board meeting of this
3 Board, and so since we don't really know each
4 other very well yet, and we certainly don't
5 recognize each other's voices, I'd really like to
6 remind Board members when they speak up to please
7 state who they are so our Court Reporter can be
8 accurate in getting who's speaking, and so
9 everybody else knows as well.

10 Our first order of business is review
11 and approval of the minutes. So you should have
12 the minutes in your Board packet. I believe there
13 may be an amendment being proposed by DEQ and our
14 attorney Sarah Clerget. George.

15 MR. MATHIEUS: Madam Chair, we do
16 propose an amendment to the minutes. It's in
17 Section III.C.1. It's following Hearing Examiner,
18 we propose that "for all procedural matters" be
19 added to the text.

20 MS. CLERGET: Madam Chair, I apologize
21 for my voice, everybody. I agree with that, and I
22 think the transcript reflects that.

23 MR. MATHIEUS: Correct.

24 CHAIR DEVENY: So could there be a
25 motion that we include that amendment, change into

1 the minutes of the last meeting.

2 (No response)

3 CHAIR DEVENY: I'll move it. Would
4 somebody second it?

5 MR. BUSBY: I'll second it. Dexter
6 Busby.

7 CHAIR DEVENY: Thank you, Dexter. It's
8 been moved and seconded. All in favor of that
9 amendment, please say aye.

10 (Response)

11 CHAIR DEVENY: Any opposed?

12 (No response)

13 CHAIR DEVENY: Okay. Thank you. I also
14 have an addition I'd like to the minutes. This
15 just refers to the very last statement in the
16 general public comments. I would like the minutes
17 to reflect that we had discussed acknowledging
18 former Board members Joan Miles, Marietta Canty,
19 Robin Shropshire, as well as Chris Tweeten who
20 continues to serve on this Board, acknowledging
21 their public service and their work. So if we
22 could just have that added to the minutes, and
23 I'll make that in a motion. Could I get a second
24 on that?

25 MS. HANSON: This is Hillary. I second.

1 CHAIR DEVENY: Okay. Thank you. All in
2 favor, please signify by saying aye.

3 (Response)

4 CHAIR DEVENY: Any opposed?

5 (No response)

6 CHAIR DEVENY: Thank you. So now we
7 need a general motion, if there are no further
8 amendments, just approving the minutes of the last
9 meeting as we voted on those amendments.

10 MR. DEARMENT: This is John.

11 MR. BUSBY: This is Dexter. I'll second
12 it.

13 CHAIR DEVENY: They've been moved and
14 seconded. All in favor, please say aye.

15 (Response)

16 CHAIR DEVENY: Any opposed?

17 (No response)

18 CHAIR DEVENY: Okay. The minutes have
19 been approved. Thank you.

20 Our next order of business is to review
21 the 2018 meeting schedule, and so I'd like to
22 refer you again to, in your packet, you should
23 have the executive summary with some suggested
24 dates. Before we move along with those, there has
25 been a couple of changes, and I'd like to point

1 those out to you.

2 April 2nd is a Monday. We need to move
3 that to Friday, which would be April 6th. And
4 December 8th is a Saturday. I don't think we want
5 to meet then, so we're going to move that back to
6 December 7th.

7 So these dates were established after
8 Board members were contacted to see where we had
9 the least conflicts for upcoming meeting dates.
10 So unless, George, you had anything to add, I'm
11 just going to ask the Board if they have any
12 discussions about those dates, or if we could have
13 a motion to approve those with those changes.

14 Do Board members have any comments,
15 issues?

16 MR. FELTON: Madam Chair, this is John
17 Felton. I do have a conflict on February 9th, but
18 the other dates are fine with me.

19 CHAIR DEVENY: That works for everybody
20 else, though?

21 MS. HANSON: Yes.

22 CHAIR DEVENY: I'd like to entertain a
23 motion to approve these dates for the Board's
24 meeting schedule for 2018.

25 MS. HANSON: This is Hillary. I move we

1 approve these dates.

2 CHAIR DEVENY: It's been moved. Is
3 there a second?

4 MR. FELTON: John Felton will second.

5 CHAIR DEVENY: Thank you. All in favor,
6 please say aye.

7 (Response)

8 CHAIR DEVENY: Any opposed?

9 (No response)

10 CHAIR DEVENY: Okay. We've set the
11 schedule, so get it in your calendars, folks.
12 Thank you very much.

13 Our next item of business is the
14 briefing items, and we'll start with the contested
15 case update by Sarah Clerget, our Board attorney,
16 and let's first start with the enforcement cases
17 that have been assigned to her as Hearing
18 Examiner.

19 MS. CLERGET: All right, everybody. Let
20 me know if you can't hear me. I apologize again
21 for my voice.

22 The first two cases on your agenda are
23 essentially mirrors of each other, basically the
24 same case, for Copper Ridge and Copper Ridge
25 Reflections, and both of those were set for

1 hearing on January 9th through 11th.

2 I had a status conference this week I
3 think or last week with the parties, and we
4 actually are going to have to move those hearing
5 dates. They are getting back to me. We're going
6 to have another status conference next week to get
7 hopefully another hearing on the schedule
8 relatively quickly. But we're ready to move that
9 one to hearing as soon as we can get that schedule
10 figured out.

11 "C" on your agenda, again, on the first
12 page, this is the Opencut Mining Act by Goran,
13 gravel pit. And on your agenda it says that I
14 asked for a status update on November 6th. They
15 just got back to me this week, so I apologize that
16 the most recent information is not on the agenda.

17 But they've exchanged settlement
18 agreements, and they're just finalizing language.
19 They let me know in that status update. So I'll
20 expect that one to settle relatively quickly.

21 "D," Oil Field Rock and Logistics on
22 your agenda, going on to Page 2, we have a
23 scheduling order on their briefing motions for
24 summary judgment, so we'll see how that goes, and
25 it is moving along at a good pace.

1 "E," the Dickenson's appeal, you can see
2 on your agenda that we've issued an order, a
3 scheduling order, but then we had a motion to
4 stay. I granted that for 60 days. Essentially
5 I'm guessing -- although I don't know -- that
6 they're talking to each other to see about
7 settlement. So I will get an update within 60
8 days, and I'll follow up with that at your next
9 meeting.

10 "F," Opencut Mining by Wagoner Family, I
11 have issued an order on summary judgment, so they
12 will have an opportunity to make exceptions before
13 the Board, and oral argument at the next meeting
14 if they want it, and that part of that may be in
15 front of you for a decision at the next Board
16 meeting.

17 Going on to the nonenforcement cases,
18 2(a) Phillips 66, this was dismissed, so just an
19 FYI for you guys that this will fall off of your
20 agenda, and you won't see it anymore.

21 "B," under 2(b), LT Trucking, again,
22 this was dismissed, just an FYI for you it will
23 come off of your agenda at the next meeting.

24 Westmoreland Resources, there is a stay
25 for thirty days, and I should probably let DEQ

1 update on that one.

2 CHAIR DEVENY: John North, could you
3 give us an update on that. Thank you.

4 MR. NORTH: Yes, Madam Chair. John
5 North, Chief Legal Counsel. There is no change in
6 that status. They're still working on settling
7 the attorneys fees issue.

8 MS. CLERGET: So moving on to "D," under
9 No. 2, Signal Peak, again, I apologize. When I
10 put out the agenda, you saw that I asked for an
11 update, which came in this week. The update
12 stated that they're working on discovery issues,
13 and they proposed a schedule for motions. So I
14 anticipate that we'll get another scheduling order
15 in place relatively quickly, but it's moving along
16 at a good pace.

17 "E," Western Energy, we had a scheduling
18 conference this week. So again, this is an update
19 even from what's on your agenda. And we're going
20 to have another scheduling conference next week.
21 Essentially we're working through discovery
22 issues, and I think the parties are working hard
23 to get a schedule in place. There is a lot of
24 moving parts in that case. So I'm on top of it,
25 but we're going to have to have another scheduling

1 conference next week before we have any firm
2 schedule in place.

3 "F," moving on to Page 3 of your agenda,
4 Montanore Minerals case, there is a scheduling
5 order in place, and we're proceeding through that
6 scheduling order. It is a relatively new
7 scheduling order, so they're in discovery right
8 now.

9 "G," Glacier Ranch, the parties filed a
10 stipulation to dismiss, so this is another just
11 FYI that this is going to drop off of your agenda
12 and go away. It is closed.

13 "H," Northwest Company's appeal of -- I
14 can't pronounce their name. I apologize. But we
15 call it Northwest. So this is just a dismissal,
16 FYI for you guys, that it is going to come off of
17 your agenda.

18 "I" on Page 3 of your agenda, the Laurel
19 Refinery, we have stayed this until February 16th.
20 So they are in discussions amongst themselves
21 right now, and I will get back to you at the next
22 meeting after that February 16th deadline.
23 Actually it will probably be the third meeting
24 once that February 16th deadline passes.

25 "J" on your agenda, this is Payne

1 Logging. This was scheduled to be an oral
2 argument at this meeting because it is fully -- it
3 is done and ready for the Council, but the parties
4 asked that it be moved to the next meeting, so at
5 the next meeting, you'll have a proposed order
6 from -- actually Hearing Examiner Haladay,
7 exceptions from the parties, and then the Board
8 will hear oral arguments, and you'll be deciding
9 on that case at the next meeting.

10 And now the third point under the
11 contested case updates, this is a contested case
12 not assigned to a Hearing Examiner. This is a new
13 -- I apologize.

14 CHAIR DEVENY: I think this is DEQ's.

15 MS. CLERGET: Yes, this is DEQ's.

16 CHAIR DEVENY: Before you proceed, John,
17 does anybody have questions of Sarah? We want to
18 keep her talking as long as possible. Do any of
19 the Board members have questions for Sarah on any
20 of the contested case updates that she just gave?

21 (No response)

22 CHAIR DEVENY: Hearing none, we'll go
23 ahead and proceed with John North and the
24 contested case not assigned to a Hearings
25 Examiner.

1 MR. NORTH: Madam Chair, I have to
2 apologize to you and the Board. The response I
3 gave previously was with regard to this particular
4 matter. The status hasn't changed on this one.
5 It's still in front of the Court for determination
6 of attorneys fees, before a notice of appeal could
7 be filed with the Supreme Court.

8 With regard to the previous one, which I
9 think was 2(c), we feel reluctant to comment on
10 that because Counsel, other Counsel for the other
11 parties isn't here. So we would decline to do
12 that, with the Hearing Officer's permission.

13 MS. CLERGET: I guess the point is it is
14 not in front of the Board. It is in front of the
15 Supreme Court, is the update.

16 CHAIR DEVENY: John, while you're there,
17 I think you reported on this one last week that
18 you thought it was going to be done by this
19 meeting.

20 MR. NORTH: Right.

21 CHAIR DEVENY: Is there a particular
22 reason for the delay that we should know about, or
23 is it just the way things go?

24 MR. NORTH: It is just the way
25 negotiations go. They didn't go quite as smoothly

1 as I anticipated, but they're still ongoing.

2 CHAIR DEVENY: Okay. Thank you. Any
3 other questions of John on that particular case
4 from Board members?

5 (No response)

6 CHAIR DEVENY: Hearing none, we'll
7 proceed. Thank you, Sarah and John.

8 Time to move on to our action items,
9 which the first issue will be the initiation of
10 rulemaking, and I would like to turn that over to
11 DEQ.

12 MR. MATHIEUS: Madam Chair, I believe
13 Myla Kelly is presenting to the Board this
14 morning.

15 CHAIR DEVENY: Can everybody see the
16 power point? Board members, you should have the
17 power point in front of you that Myla Kelly is
18 going to give. Okay. Go ahead.

19 MS. KELLY: Okay. Great. Good morning,
20 Madam Chair, members of the Board. My name is
21 Myla Kelly. I'm the section supervisor for the
22 Water Quality Standards and Modeling Section in
23 the Water Quality Division here in Montana DEQ.

24 We're here today to request initiation
25 of rulemaking to implement MCA 75-5-222 Sub (2).

1 This is a statute that states that if pollution
2 upstream of a discharger is due to anthropogenic
3 or human caused sources, a variance from the water
4 quality standards may be appropriate under certain
5 conditions. So today I'd like to brief you on the
6 components of this proposed rule, and address any
7 questions that you might have.

8 This product has been achieved through a
9 substantial public stakeholder work group process.
10 This is through our Senate Bill 325 Work Group.
11 This work group began our monthly meetings in
12 January of 2016. And the work group is comprised
13 of representatives of Montana from agriculture,
14 industry, local government, and environmental
15 constituents.

16 Throughout the development of this
17 proposed rule, in addition to working with our
18 stakeholder work group, we've worked hand in hand
19 with the US EPA to address ideas, concerns, or
20 requests along the way to ensure that we met all
21 components of the Federal Clean Water Act.

22 This proposed rule has had multiple
23 reviews by the work group itself, by EPA, by our
24 DEQ Legal Division, and our Water Pollution
25 Control Advisory Council, who proposed moving this

1 forward to the Board today.

2 In March of 2017, we presented a rule
3 package to the Board of Environmental Review.
4 Based on the feedback that we got from the Board
5 and from some public comments, we met again an
6 additional six times, made some changes, and now
7 we're again coming before the Board to request
8 initiation of the rulemaking.

9 So our Bureau Chief, if you remember
10 last Board meeting, Eric Urban introduced this
11 topic in conjunction with an overview of water
12 quality standards. So as you may recall, Senate
13 Bill 325 was codified as MCA 75-5-222, and it
14 contains two provisions.

15 The first provision of the statute
16 states that DEQ may not apply water quality
17 standards to a water body that is more stringent
18 than a nonanthropogenic condition of the water
19 body.

20 The second provision is actually a
21 directive to the Department to adopt rules that if
22 the pollution upstream of a discharger is due to
23 anthropogenic or, again, human sources, a variance
24 from the standards may be appropriate under
25 certain conditions.

1 Long term historic mining sources such
2 as those that might result from historic mining in
3 the watershed; those that may eventually be
4 remediated, but have not been remediated yet, are
5 the primary type of pollution that the second part
6 of this bill is seeking to address.

7 So an example of the application of this
8 type of variance is a community grappling with
9 water quality issues from a legacy pollutant
10 source upstream.

11 Again, note today that we're requesting
12 initiation of rulemaking for the second part of
13 this bill, and not the first. So I wanted to step
14 back just a second.

15 UNKNOWN SPEAKER: The following
16 participant has entered the conference. No names
17 are available.

18 CHAIR DEVENY: Excuse me. Could the
19 person who just entered the meeting please
20 identify themselves.

21 MR. WARNER: Tim Warner. I was cut off.

22 CHAIR DEVENY: Oh, okay. Thanks, Tim.
23 Go ahead.

24 MS. KELLY: So just to step back a
25 moment and explain to you exactly what a variance

1 is, since we've used that term multiple times. A
2 variance is a State and a Clean Water Act tool
3 that's appropriate to use when a couple of
4 conditions are met.

5 One of those is that the water quality
6 standards in the water body is accurate, so that
7 the water quality standards that we want to
8 maintain in that water body.

9 And the second is that there is
10 flexibility that's needed for a permittee to
11 actually meet that water quality standards due to
12 specific factors that are spelled out in State and
13 Federal regulations.

14 So the flexibility has to be due to
15 these defined factors, and these include naturally
16 occurring pollutant concentrations, dams or
17 hydrologic modifications, natural flow conditions,
18 natural physical conditions. There is a number of
19 these factors that are spelled out in Federal
20 regulations. There's actually seven of them.

21 And what does a variance do? It allows
22 a discharger to continue their current
23 performance, which again they're applying for a
24 variance, so this typically means that their
25 current performance is exceeding water quality

1 standards. But it allows them to continue that
2 current performance for a limited amount of time.

3 So as we discuss the components of this
4 proposed rule, it is important to keep in mind
5 that this rule that I'm going to talk about is the
6 process, describes the process for how an
7 applicant would apply for a variance under the
8 conditions in the statute and proposed rule.

9 So this is not a general variance. Each
10 applicant seeking a variance under this rulemaking
11 will have to request an individual variance, which
12 involves a public review process, and requires
13 approval both by the Department and by EPA.

14 So in summary, the new rule sets forth
15 the conditions under which an applicant may apply
16 for a variance, and it specifies that the
17 applicant cannot materially contribute to the
18 condition of the receiving water body.

19 It also describes how the highest
20 attainable condition of the water body must be met
21 under the variance, and it outlines requirements
22 for DEQ approval and for periodic review of the
23 variance.

24 So hopefully you have had an opportunity
25 to look at the rule, so I want to just more

1 specifically go through each component. Sub (1)
2 of the rule aligns the rule language with the
3 statute itself.

4 Sub(2) of the rule sets forth the
5 requirements for the permittee to apply for a
6 variance, and aligns that rule language with
7 Federal regulations, requiring that the variance
8 issued represent the highest attainable condition
9 or the best that can be done for that water body
10 that's reasonably achievable.

11 Sub (3) and (4) set forth requirements
12 for the Department's review of the application for
13 the variance, including a requirement to consult
14 with the applicant if the Department determines
15 that a reasonable alternative exists that would
16 eliminate the need for a variance. So this could
17 include a compliance schedule; this could include
18 a TMDL process. So if there is an alternative, we
19 need to address that.

20 Sub(5) and (6) further describes the
21 Department's variance review, the public review
22 process, and the requirement to submit the
23 variance to EPA for review.

24 Sub(7) provides for using the variance
25 to develop MPDES permit limits. And Sub(8) and

1 (9) require a five year review period to
2 reevaluate the need of this variance, and sets
3 forth a process for that five year review, and
4 again, allows for public comment and EPA review.

5 So I'd now like to walk you -- that's
6 the rule language, and now I'd like to walk you
7 through the process that the Department would go
8 through for determining whether the applicant is
9 eligible for a variance. So these are a series of
10 questions that we'll need to consider for each
11 variance application.

12 Step 1 is the question of whether -- is
13 the condition of the receiving water body likely
14 to be remediated in the next five years, and if
15 the answer is yes, then a variance is not
16 appropriate under this process. If the
17 remediation is not likely to occur in the next
18 five years, then we move on to Step 2.

19 And Step 2 asks the question, "Can the
20 water quality standard be achieved through a
21 permit related action?" For example, like I was
22 saying before, this could be a compliance schedule
23 or a TMDL that states that the discharge is not a
24 significant contributor to the water quality
25 problem.

1 But again, we ask that question, and if
2 the answer is yes, this doesn't necessarily
3 preclude the applicant from seeking a variance,
4 but it informs the applicant that there may be an
5 alternative path forward.

6 If there are no other permit related
7 actions, then we move on to Step 3 and we ask the
8 question: Are the water quality standards
9 unattainable because the Applicant has
10 demonstrated one of the seven factors in EPA's
11 Federal requirements for variances?

12 There are seven options, as I previously
13 mentioned, to justify not meeting a water quality
14 standard under Federal regulations.

15 We think that two of those factors are
16 most relevant to this rulemaking. Those factors
17 are that human caused pollution prevents the
18 attainment of the use, and the source cannot be
19 remediated or would cause more environmental
20 damage to correct than leave in place. We think
21 that is a potential factor for an applicant to
22 apply for a variance.

23 Another potential factor is that meeting
24 a water quality standard would cause substantial
25 and widespread economic harm. For this second

1 factor, DEQ has developed extensive and detailed
2 guidance on how to carry out a substantial and
3 widespread harm analysis for a permit applicant in
4 both the private and public sector. So meeting
5 one of these factors is a Federal requirement, as
6 well as a State statute requirement.

7 So finally, if the answer -- So we're on
8 Point 4 there. If the answer is yes, we move to
9 the final question, and that is Step 4: Will the
10 discharge materially contribute to the condition
11 of the water body?

12 So what does this mean? Each situation
13 will be different, so the exact method by which
14 we, Department of Environmental Quality, determine
15 whether material contribution to the condition of
16 the water body is going to be situational, so we
17 have a couple foundational points from the
18 Department's material contribution review.

19 And those foundational points are,
20 number one, that the Department really does need
21 to determine this on a case-by-case basis, because
22 site specific conditions, such as the hardness,
23 the pH, other water quality factors, really need
24 to be evaluated on a site specific basis.

25 And secondly, the rule language in

1 Federal regulations require that the discharger
2 meet the highest attainable interim standard, so
3 the best that can be reasonably achieved. So
4 those will be our foundational principles under
5 that material contribution review.

6 Again, so now we're coming up on our
7 final step here. If the answer is no, the
8 applicant is moved -- no as in not materially
9 contributing -- the applicant is moved through the
10 variance process, and the applicant may apply for
11 a variance.

12 So from this point on, if DEQ determines
13 that the variance application meets all of
14 Montana's rules, we will begin the public process,
15 which allows time for public comment on the
16 individual variance itself, and a public hearing
17 to ensure that we have all the information that we
18 need. The Department then responds to those
19 comments, and the last step in the process is EPA
20 review and approval.

21 So in conclusion, while the effort of
22 this rulemaking has been substantial, it is
23 important to know that we anticipate the actual
24 application of this variance process to be fairly
25 minimal. Frankly there is very few scenarios in

1 Montana that will meet all of the conditions that
2 we just went through in that flow chart.

3 So I'm pleased to present this rule
4 package to the Board. It represents a really
5 massive commitment of thought, work, and time on
6 the part of our staff, on the part of our work
7 group members, as well as our EPA reviewers.

8 And also it represents a two year
9 process during which we solicited continual
10 feedback from our work group members, and
11 responded to that feedback within the bounds of
12 the directive language of the statute itself, and
13 then meeting all aspects of the Clean Water Act.

14 With that, I'd just like to see if we
15 can respond to any questions.

16 CHAIR DEVENY: Thank you, Myla. Do
17 Board members have questions of Myla at this
18 point? There will be some time for public comment
19 on this, but I want to see if Board members have
20 specific questions right now, and we'll also have
21 time for questions later. Any questions right
22 now?

23 (No response)

24 CHAIR DEVENY: Hearing none, I guess we
25 will open this up for public comment on the rules,

1 and I guess there is quite a few folks here today.
2 Just for sake of timeliness, I'd like to see a
3 show of hands for how many people are planning to
4 comment.

5 (Response)

6 CHAIR DEVENY: Just one. And do we have
7 some folks by phone that are interested in
8 commenting?

9 UNKNOWN SPEAKER: Yes.

10 UNKNOWN SPEAKER: Yes.

11 UNKNOWN SPEAKER: Yes.

12 CHAIR DEVENY: So four people. Okay.
13 We will entertain comments from the public then,
14 and I'd like to ask that each of the people don't
15 go beyond ten minutes, and probably less than that
16 if you can do that. And let's start with the
17 gentleman in the room here.

18 MR. OLSON: Thank you, Madam Chairman,
19 members of the Board. For the record, my name is
20 Alan Olson. I'm the Executive Director of the
21 Montana Petroleum Association.

22 First off, I would really like to
23 commend DEQ staff and Ms. Kelly for all of the
24 work that they've put into this over the last
25 couple years. It has been a rather long drawn out

1 process, and your staff has done a very fine job.

2 Madam Chairman, members of the Board,
3 looking, going back to the spirit of the
4 discussion on Senate Bill 325 -- and I apologize
5 for not bringing this forward to the staff before
6 today.

7 But New Rule I Subsection (1) currently
8 states, "The Department may grant to a permittee a
9 variance for a water quality standard if the
10 Department determines in writing," then the
11 following criteria. That seems to conflict a
12 little bit with Subsection (5) of the proposed
13 rule where it says, "The Department shall grant."

14 We would like to suggest that maybe we
15 have a new Section 1 that states, "The Department
16 shall approve a variance if the following
17 conditions are met," and then get down into the
18 meat of the rule with the conditions, and
19 renumbering the sections following that.

20 We feel that if a permittee can meet all
21 of the conditions stated in the proposed rule,
22 that the Department definitely should grant the
23 variance. So with that, Madam Chair, we will be a
24 little more prepared as the rulemaking goes
25 forward with a little more comprehensive written

1 comments.

2 CHAIR DEVENY: Thank you, Mr. Olson. So
3 we have three people by phone, so I guess we'll
4 just go ahead, and whoever speaks up first will be
5 allowed to testify. So please state your name
6 clearly so that we can get that recorded.

7 (No response)

8 CHAIR DEVENY: So there were some people
9 that wanted to speak, comment on this by phone.
10 Could you please speak up.

11 MR. GORDER: Yes. I can go first. This
12 is Andrew Gorder. For the record, my last name is
13 G-O-R-D-E-R. I'm legal director for the Clark
14 Fork Coalition.

15 CHAIR DEVENY: Go ahead, Mr. Gorder.
16 Thank you.

17 MR. GORDER: Thank you, Madam Chair,
18 members of the Board. Just for background, the
19 coalition is a non-profit organization dedicated
20 to protecting and restoring the Clark Fork Basin.
21 We have over 3,000 members, including members in
22 the Upper Clark Fork, and we're actively involved
23 in restoration work within the Upper Clark Fork
24 and other areas of the Basin.

25 So we have a vested interest in

1 protecting clean, and cold, and abundant water.
2 Additionally, we have a vested interest in water
3 quality. The owners of senior water rights are
4 dedicated to in-stream flow purposes for the
5 protection of the fishery resources.

6 With respect to the rulemaking proposed
7 today, while the coalition understands that DEQ is
8 compelled to act by statute, we do have concerns
9 about potential unanticipated implication of the
10 proposed rules with respect to variance standards
11 for water bodies, and facing anthropogenic
12 pollution.

13 Much of our efforts are focused on
14 legacy pollution sources in the Upper Clark Fork
15 Basin.

16 UNKNOWN SPEAKER: The following
17 participant has entered the conference.

18 MR. FIX: Mark Fix.

19 MR. GORDER: As we all know, continuing
20 water quality -- (inaudible) -- caused by hundreds
21 of years of mining.

22 Our basic concern here is that by
23 creating new avenues for dischargers to apply the
24 variances where we're dealing with historic
25 pollution sources that are not able to be

1 remediated within the next five years, we may be
2 taking away one of the few tools that we have to
3 ratchet down on the pollution, without any
4 guarantee of State or Federal action to address
5 the main causes of the historic pollution. So
6 that's kind of our big picture concern.

7 We also have some concerns about the
8 proposed language in Subsection (1)(d), which
9 outlines the factors that would allow for a
10 variance, specifically if the discharge would not,
11 quote, "materially contribute to the existing
12 conditions."

13 The term "materially contribute" is not
14 found in the Clean Water Act or the Federal
15 regulations related to the Clean Water Act, simply
16 because the Clean Water Act -- (inaudible) -- all
17 pollution, whether material or immaterial.

18 And while the intention here appears to
19 be clearly not to punish downstream dischargers
20 for upstream problems, it's unclear how exactly
21 the Department will determine what constitutes
22 material contribution to an impaired waterway
23 other than by, I guess, a case-by-case basis.

24 But for pollution sources, things like
25 dioxin and heavy metals, even small dischargers

1 can contribute, eventually contribute to an
2 exceedence of water quality standards. So that
3 term "material contribution" is somewhat
4 problematic for us.

5 So in sum, we do understand that there
6 has been a lot of work into this, and the DEQ and
7 the Legislature would obviously like to see this
8 process move forward as quickly and efficiently as
9 possible, the Coalition does feel there is some
10 remaining work to be done on the proposed rule,
11 and we're happy to work with the Department on
12 these issues. And ultimately should the Board
13 initiate rulemaking, we will submit a further,
14 more detailed comment in writing. So thank you
15 for your time.

16 CHAIR DEVENY: Thank you, Mr. Gorder.
17 I'd like to ask people who are on the phone if you
18 could mute your phones. We're getting a little
19 bit of feedback in here, and it would be helpful.

20 So there were two other people that
21 indicated they wanted to speak, and there was one
22 other person that came in recently. Would the
23 person that just called in a couple minutes ago
24 please identify themselves, and indicate if you
25 plan to speak regarding these proposed rules.

1 MR. FIX: This is Mark Fix, and I was
2 planning on commenting.

3 CHAIR DEVENY: So we have three more
4 people to comment. I've asked everybody to please
5 limit to no more than ten minutes, and I
6 appreciate that people have held it to less than
7 five. So there is three people who are ready to
8 comment, and the line is open, so whoever gets
9 there first can speak up.

10 MS. LINDLIEF-HALL: Madam Chairman, my
11 name is Brenda Lindlief-Hall. I represent the
12 Tongue River Water Users Association.

13 CHAIR DEVENY: Excuse me, Brenda. Could
14 you please just speak up a little bit, and please
15 clarify your name and spell it for our Court
16 Reporter.

17 MS. LINDLIEF-HALL: Yes. First name is
18 Brenda. My last name is Lindlief-Hall,
19 L-I-N-D-L-I-E-F H-A-L-L.

20 CHAIR DEVENY: We're still not hearing
21 you really clearly, so if there is any way you can
22 get closer to the mike or make it a little
23 clearer, we'd appreciate it. But please go on
24 with your comments, and I'll let you know if we're
25 not getting them.

1 MS. LINDLIEF-HALL: So I represent the
2 Tongue River Water Users Association. That's an
3 organization of ranchers and farmers that irrigate
4 with the waters of the Tongue River in
5 southeastern Montana.

6 I would like to just give a little bit
7 of background into Senate Bill 325. When it was
8 first introduced, it was designed to really
9 facilitate, at least Part 1 of the statute was
10 designed to facilitate permitting of the MPDES
11 permits for the proposed Otter Creek Coal Mine in
12 southeastern Montana. That was because the
13 Department of Environmental Quality couldn't
14 devise a way into a permit to Arch Coal --
15 (inaudible) --

16 CHAIR DEVENY: I'm sorry, Brenda. We're
17 having a really hard time hearing you. If there's
18 a problem on your end, and we could maybe hear
19 from somebody else to give you time to do that.

20 MS. LINDLIEF-HALL: Sure. Can you hear
21 me now?

22 CHAIR DEVENY: No.

23 MS. LINDLIEF-HALL: I just would like to
24 make a few really brief comments, if you can hear
25 me.

1 CHAIR DEVENY: Well, let's keep trying
2 then. Thank you.

3 MS. LINDLIEF-HALL: So I guess with that
4 background, we do have concerns at this point in
5 time with Part 2 of the rule, because it doesn't
6 -- it is not narrowly tailored to address the
7 legacy pollutants that Ms. Kelly referenced.

8 Additionally, as Mr. Gorder stated, we
9 have problems with the term "material
10 contribution." It is very vague, it is not
11 defined. And then there is no definition for
12 "reasonable alternative" in Subsection (5). And
13 so we do believe that there needs to be a little
14 more work done on this rule.

15 Additionally, we would oppose anything
16 that makes it mandatory upon the Department of
17 Environmental Quality to issue a variance. This
18 rule needs to be very narrowly tailored to ensure
19 that we're not contributing to a problem that is
20 already not being addressed.

21 So with that, I will close. I thank you
22 for the opportunity to comment, and I apologize
23 for the bad connection.

24 CHAIR DEVENY: Thank you, Brenda. I
25 appreciate it. We should have two more people

1 that are ready to speak up.

2 MR. ALSENTZER: Yes, Madam Chair,
3 Members of the Board, my name is Guy Alsentzer,
4 last name spelled A-L-S-E-N-T-Z-E-R. I am staff
5 attorney for Upper Missouri Waterkeeper on whose
6 behalf I'm presenting comments today. And like
7 Mr. Gorder for the Clark Fork Coalition and the
8 Tongue River Water Users Association, we oppose
9 the current draft of DEQ's rule.

10 As some of you may be aware, my
11 organization is a Montana grassroots based
12 conservation organization, specifically focused on
13 protecting and improving water quality throughout
14 the upper Missouri River Basin, which is a broad
15 expanse of 25,000 square miles where we have not
16 only the headwaters of one of the key river
17 systems in Montana, but where we have innumerable
18 businesses, families, and where people work, live,
19 and play, and rely on maintaining readily
20 available waters. We focus explicitly on the
21 responsible -- (inaudible) -- law for water
22 resources management and --

23 CHAIR DEVENY: I'm sorry, Mr. Alsentzer.
24 We're having a hard time understanding you because
25 of some feedback that we're getting. Could you go

1 back maybe just about maybe half a minute ago
2 where you talked about the Missouri Water Users.

3 MR. ALSENTZER: Absolutely. And if it
4 would behoove us, I'm happy to call back in and
5 see if it is simply a bad connection.

6 CHAIR DEVENY: Let's try to keep going.
7 I think we got you early on, and then things just
8 kind of started interrupting. Why don't you
9 continue.

10 MR. ALSENTZER: Thank you, Madam Chair.
11 We focus explicitly on how DEQ implements the
12 requirements of Federal law as well as our State
13 constitutional protections, and it is on that
14 basis and with this focus that we're approaching
15 and opposed to DEQ's variance rule today.

16 We think, as was explained previously,
17 that the rule that we're seeing today is overbroad
18 in its design, and because its guidance is notably
19 vague on key implementation issues. And in
20 particular I want to highlight a couple different
21 sections of the rule, and why they don't comply
22 with Federal law, and why also they should be sent
23 back for more work.

24 As I'm sure the Board is aware, the
25 primary emphasis behind SB 325's concern was

1 severe economic burdens for the small communities
2 as a result of imposing new water pollution
3 control measures, but what we see in the rule's
4 plain language today does not squarely address
5 municipal pollution controls, but instead the
6 proposed rule represents an overbroad new
7 regulatory mechanism that would allow far more
8 than just a deserving small community the ability
9 to gradually work on their pollution controls.

10 Rather the plain language would allow
11 nearly any type of discharger downstream from
12 historic pollution to come into a brand new permit
13 scheme where they have to do far less to control
14 their own local pollution. That itself on its
15 face is not what the purpose of Montana's SB 325
16 was about, and on that very 30,000 foot level,
17 we're very concerned with application of the
18 rules.

19 Second, and of equal concern to my
20 organization, where we focus on lawful
21 implementation of the Federal Clean Water Act is
22 how you're looking at the proposed rule when it
23 actually gets applied. As I'm sure most of the
24 Board is aware, based on Ms. Kelly's discussion of
25 what is a variance earlier today, the rule has to

1 satisfy certain requirements for variances.

2 We have three particularly troubling
3 language instances under the proposed rule where
4 we think it doesn't comply with Federal
5 requirements, and are a clear basis for the Board
6 denying DEQ's request for rulemaking today.

7 The significance criterion and the novel
8 materiality determinations are specific issues
9 that don't exist underneath Federal mandatory
10 language for variances. The plain language of
11 DEQ's draft rule states that a variance can be
12 appropriate if upstream man-made pollution exists
13 that is more significant than the discharger's,
14 and the discharger's pollution contribution would
15 not materially contribute to waterway impairment.

16 The key thing to pick out here is
17 neither significance nor materiality are allowed
18 under corresponding Federal rules. The
19 significance determinations are really troublesome
20 for my organization because of the nature of the
21 pollutants that are actually challenging our
22 waterways.

23 Think of it from the context of a
24 bioaccumulative pollutant like a nutrient or a
25 metal, not to mention the idea of toxics, a

1 volatile organic chemical. How about temperature
2 and salinity? Even in non-material contributions,
3 these pollutants can, when they are discharged to
4 local waterways, cause or contribute to the local
5 exceedence of water quality standards.

6 The point being is that new ground is
7 being lost as we talk about these determinations.
8 And while we have DEQ admitting that there needs
9 to be a judicious case-by-case analysis for
10 application of the rule, the plain language that's
11 being proposed allows the type of materiality and
12 significance determinations, and that those
13 determinations are not found underneath the
14 Federal law which the State of Montana is bound to
15 follow.

16 And likewise it undermines this system
17 of pollution control that we have under both State
18 and Federal law where we know that all pollution,
19 whether it is material or non-material, must be
20 controlled. Otherwise, if we don't control site
21 specific pollution of all types, we risk creating
22 pollution hot spot issues, where we really risk
23 and undermine local waterways and local water
24 segments, but still see on the whole that a
25 waterway may be in compliance with the waterway

1 protection rules.

2 One of the key components of the draft
3 rule that I really want to point out and highlight
4 here as incompatible is the idea of the five year
5 permit term, that the rule that we see today talks
6 about pollution in the context of if we can't deal
7 with an upstream historic pollution source that's
8 about in a term of five years, which is to say a
9 normal discharger permit term, then this is the
10 first way that we're allowed to say, "It is all
11 right. We're going to grant a less stringent
12 limit to a downstream discharger," and that the
13 basis for that is allegedly found underneath the
14 Clean Water Act.

15 And if folks would take a look at the
16 actual regulations under 40 CFR 131.10(g), the
17 actual language of Federal rules doesn't qualify
18 about remediation in terms of a five year permit
19 term. It actually says it cannot be remediated,
20 which is implicitly talking about a permanent
21 issue, in which case at that point in time it
22 makes logical sense, as well as scientific sense,
23 that there is no rationale afforded a very strong
24 permit term for a downstream discharger if you
25 can't remediate a pollution that's permanent

1 upstream. But what we're trying to --

2 CHAIR DEVENY: Excuse me, Guy. Could
3 you wrap this up in about less than a minute,
4 because I've kind of limited comments to other
5 people, and I need to hold you to the same.

6 MR. ALSENTZER: Yes, Madam Chair. So in
7 conclusion, the five year permit terms, the
8 overbroad nature of the rule, and the basic
9 context that material contribution is not part of
10 our Federal rules, these are all glaring
11 deficiencies that don't comply with Federal law.

12 We're very concerned about moving
13 forward on a course where DEQ starts the
14 rulemaking on that, and then we end up having to
15 litigate the judicious nature of this in the Court
16 system. We think a much better solution would be
17 to go back, to discuss these legal flaws with DEQ,
18 and to come up with a rule that does comply with
19 rules that does protect Montana's water community.

20 For this reason, we would hope that the
21 Board today would deny DEQ's request for
22 rulemaking, and let us go back and tweak it so
23 that we can make sure it complies with Federal
24 protections.

25 CHAIR DEVENY: Thank you for your

1 comments, Guy. I appreciate it. And there is one
2 more person, Mark Fix, that wanted to comment this
3 morning.

4 MR. FIX: To just let you know, Madam
5 Chair, members of the Board, my name is Mark Fix.
6 If you can't hear me too well, I have provided
7 email copies of my testimony, so you've got it in
8 front of you. If you can't hear me very well, we
9 can just -- I can just stay on and take questions
10 if you can't hear me.

11 CHAIR DEVENY: I think we're hearing you
12 pretty good right now, so go ahead.

13 MR. FIX: Thank you for the opportunity
14 to provide public comment on DEQ's proposed
15 rulemaking for Part 2 of Section 1 of Senate Bill
16 325 passed by the Legislature in 2015.

17 I live, ranch, and irrigate along the
18 Tongue River outside of Miles City. I'm
19 testifying today on behalf of myself, and also on
20 behalf of Northern Plains Resource Council, of
21 which I am a member. For those of you who aren't
22 familiar with Northern Plains, our organization is
23 a grassroots conservation and family agriculture
24 group that organizes Montana citizens to protect
25 our water quality, family farms and ranches, and

1 unique quality of life.

2 Northern Plains has members through the
3 state and from all walks of life, many of whom
4 historically and at present are agricultural water
5 users, particularly in southeast Montana. It is
6 from that perspective that we have some questions
7 and concerns about the proposal that DEQ is
8 bringing before you today.

9 To be clear, we appreciate the
10 legislative intent of the various portions of
11 Senate Bill 325. We fully appreciate that there
12 are smaller municipalities in Montana without the
13 budgetary means to immediately deal with legacy
14 mine pollution issues.

15 Having participated in the 2015
16 legislative hearings on the bill, we remember and
17 understand the discussion about Butte and its
18 legacy mine pollution in particular. The
19 legislative intent with variances under Senate
20 Bill 325 was about municipalities, and we worry
21 therefore that what DEQ presents here today paints
22 the idea of variances with too broad a brush.

23 The general history and intent behind
24 State and Federal water policy, particularly as
25 relates to the Clean Water Act, have been around

1 holistic management and protection of waterways
2 and watersheds, with the understanding that water
3 is our most precious resource. Without clean
4 water, we have very little.

5 We therefore believe that protection of
6 water quality is a high purpose, and variances
7 should be limited in scope, and generally tools of
8 last resort. We worry that this process may be
9 overbroad or too broadly applicable, where more
10 limited case by case actions for a more limited
11 scope of actors is more appropriate.

12 We would flag a few other things in this
13 proposal as well. We worry about the wiggle room
14 that appears to be in the language around the idea
15 of material contributions to water quality
16 degradation and about DEQ's -- (inaudible) --

17 UNKNOWN SPEAKER: The following
18 participant has entered the conference.

19 CHAIR DEVENY: Excuse me, Mr. Fix. We
20 had somebody come in. Could that person please
21 identify themselves.

22 MR. JOHNSON: Yes. This is Derf Johnson
23 with the Montana Environmental Information Center.

24 CHAIR DEVENY: Thank you, Mr. Johnson.
25 Do you plan to provide comment on the proposed

1 rules today?

2 MR. JOHNSON: Potentially.

3 CHAIR DEVENY: Please continue, Mr. Fix.
4 Sorry for the interruption.

5 MR. FIX: Sure. Material contributions
6 to water quality degradation, about DEQ's ability
7 to interpret what constitutes a material
8 contribution on a case-by-case basis.

9 While a particular point source
10 discharge may not ultimately have a significant
11 impact on the water quality of a river more
12 broadly, we are concerned about the impacts to an
13 irrigator or other water users immediately
14 downstream of that discharge. These designated
15 uses need to be protected. The water may only be
16 suitable for irrigation at certain times of the
17 year when it is at its best quality. These
18 limited uses must be protected.

19 By allowing discharges, these small
20 windows of irrigation timing could be closed.
21 Granting a variance for a year around discharge
22 may not protect the beneficial uses to irrigation.
23 In addition, the cumulative effects any variance
24 has on downstream users may also be affected.

25 We particularly worry about this within

1 the context of parameters like salinity. Salts
2 can quickly become toxic to crops and soil. In
3 DEQ's draft guidance document, the agency states
4 that it may be more stringent with carcinogens
5 versus toxics versus harmful parameters. This
6 language is found under the material contribution
7 section on Page 7.

8 While EC, electric conductivity, and
9 SAR, sodium adsorption ratio, are not --
10 (inaudible) -- their effects can be significant,
11 harmful, and in some cases devastating. During
12 the height of the coal bed methane boom, some
13 Tongue River area ranchers saw their crop yields
14 drop by as much as 40 percent due to salt
15 accumulation.

16 We therefore worry that if the agency
17 views harmful parameters like salt in a less
18 stringent manner, it may view their contributions
19 as less material to the water quality, and
20 therefore permit variances that result in harm to
21 farmers and ranchers.

22 We also worry to some degree about the
23 piecemeal creation of rules under Senate Bill 325
24 and the uncertainty that this process creates. A
25 degraded baseline is not in and of itself an

1 excuse to allow further degradation. Although
2 some exceptions may indeed be needed, they should
3 be limited in scope.

4 Consequently, we believe that the rule
5 as presented may not be ready for prime time.
6 Thus we are asking you to refer the rule on
7 variance back to DEQ for further work. Thank you
8 for your attention to our concerns, and for the
9 opportunity to testify here today.

10 CHAIR DEVENY: Thank you, Mr. Fix.

11 Those were all the people who indicated they were
12 planning to speak on the proposed rules. I'm
13 going to have one more opportunity for people from
14 the public to speak. Is there anybody else either
15 on the phone or in the room that wanted to speak?

16 (No response)

17 CHAIR DEVENY: If not, we will have some
18 Board discussion on this.

19 It appears that there is quite a lot of
20 disagreement on whether these rules are ready to
21 move forward. And I know these rules were
22 proposed to the previous Board some time back, in
23 February or March, I believe, and the rules were
24 sent back to DEQ with instructions to go back to
25 the work group, and try to work through concerns

1 that they had.

2 I guess I'd like DEQ to explain to the
3 Board why we're hearing a lot of continual
4 disagreement with what's going on, and if it
5 doesn't seem like there is still opportunity for
6 the DEQ to go back and work with these folks to
7 come up with something that people are going to be
8 a little more agreeable on.

9 George, would you want to comment on
10 that at all?

11 MR. MATHIEUS: Madam Chair, I could
12 comment on that, and I may seek a little help from
13 the program.

14 Just generally speaking, the Department
15 values the public process. I think years ago -- I
16 think that's evident in the fact that years ago we
17 developed kind of this informal work group process
18 or concept by which we could develop rulemaking.
19 We find that that adds much more value to the
20 process, and so that's how we've pretty much been
21 operating as a Department for at least the last
22 ten years, if not longer.

23 I think that helps us understand the
24 issues from all sides, it helps us develop rules
25 that are implementable, and it better aids with

1 the overall development.

2 I would say in this case that -- and
3 being involved in some of these personally myself
4 -- it has been exhaustive. I think initiation of
5 rulemaking is just another step towards now a more
6 formal process by which we would still take public
7 comment, we would still make changes as
8 appropriate.

9 And I guess from that perspective, we
10 still believe moving forward with the initiation
11 of rulemaking is appropriate, it is timely. This
12 came out of legislation from 2015. And we've
13 heard the concerns today.

14 I think we would offer that as we move
15 forward, that we'll address those concerns to the
16 best of our capability within the construct of the
17 statute and Federal, which I think Myla indicated
18 clearly. We've been hand in hand with EPA on this
19 every step of the way on how to develop these
20 rules to meet Federal regulations.

21 So with that, the Department would still
22 respectfully request that the Board initiate
23 rulemaking. Thank you.

24 CHAIR DEVENY: Do Board members have any
25 comments or questions on this? I think we should

1 have a discussion.

2 MR. FELTON: This is John Felton. I
3 have a question.

4 CHAIR DEVENY: Please go ahead, John.

5 MR. FELTON: There seems to have been a
6 fair amount of discussion about the terminology in
7 the proposed rule, the material contribution
8 aspect. I'm wondering if we could hear from the
9 legal side from the Department, if that
10 terminology is intended legally, or if it's
11 concern rate that it is not -- it doesn't exist
12 outside of this rule is a legitimate legal concern
13 that we should worry about.

14 CHAIR DEVENY: Thank you, John. Is
15 somebody from DEQ able to speak to that? John
16 North. Thank you, John.

17 MR. NORTH: Madam Chair, Mr. Felton.
18 The statute 75-5-222, which is the one that is
19 being implemented here, would be implemented by
20 the rules, provides that the Board shall adopt
21 rules consistent with comparable Federal rules and
22 guidelines, providing procedures and criteria for
23 the Department to issue variances from standards
24 if, and then it has two conditions:

25 One, if the condition cannot reasonably

1 be remediated during the permit term for which the
2 application for variance has been received, so
3 that's the five year provision; and then the
4 second condition is if the discharge to which the
5 variance applied would not materially contribute
6 to the condition. So that is a statutory
7 provision for the variance.

8 CHAIR DEVENY: John Felton, did you have
9 any follow-up?

10 MR. FELTON: Yes. I understand on the
11 State statute, some of the commenters seemed to
12 indicate that that may be a new concept which
13 affects the Federal. Is that true, or is that --
14 I'm not a lawyer, so which sort of governs that,
15 if that really if something new contribute
16 compared to the Federal? I guess my question is:
17 Does it create a problem, or does this statutory
18 authorization at the State level provide us that
19 need to address that?

20 MR. NORTH: Madam Chair, Mr. Felton,
21 this is a State statute which governs this
22 rulemaking, and therefore the requirements of the
23 statute which the Board are bound by provide that
24 as a criterion.

25 MR. FELTON: Okay. Thank you.

1 CHAIR DEVENY: Other comments or
2 questions that other Board members might have?

3 MR. DEARMENT: Madam Chair, this is John
4 Dearment.

5 CHAIR DEVENY: Yes. John Dearment. Go
6 ahead.

7 MR. DEARMENT: I'm wondering if all of
8 the groups that spoke both for and against
9 rulemaking today were represented on the 325
10 rulemaking group. This draft rule has been sent
11 back to them once already. Clearly there is some
12 tough disagreement here. I wondering from a
13 procedural -- (inaudible) -- does it make sense to
14 send it back a second time. Is there any hope of
15 members resolving the differences within that
16 group, or with initiating the rulemaking and
17 beginning a formal comment period a better way to
18 go, ultimately resolving it and moving this thing
19 forward. I'm not sure -- (inaudible) -- but kind
20 of where I am, and I'm wondering what some other
21 Board members might think about that, or if we
22 could get it right from the Board attorney.

23 CHAIR DEVENY: Thank you, John. Could
24 DEQ respond to that. Were all these other people
25 who spoke members of the work group? And while

1 you're at it, could you, particularly since the
2 time that the Board remanded the rule back to
3 staff, talk about those meetings.

4 MS. KELLY: Sure. Madam Chair, members
5 of the Board. I can't remember who asked the
6 question. Sorry.

7 CHAIR DEVENY: John Dearment. And
8 identify yourself for the folks --

9 MS. KELLY: I'm Myla Kelly with the
10 Water Quality Standards Program, and just a couple
11 comments. Yes, all of the groups who spoke today
12 are a part of the work group, members of their
13 constituencies are part of the work group. And
14 I'd just like to make a couple comments on that.

15 One comment is with regards to the
16 material contribution questions. I just want to
17 make it really clear that the material
18 contribution is an additional stringency that the
19 State statute is providing. So all Clean Water
20 Act Federal requirements will be met, and we're
21 required to meet those through the variance
22 process.

23 The material contribution is an "and,"
24 so all of the Federal requirements will be met,
25 and there cannot be a material contribution. So

1 it is really an additional stringency that has
2 been added on the part of our State through the
3 State statute process to ensure that we're meeting
4 the Federal regulations, plus going beyond that
5 and ensuring that we don't even have material
6 contribution.

7 So I wanted to make that clarification.
8 And also through -- since we went back to work
9 through this, some of the concerns that came
10 around last time. I think we met an additional
11 six times, and then we did ask for informal
12 comments from the members of the work group on
13 Part 2. We received those comments in writing,
14 and then addressed those comments in a subsequent
15 work group meeting.

16 Many of the comments, some of which
17 we've heard today with concerns of meeting the
18 Clean Water Act, we did not make any additional
19 changes to the rule language. We received -- and
20 that was because we and EPA believed that all of
21 the Clean Water Act requirements were being met in
22 this rule.

23 So we had some written responses, both
24 from EPA to address those concerns. So while we
25 didn't make any changes based on that, it was only

1 because we were confident that they were
2 addressed.

3 CHAIR DEVENY: So the rule that is
4 before us today is exactly the same as it was when
5 it was presented to the Board back in February or
6 March?

7 MS. KELLY: No. We made some changes to
8 the process, but those changes were again
9 presented to the work group about six months ago,
10 and then we requested feedback from the work group
11 on all of those potential changes, and addressed
12 those within the work group context.

13 CHAIR DEVENY: Thank you, Myla.

14 Do Board members have any other comments
15 or questions?

16 MR. BUSBY: This is Dexter Busby. This
17 is a statutory requirement by the Legislature, and
18 I think the Department has done at least a
19 credible job of trying to address the statutory
20 language, and I think we should move forward with
21 rulemaking, and I am prepared to make a motion to
22 that effect.

23 CHAIR DEVENY: Are you making a motion,
24 Dexter?

25 MR. BUSBY: Yes. I move that we move

1 toward with the rulemaking. All the comments that
2 have been made can be addressed during the public
3 comment period of the rulemaking.

4 CHAIR DEVENY: There has been a motion
5 to initiate rulemaking to implementation MCA
6 75-5-222, the rules for that. Is there a second
7 to the motion?

8 (No response)

9 CHAIR DEVENY: I don't hear a second.

10 MR. FELTON: This is John Felton. I'll
11 second that motion.

12 CHAIR DEVENY: There has been a second
13 to the motion by John Felton. Is there discussion
14 on the motion by Board members?

15 MR. BUSBY: This is Dexter again. I
16 think as a Board, if we don't move forward at this
17 point, we're kind of sticking a finger in the eye
18 of the Legislature, and I don't think that's
19 appropriate.

20 MR. DEARMENT: Madam Chair, this is John
21 Dearment. I guess following up on Ms. Kelly's
22 comment, it sounds to me like the work group and
23 DEQ have already heard most of the objections
24 we've heard today, and tried to deal with them
25 over the course of the last six months. I'm not

1 sure I see the value of sending it back again
2 beyond additional time.

3 I'm still wondering if maybe the best
4 way to move forward is to initiate rulemaking, and
5 then try to resolve these disagreements in the
6 rulemaking process, and ultimately at the end of
7 that, the Board get a chance to either adopt,
8 reject, or send it back to the drawing board
9 through that more formal process, so I guess I'm
10 leaning that way myself.

11 CHAIR DEVENY: Other comments, other
12 discussion on the motion before the Board?

13 (No response)

14 CHAIR DEVENY: Hearing none, we'll have
15 a vote. All those in favor say aye.

16 (Response)

17 CHAIR DEVENY: Any opposed?

18 (No response)

19 CHAIR DEVENY: Motion passes. DEQ,
20 you're to move ahead with initiating the
21 rulemaking on this. Thank you everybody who
22 participated, and made comments, and attended the
23 meeting today with regards to this issue. And I
24 know there is going to be opportunity as the rule
25 proceeds for people to continue to have input on

1 this. Thank you very much.

2 George, would you just tell me. There's
3 a procedural thing here, as the new Chair, I'm not
4 too familiar with.

5 MR. MATHIEUS: No problem. The Board
6 will need to appoint a Hearing Officer for the
7 rulemaking.

8 CHAIR DEVENY: The Board needs to
9 appoint a Hearing Officer on this rulemaking, and
10 since we have Sarah, I would suggest that the
11 Board appoint Sarah as Hearing Officer for this
12 rulemaking. Any discussion on that from the
13 Board? Are you okay with that?

14 I guess we need a motion. I'll make the
15 motion that we appoint Sarah Clerget as our
16 Hearing Officer for the purpose of those rules.
17 Could I have a second.

18 MS. HANSON: This is Hillary. I second
19 it.

20 CHAIR DEVENY: It's been moved and
21 seconded. Is there discussion on the motion?

22 (No response)

23 CHAIR DEVENY: Hearing none, all in
24 favor, please signify by saying aye.

25 (Response)

1 CHAIR DEVENY: Any opposed?

2 (No response)

3 CHAIR DEVENY: Motion passes. Sarah,
4 you've got another job. Let's take a five minute
5 break, and then we will come back and finish the
6 meeting.

7 (Recess taken)

8 CHAIR DEVENY: Before we get started,
9 Lindsay, could you just check that the Board
10 members are back, and find out if there is anybody
11 else on the line.

12 MS. FORD: Welcome back. Just make sure
13 we're all here. Chris Deveny.

14 CHAIR DEVENY: Yes.

15 MS. FORD: John Felton.

16 MR. FELTON: Here.

17 MS. FORD: Dexter Busby.

18 MR. BUSBY: I'm here.

19 MS. FORD: Hillary Hanson.

20 MS. HANSON: Here.

21 MS. FORD: Tim Warner.

22 MR. WARNER: Here.

23 MS. FORD: John Dearment.

24 MR. DEARMENT: Here.

25 MS. FORD: Chris Tweeten.

1 (No response)

2 MS. FORD: Is there anyone else still on
3 the line?

4 (No response)

5 CHAIR DEVENY: So just Board members are
6 present? Is somebody trying to speak?

7 (No response)

8 CHAIR DEVENY: It's just feedback.
9 Okay. So we've got a new contested case to talk
10 about, or to have information presented by Sarah
11 Clerget.

12 MS. CLERGET: This is Item No. III-B on
13 your agenda Page 4, and new contested case B(1)
14 that needs to -- you guys need to decide what you
15 want to do with this. The material on it is in
16 your packet. You have the memo and the appeal
17 paperwork in your packet.

18 And again, I'll just remind you of your
19 options. You can choose to keep this contested
20 case in front of you, both for procedural and
21 substantive matters; you can choose to assign to a
22 Hearing Examiner for procedural matters only, and
23 keep the substantive decisions for yourself; you
24 can decide to assign it to a Hearing Examiner for
25 all purposes including the final hearing if one

1 occurs, and then the Hearing Examiner proposes a
2 final decision to the Board, and then you decide
3 on that final decision, or proposed decision.

4 So those are your three options. And
5 again, you can choose to assign me as the Hearing
6 Examiner if you want to use the Hearing Examiner,
7 or you can choose another Hearing Examiner. So if
8 anybody has any questions, I'm happy to answer
9 them, but this is essentially just a case to be
10 assigned under one of those options.

11 CHAIR DEVENY: Thank you, Sarah. I'm
12 leaning toward just assigning it to Sarah for all
13 purposes at this point. Do Board members have any
14 discussion about that?

15 (No response)

16 CHAIR DEVENY: No discussion, I'll make
17 that a motion then that we assign the JR Civil,
18 LLC, Bozeman, Gallatin County, Montana contested
19 case to Sarah Clerget as Hearings Officer for all
20 purposes. Could I get a second?

21 MR. FELTON: I'll second it. This is
22 John Felton.

23 CHAIR DEVENY: John Felton seconded it.
24 Thank you. It's been moved and seconded. All in
25 favor, please say aye.

1 (Response)

2 CHAIR DEVENY: Any opposed?

3 (No response)

4 CHAIR DEVENY: Motion passes.

5 MS. CLERGET: So the second issue, or I
6 guess actually third is Item III-C on your
7 agendas, Page 4. Some action is needed on the
8 Columbia Falls Aluminum Company case, and before
9 we begin the discussion, I want to make it clear
10 which Board members will be taking action on this.

11 John Dearment, I understand that you
12 might have had some personal involvement in this
13 case, and I wanted to know if you would be
14 recusing yourself from this decision.

15 MR. DEARMENT: Madam Chair, Ms. Clerget,
16 I think that's probably wise, yes.

17 MS. CLERGET: So my understanding is
18 that John Dearment will recuse himself from any
19 action on this case.

20 Moving forward with the remaining Board
21 members, there is a small summary on your agenda.
22 There is also in your packet a proposed order from
23 me which includes about ten pages. This was also
24 sent to the parties before this hearing. I hope
25 that you've all had a chance to review that order.

1 It lays out both the procedural matters that have
2 occurred on this case since you assigned it to me
3 for procedural matters at the last Board meeting.

4 As you may remember, this has been an
5 outstanding issue. The previous to the previous
6 Hearing Examiner, Mr. Reed, indicated to the
7 parties at the end of a hearing in November of
8 2016 that he would be issuing a proposed decision
9 to the Board, and he then left State employment
10 and left the country, did not provide that
11 proposed decision to the Board.

12 Then the next Hearings Examiner who came
13 on, Andres Haladay, had some discussion with the
14 Board about this issue, the prior Board, and at
15 the last Board meeting you as the Board asked me
16 to hold a status conference with the parties to
17 discuss the options. And as you can tell from my
18 order, I have now done that several times. We've
19 had three status conferences since the last Board
20 meeting, and those have had varying rates of
21 success.

22 At the conclusion of those three status
23 conferences, and I issued orders after each of
24 them. The parties, some of the parties made
25 filings in between each of those.

1 The conclusion of all of them is found
2 in my proposed order. I would turn your attention
3 especially to the last page where I lay out my
4 suggestion for you four items that I believe
5 should occur in this case based on those status
6 conferences and the procedural posture of this
7 case.

8 First, I recommend to the Board that you
9 find Mr. Reed unavailable as a Hearing Examiner
10 pursuant to Montana Code Annotated 2-4-22.

11 Second, I suggest that the Board order a
12 new hearing be conducted in this case.

13 Third, you need to decide how you want
14 to assign this case, if at all, to a Hearing
15 Examiner, whether you want to retain it for final
16 decision and hear the case yourself, or whether
17 you want to assign it to me to conduct the hearing
18 and then give you a proposed order. And if you do
19 -- I should say not necessarily to me -- to a
20 Hearing Examiner, then you need to decide whether
21 you wanted to use me, or whether you would like to
22 use a different Hearing Examiner.

23 And fourth, you need to address the
24 disclosure of the DEQ's proposed findings of fact
25 and conclusions of law, which if you'll remember

1 at the last meeting, that was in your packet as
2 Board members. It is my understanding that that
3 disclosure was inadvertent, and I believe that
4 there has been no ex parte contact. The Board
5 members who reviewed the document should disregard
6 it, as I instructed them at the last meeting, and
7 that the Board should base the final decision on
8 the record before the Board pursuant to MAPA.

9 And on that point, I would just ask DEQ
10 to explain to the Board exactly how that DEQ
11 proposed findings of fact and conclusions of law
12 made it into the Board packet. George.

13 MR. MATHIEUS: Madam Chair, Members of
14 the Board, I do have a lengthy explanation, but I
15 think it's frankly as simple as it was an honest
16 human error. It was a clerical error. It was a
17 misunderstanding of terms. I don't know how else
18 to put it. I apologize that it happened, but in a
19 sense that's what happened. Just human error,
20 clerical error.

21 MS. CLERGET: I should clarify that
22 nobody including me caught that error, and in
23 retrospect, I could have reviewed the Board packet
24 before the meeting, and I did not do that, and
25 should have done it.

1 We have addressed this issue going
2 forward, I believe, both with DEQ and within my
3 office. We have moved management of the Board
4 packet with respect to any contested cases. I
5 review it now before it comes before the Board,
6 before it's posted on the website.

7 We've clarified that with DEQ staff, and
8 we have moved management of all the docket of all
9 contested cases from DEQ staff or Board staff into
10 my office, so it is physically removed from DEQ,
11 and it is also I guess structurally removed from
12 DEQ. It is with the Hearing Examiner. So my
13 office now manages the docket in all contested
14 cases, so that we can make sure that the docket is
15 clear, and we have somebody who is not even
16 physically located at DEQ making sure to check
17 what is filed in front of the Board.

18 So I assume that this will not ever
19 happen again, and I think we've addressed it
20 sufficiently. And I do believe it was
21 inadvertent, and I don't believe there is any harm
22 to the Board as long as they will agree to base
23 their final decision only on the record that is
24 properly before them when that decision is called
25 for.

1 CHAIR DEVENY: Thank you, Sarah. Here's
2 the process we're going to go through today. We
3 have parties here that want to speak on this
4 issue. We're going to let DEQ speak again if they
5 have anything more to add, and then
6 representatives of the Columbia Falls Aluminum
7 Company will also speak.

8 But before that, I wanted to see if
9 Board members needed any further clarification
10 from Sarah on what has occurred over the past, and
11 on how it's going to be prevented from ever
12 occurring again.

13 So Board members, any questions,
14 comments?

15 MR. BUSBY: This is Dexter. I have a
16 question for Sarah on procedure forward.

17 MS. CLERGET: Go ahead, Dexter.

18 MR. BUSBY: There was a complete hearing
19 held on this. Was there adequate, should I say,
20 records of that hearing and the testimony that you
21 had that you cannot or can -- The question is: Do
22 you need to conduct a complete hearing with the
23 records that are already available?

24 MS. CLERGET: Thank you, Dexter. To
25 address your question -- this is Sarah speaking

1 again -- the issue is not with the record. The
2 issue is with the statute that we have to follow,
3 the procedure that we have to follow based on the
4 Montana Administrative Procedures Act, under
5 Section 2-4-622, which states that if a Hearing
6 Examiner is found unavailable, then the record can
7 only -- the existing record can only be reviewed
8 by a new Hearing Examiner if all the parties agree
9 that the demeanor of witnesses is immaterial.

10 And in this case, I have been unable
11 after the three status conferences to determine
12 that all parties do agree that the demeanor of
13 witnesses is immaterial. Because all parties do
14 not agree -- and the parties I should clarify are
15 DEQ and CFAC, the Columbia Falls Aluminum Company.
16 So the Board is not a party for that purpose.

17 So the two parties need to agree, they
18 have not agreed, and therefore, pursuant to the
19 statute, there needs to be a new hearing. We
20 can't just review the record that's already
21 created.

22 So that's why my recommendation is to
23 hold a new hearing, because essentially it is up
24 to the parties and not up to BER. Does that
25 answer your question?

1 MR. BUSBY: Yes. Thank you.

2 CHAIR DEVENY: Any other questions from
3 Board members before we hear from the parties?

4 (No response)

5 CHAIR DEVENY: Hearing none, I'm going
6 to ask DEQ. Do you have further comments that you
7 want to make?

8 MR. MOSER: Madam Chair, Members of the
9 Board, my name is Kurt Moser, and I'm attorney for
10 DEQ on this case. I just have some brief
11 comments, and then I guess I would ask to possibly
12 be heard from again after Counsel for CFAC speaks,
13 because I'm pretty sure that they have a few
14 things to say as well.

15 But I feel like, I think a Board member
16 did mention, "Is there a record in this case?"
17 There absolutely is a record. We spent four days
18 putting that record together, and a considerable
19 amount of time last fall preparing for this
20 hearing, enormous amounts of staff time from DEQ,
21 and opposing Counsel's experts, witnesses from
22 CFAC.

23 And so as I stand here today, I guess
24 I'm still very frustrated because we are in this
25 position that we're in. One of the things the

1 Board has to find before it decides to conduct a
2 new hearing is that Mr. Reed is officially
3 unavailable. That has to be the finding first.

4 DEQ has determined that we would waive
5 the demeanor of the witness issue provided the
6 Board did find that Mr. Reed was unavailable. I
7 understand that he has moved, but I also
8 understand that he indicated to us at a hearing
9 that we had that he was leaving, and that he would
10 in fact issue his findings of fact. He hasn't
11 done that.

12 And so that is really why we're here,
13 and that's too bad. So I guess I'd just like to
14 reserve comments possibly after CFAC speaks.
15 Thank you.

16 MS. CLERGET: This is Sarah Clerget. I
17 want to ask one question of you to clarify, Kurt.
18 Are you suggesting that the Board should not find
19 Mr. Reed unavailable today?

20 MR. MOSER: I think that that is an
21 option that the Board has. I think that perhaps
22 it is an uncomfortable option, but it is an option
23 that the Board has. There could be a more
24 concerted effort to contact Mr. Reed. I
25 understand the Board's attorney has made an

1 attempt to try to get a response from him. There
2 was nothing. He did not respond to the email.

3 I think that it is possible that that
4 could be explored. And that's a complicated
5 issue. It is a complicated issue for the Board,
6 it's a complicated issue for possibly Agency Legal
7 Services as well, since that was Mr. Reed's former
8 employer. So I think that there is possibly an
9 avenue to do that. I don't know.

10 At the beginning of this when Mr.
11 Haladay took over as Hearing Examiner, immediately
12 upon his appointment he issued a ruling, and
13 already wanted to switch to basically have the
14 Board find Mr. Reed unavailable. That was after
15 Mr. Reed was gone for two months.

16 DEQ issued a response to that
17 recommendation, and basically objected and said,
18 "You need to let Mr. Reed rule on this because he
19 said he would, and we haven't determined he's
20 unavailable yet."

21 The amount of communication with Mr.
22 Reed has been difficult, but it seems like not
23 impossible. So it feels like you could in fact
24 possibly ask Mr. Reed to complete his job. But I
25 guess I'll reserve further comment following CFAC.

1 Thank you.

2 CHAIR DEVENY: Thank you, Mr. Moser.
3 I'm going to call on the party from CFAC to speak,
4 and I meant to ask Mr. Moser to limit his comments
5 to ten minutes, and fortunately he did, and I'm
6 going to ask the same of the CFAC parties, if you
7 would.

8 MS. LAUGHNER: Thank you. My name is
9 Katherine Laughner on behalf of Columbia Falls
10 Aluminum Company.

11 And I wanted to explain CFAC's position
12 in this, and we put our position, set our position
13 forth in a November 20th filing, and I don't think
14 you have that, but I would wish that the Board
15 read that. And I guess because Mr. Moser and I
16 have been here for years, and most of you are all
17 new, I think it would help you understand our
18 perspective, or my perspective.

19 With respect to the disclosure to BER of
20 one side of DEQ's proposed findings of fact, I
21 really wanted that the procedural anomalies in
22 that issue be sorted out before there is any
23 movement on proceeding with whether CFAC has to
24 waive. It seems to me that this is the cart
25 before the horse. CFAC believes that all these

1 procedural issues should be sorted out before the
2 issue about the demeanor that Sarah brought up.
3 So I feel like the procedural issues are kind of
4 being brushed off.

5 And BER has not yet determined Ben
6 Reed's unavailability, and I'm bringing that up
7 consistent with what Mr. Moser said, because he
8 left, and there was no contract in place or any
9 provision, it seems like a dilemma has been
10 created, and we either have to have a second
11 hearing -- which would be really expensive. It is
12 really hard to say -- or waive the demeanor of
13 witnesses, and that just really seems unfair to
14 me, and I don't think that issue should be brushed
15 off.

16 One of the things that Kurt and I did,
17 and we talked to Sarah about this, was that
18 because there is this ethical issue of the one
19 side being presented, DEQ's findings of fact being
20 accessed by the Board without our findings of
21 facts, and we think that's unfair, unfortunate.
22 And I appreciate the remedial steps you guys have
23 taken.

24 But I suggested, and Kurt agreed, that
25 we talk to Betsy Brandborg. She is an attorney at

1 the State Bar, and she has special expertise in
2 ethical issues. And so Kurt and I talked to her,
3 and her position was --

4 Well, first of all, I guess on the Ben
5 Reed issue, she said Agency Legal Services failed
6 to perform, and I think that the BER should press
7 that issue with whoever is in charge of Agency
8 Legal Services, and get Ben Reed to follow
9 through.

10 Sarah makes reference that there has
11 been various contacts made, but to me, more of an
12 effort should be made, because we had a four day
13 hearing with eight witnesses, and neither Mr.
14 Moser or I want to go through that again.

15 One of the things that Betsy Brandborg
16 pointed out to us is what's important is that
17 there needs to be sufficient integrity to respect
18 the decision. So if CFAC is feeling like one
19 thing after another is not -- leads to just an
20 irregular process, that should not be brushed off.
21 It should be looked into.

22 With respect to the disclosure of one
23 side, we talked to Betsy Brandborg about that, and
24 she said it is really hard for people that aren't
25 lawyers just to disregard something that they've

1 read. Lawyers might understand that, but she
2 didn't think that was -- she wasn't endorsing
3 that, I guess I'll say.

4 There is other things we talked about,
5 is that maybe we substitute out those BER members
6 that read it, and thought that it was the actual
7 Ben Reed's proposed findings. I think she would
8 be available for further consultation on that.
9 But her question was, "How does the BER propose to
10 cure the inequity to CFAC in that mistake?,"
11 which was unfortunate.

12 I think if you would read my filing of
13 November 20th, which provides you more background,
14 I might feel more comfortable; but I think it is
15 too early to make a decision on something that has
16 these procedural anomalies. And also there is I
17 think a problem with just declaring Ben Reed
18 unavailable.

19 I think if you read my filing, you'll
20 understand the background a little bit better.
21 And I would say that CFAC opposes the proposed
22 order because of the reasons I just stated. Also
23 we've only had like two days to look at it.

24 And in Sarah's proposed order, she says
25 that -- kind of frustrated that we haven't made

1 that decision yet, but again, I think those
2 procedural problems need to be addressed before we
3 can get to the Ben Reed unavailability issue. And
4 it shouldn't just be assumed that CFAC is not
5 waiving the hearing.

6 After the procedural issues are solved,
7 CFAC would then be in a position, I would be in a
8 position to go back and talk to CFAC about what
9 their view is. That's all I have.

10 CHAIR DEVENY: Thank you. I have a
11 question, Ms. Laughner. What would you
12 specifically say are the procedural issues? I
13 just want to be clear on that.

14 MS. LAUGHNER: Well, I do think because
15 DEQ's proposed findings of fact were submitted and
16 read by four members, one member of the BER
17 thought they were the actual --

18 CHAIR DEVENY: So you're talking about
19 the findings of fact that were inadvertently put
20 in the Board packet?

21 MS. LAUGHNER: That's one of the
22 procedural issues that was a problem. The other
23 procedural issue, the second one, is that Ben Reed
24 told us that he was going to do the findings of
25 fact. We find out months later there was no

1 contract in place between him and Agency Legal
2 Services.

3 CHAIR DEVENY: So that's the second one,
4 the Ben Reed issue. So those are the two things
5 that you referred to as the procedural issues.

6 MS. LAUGHNER: Yes.

7 CHAIR DEVENY: That's what I needed to
8 clarify. Thank you.

9 MS. LAUGHNER: Any other questions?

10 CHAIR DEVENY: Not at this time.

11 MS. CLERGET: This is Sarah Clerget.

12 I'd like to address something that came up with
13 the parties to the Board. I want to be clear that
14 while I understand the Board is probably a little
15 concerned about some of these issues, I think the
16 fact that there is a statute addressing the
17 unavailability of a Hearing Examiner should
18 indicate to you that this is not an unprecedented
19 scenario. It is not something that even the
20 Legislature found uncommon. It is common enough
21 that there is a statute telling us how to act in
22 this kind of situation. And so I don't want the
23 Board to feel like they are necessarily plowing
24 new ground here.

25 CHAIR DEVENY: Sarah, could you remind

1 the Board what efforts have been made to locate
2 Ben Reed.

3 MS. CLERGET: Yes. I did speak to --
4 What I have done specifically is that there is an
5 email attached to your proposed order from me
6 where I emailed him at his last known email
7 address, and asked that he respond indicating
8 whether or not he was going to provide this
9 proposed decision. He did not respond within the
10 amount of time that I gave him. That's what I
11 have done.

12 I know from reviewing the transcripts of
13 prior meetings that there has been some indication
14 that Mr. Haladay attempted to contact him in
15 various ways. I don't have any personal knowledge
16 of what that is other than what was in the
17 transcript from the prior meetings.

18 I know that John Melcher, who is the
19 Bureau Chief of Agency Legal Services, has
20 attempted to contact him in various ways. I think
21 some other members of ALSB attempted to have some
22 contact with him, but I again have no personal
23 knowledge of that contact.

24 So I'm not really comfortable testifying
25 to what any of that contact may have been, other

1 than to say I think some of it is captured in the
2 transcripts from the prior meetings, and from
3 that, I know that it has happened over a period of
4 now twelve months of trying to get this decision
5 from him.

6 I would also indicate that it is not
7 just that there was no contract with ALSB, that
8 the prior Board, BER, also did not contract with
9 Ben Reed to get this done independently of his
10 State employment. So there is no contract with
11 him, sort of private Counsel after he left State
12 employment to get this done.

13 Also I understand from the transcripts
14 that the parties together have not attempted to
15 contact Mr. Reed at all. So I think most of the
16 attempts to contact him have been from Mr. Haladay
17 and within Agency Legal Services, but all of them
18 in the various forms have been unsuccessful over
19 the last twelve months.

20 CHAIR DEVENY: Thank you, Sarah. Mr.
21 Moser, did you have some other comments that you
22 wanted to make? You had mentioned you reserved
23 comments. Now would be a good time. Do you have
24 any?

25 MR. MOSER: I don't have any further

1 comments. Thank you.

2 CHAIR DEVENY: Do Board members have any
3 other questions of DEQ or Sarah about this?

4 MR. FELTON: This is John Felton. I
5 have one question for Sarah, if I could.

6 CHAIR DEVENY: Yes, John, go ahead.

7 MR. FELTON: Your email was sent to Ben
8 Reed October 27th, and then you requested a
9 response within a week. Did by any chance that
10 email include a return receipt or a read receipt?
11 Do you know if he got it?

12 MS. CLERGET: I don't know that he got
13 it because it was sent to a gmail account. Those
14 read receipts don't -- with the way the State
15 email works, they don't often work. So I don't
16 know that he got it, other than to say that it did
17 not bounce back to me as undeliverable, which it
18 will do if the email address is no longer active.
19 I will get a notice back that says the email was
20 undeliverable, and that did not happen in this
21 case. So I know the email was delivered to that
22 address. I don't know whether or not he opened it
23 or viewed it.

24 MR. FELTON: Okay. Thank you.

25 CHAIR DEVENY: Any other comments or

1 questions?

2 (No response)

3 CHAIR DEVENY: Let's discuss the
4 recommendations that Sarah has made to the Board.
5 There is four pieces to it. We can take each one.
6 Sarah has a comment.

7 MS. CLERGET: I would suggest that based
8 on CFAC's position, it might actually be in the
9 best interests of economy if you discuss the
10 fourth issue first, since CFAC is maintaining the
11 position that they can't comment on the demeanor
12 of witnesses until after this preliminary, in the
13 their opinion, preliminary issue is dealt with.

14 CHAIR DEVENY: That does make sense, so
15 we're going to talk about the fourth issue in
16 Sarah's suggested recommendations in the proposed
17 order, which is that the disclosure of DEQ's
18 proposed findings of fact prior to the September
19 meeting was inadvertent, and did not constitute ex
20 parte contact, and the Board members who reviewed
21 the document will disregard it, and the final
22 decision will be based solely on the record for
23 the Board for decision pursuant to MAPA.

24 I agree with that recommendation. I
25 really concur that this was human error, and

1 amidst brand new staff, brand new Board, I really
2 believe it was inadvertent, and I don't believe
3 there was ex parte efforts between Board members.
4 And I believe that those of us who are on the
5 Board are truly capable of disregarding anything
6 that they might have inadvertently read, and that
7 we can discard it, and keep an open mind as this
8 case moves forward.

9 Do Board members have any discussion
10 about this particular issue, recommendation in the
11 proposed order? Do people feel differently or
12 feel strongly otherwise?

13 (No response)

14 CHAIR DEVENY: I don't hear any, so I
15 think people agree with me. So is this something
16 that we would put in a motion? So I would so move
17 that we agree with this Conclusion No. 4, what I
18 just read, that you all have before you. I would
19 make a motion that we accept this as a
20 recommendation. Could I get a second on that?

21 MR. FELTON: This is John Felton. I'll
22 second it.

23 CHAIR DEVENY: John Felton seconded
24 that. Is there discussion on the motion that has
25 been made and seconded?

1 (No response)

2 CHAIR DEVENY: Hearing no discussion,
3 we'll go for a vote. All those in favor, say aye.

4 (Response)

5 CHAIR DEVENY: All those opposed.

6 (No response)

7 CHAIR DEVENY: The motion passes.

8 MS. CLERGET: This is Sarah speaking
9 again. Now I would suggest that you perhaps move
10 to Item No. 1, whether or not Mr. Reed will be
11 declared unavailable.

12 CHAIR DEVENY: Let's have a discussion
13 about whether the Board members feel that Mr. Reed
14 is unavailable as a Hearing Examiner. We've heard
15 quite a bit of testimony about this. Do Board
16 members have any comments in regards to this?

17 MR. FELTON: This is John Felton. I
18 think that a good faith effort has been made to
19 get a response from him, and given the lack of
20 response, I would make a motion that we find him
21 unavailable.

22 CHAIR DEVENY: I would second that
23 motion. I agree with you, John. Is there further
24 discussion by the Board on this motion that has
25 been seconded? This would be declaring Mr. Reed

1 unavailable as Hearing Examiner.

2 (No response)

3 CHAIR DEVENY: Hearing no further
4 discussion, we'll take this to a vote. All those
5 in favor of the motion, please say aye.

6 (Response)

7 CHAIR DEVENY: Any opposed?

8 (No response)

9 CHAIR DEVENY: Hearing none, the motion
10 passes.

11 MS. CLERGET: This is Sarah speaking
12 again. Members of the Board, I might suggest at
13 this point before you move forward that you ask
14 for the comment that CFAC indicated that once
15 these two procedural issues were dealt with, that
16 they might have a different position about waiving
17 the demeanor of witnesses.

18 If no answer is forthcoming on that
19 issue, then I would suggest that you order a new
20 hearing as outlined in the second number of my
21 proposed order, but I think we need to hear from
22 CFAC first.

23 CHAIR DEVENY: Ms. Laughner, would you
24 speak to this now that we've addressed those two
25 procedural issues.

1 MS. LAUGHNER: I would respectfully ask
2 that the Board be given my November 20th filing,
3 and also an opportunity to discuss the matter with
4 my client.

5 MS. CLERGET: This is Sarah. And I
6 guess I would just recommend to the Board, or
7 remind the Board that we've now had three status
8 conferences, and at each of them I've indicated
9 that this outcome was likely from the Board at the
10 next meeting. So I believe that CFAC has had
11 adequate notice that this was coming, and absent a
12 specific statement from them that they will waive
13 demeanor of witnesses, I would suggest that you
14 move on to order that a new hearing be held in
15 this case.

16 As to the filing of November 20th, if
17 the Board would like, I believe that the Board is
18 free to review that filing, and I'm happy to
19 provide it to the Board.

20 CHAIR DEVENY: Is that something we
21 should see now, or --

22 MS. CLERGET: It is up to you. You're
23 welcome to review it. I believe I summarized it,
24 its main points in my proposed order, so I don't
25 believe there is any substance there that you're

1 not aware of.

2 CHAIR DEVENY: Could you take us through
3 that, and then if Ms. Laughner has concerns about
4 the way that was presented in the materials, then
5 perhaps we could consider that.

6 MS. CLERGET: Sure. I discussed this in
7 my proposed order. I think the title of the
8 filing is stated on Page 4 as response prior to
9 November 20th to 2017 scheduled telephone
10 conference. So in the first full paragraph on
11 that Page 4, I kind of outline what that filing
12 was.

13 Just to go through it, there were
14 several sections. The first section requested
15 voluntary recusal of John Dearment, which has
16 already been done.

17 The second section discussed ex parte
18 communication of Montana DEQ's proposed findings
19 of fact and conclusions of law. That is what I
20 stated to you, the arguments that ex parte contact
21 had occurred; and the potential remedy being an
22 investigation by a third party. You've heard
23 discussion about Betsy Brandborg being that third
24 party. And CFAC then described to you the
25 conversation that they had with Betsy, CFAC and

1 DEQ had with Betsy Brandborg.

2 And then the third point of that filing
3 was that BER has not made a finding of
4 unavailability for Montana Code Annotated 2-4-622
5 is not yet applicable, and essentially it states
6 what Ms. Laughner summarized as CFAC's position
7 that we're putting the cart before the horse,
8 until that finding of unavailability was made,
9 that they would not address the issue of demeanor
10 of witnesses.

11 So that's a summary of the filing. If
12 you would like to see the filing itself, I'm happy
13 to provide it to the Board. I believe that DEQ
14 should be heard on whether or not they object to
15 that before you decide. And we can provide the
16 Board more time to review that filing or allow
17 CFAC to consult with their client, if you prefer.
18 It is entirely up to the Board. As I stated, I
19 don't believe that either of these conclusions
20 should be a surprise to CFAC at this point.

21 MS. LAUGHNER: May I?

22 CHAIR DEVENY: Ms. Laughner, go ahead.

23 MS. LAUGHNER: I wouldn't say that
24 they're a surprise. I'm just asking for an
25 opportunity to discuss it with my client, and

1 inform them of what happened today. I don't
2 believe that DEQ has any objection to not setting
3 a hearing today. If we can avoid that, that's
4 probably a benefit to all of us. So I would again
5 ask the opportunity to inform my client, and
6 discuss it with them.

7 CHAIR DEVENY: What's the likelihood, do
8 you think, that your client would agree to -- let
9 me make sure I've got the correct terminology.

10 MS. CLERGET: The demeanor of witnesses.

11 CHAIR DEVENY: -- waive the demeanor if
12 you brought this to them? You have discussed this
13 with them. You must have some sense.

14 MS. CLERGET: I want to caution you,
15 Chris, because I don't want -- the communication
16 between Katherine and her client is privileged,
17 and it is not appropriate to --

18 CHAIR DEVENY: I apologize if that was
19 an inappropriate question, and I will withdraw
20 that question if you feel uncomfortable answering
21 it.

22 MS. LAUGHNER: In addition, we have had
23 this proposed order for two days, and I haven't
24 had the opportunity to talk to my client about
25 that proposed order. I don't see the down side of

1 giving me the opportunity to talk to my client.

2 And I think Sarah is frustrated having
3 to go through this process, but it is important to
4 us, because if we don't feel like we've gotten a
5 fair shake here, after all the things that
6 happened. There has been two or three of these,
7 "Oops. I didn't mean it," and I think to be fair,
8 I would just like some more time.

9 CHAIR DEVENY: Okay. Thank you. Could
10 we hear from DEQ with regards to the request from
11 Ms. Laughner, and anything else you think is
12 appropriate to add.

13 MR. MOSER: Yes. Madam Chair, Members
14 of the Board. What was the specific question on
15 the -- as far as not making a decision on that?
16 Do we object to that today?

17 CHAIR DEVENY: Yes.

18 MR. MOSER: No, we don't have any
19 objection to Ms. Laughner having the opportunity
20 to discuss that further with her client. We do
21 not have any objection to the Board being provided
22 Ms. Laughner's filing. I guess our position is
23 there is no ex parte, was no ex parte contact, for
24 the record. And I know the Board has already made
25 that finding. So that's our position on that.

1 Any other questions for DEQ?

2 CHAIR DEVENY: Do Board members have
3 questions of DEQ?

4 MR. FELTON: This is John Felton again.
5 I have a procedural question, not necessarily for
6 DEQ. Can I ask that now?

7 CHAIR DEVENY: Yes, go ahead.

8 MR. FELTON: So if I'm following this
9 right, the real question is whether CFAC is
10 willing to waive the demeanor of the witness
11 question. If we act on Item 2 and 3 in Sarah's
12 proposed order, could that decision be made
13 subsequent to that action, or would we need to
14 wait until our next meeting two months from now to
15 act on Items 2 and 3?

16 CHAIR DEVENY: I'm going to give that to
17 Sarah.

18 MS. CLERGET: I am just thinking through
19 that. I think it might be possible to act on
20 Items 2 and 3. It would take some contingency
21 motions. Essentially what you're going to have to
22 do is say if CFAC waives the demeanor of
23 witnesses, then "X" and "Y" will happen. If CFAC
24 does not waive the demeanor of witnesses, then "A"
25 and "B" will happen.

1 I think that's possible if that's what
2 you would like to do. If that's what you would
3 like to do, then I would propose that you would,
4 for example, find if CFAC waives the demeanor of
5 witnesses, and a review of the record is
6 appropriate, then the Board answers Item No. 3 in
7 the following manner. If CFAC does not waive the
8 demeanor of witnesses, then Item No. 3 is answered
9 as follows. Does that make sense?

10 MR. FELTON: It does. Then I have a
11 follow up. Then I understand that the desire for
12 CFAC's attorney to visit with her client and think
13 about that. And I'm new to the Board. This is,
14 again, a procedural question. Would we need to
15 wait until the February meeting to act on this, or
16 does this Board have the capacity to act via email
17 or other means other than a regularly scheduled
18 meeting?

19 So in other words, if CFAC comes back
20 and says either "A," "We waive the demeanor of
21 witnesses," or "B," "We don't," do we need to wait
22 two months to act on this, or can we act --
23 (inaudible) --

24 MS. CLERGET: This is Sarah again, and
25 I'll answer your question. You cannot act by

1 email. It needs to be a public meeting. However,
2 at the Board's pleasure, you're welcome to set a
3 special Board meeting if you so choose. It is not
4 unprecedented for boards to do that with a single
5 agenda item between regular board meetings. That
6 agenda item has to be publicly noticed and
7 available, and then any deliberation has to happen
8 on the record in a public meeting.

9 So the first part of the answer to your
10 question is no, it can't be done by email. The
11 second part of the answer is: But it could be
12 done before the next meeting if the Board so
13 chooses under those circumstances.

14 MR. FELTON: So then if you'll indulge
15 me one last question. This I guess is more to the
16 parties. Are the parties okay waiting two months
17 to get that question answered?

18 CHAIR DEVENY: I couldn't hear your
19 question.

20 MR. FELTON: My question is really for
21 the parties involved. Are they willing to wait
22 two months to determine what the next step is?

23 CHAIR DEVENY: I think they've indicated
24 that they were.

25 MR. MOSER: Yes. Madam Chair, Members

1 of the Board, this is Kurt Moser for DEQ. Yes.
2 We don't have any objection to waiting until the
3 next meeting.

4 MS. LAUGHNER: Katherine Laughner. No
5 objection.

6 CHAIR DEVENY: So there has been no
7 objection. I just want to remind Board members.
8 This issue has been going on now for a year, and
9 we talked at our last meeting that it was really
10 time to be moving forward, and that's why we are
11 addressing this issue today. Further questions,
12 John?

13 MR. FELTON: No. Thank you.

14 CHAIR DEVENY: I have a question of
15 Sarah. If we did convene a meeting of the Board
16 members say in two weeks, is that enough time to
17 give public notice? Remind me what those notices
18 are.

19 MS. CLERGET: Yes. The public notice
20 needs to be reasonable, and case law has indicated
21 that two weeks is definitely reasonable. I think
22 as little as three days is probably reasonable.
23 So two weeks would definitely suffice.

24 CHAIR DEVENY: So I am thinking that I
25 sort of like that idea of perhaps us reconvening

1 telephonically in a short period of time down the
2 road would allow CFAC to meet with their clients,
3 and at the same time allow us to move forward with
4 this without another two month delay, and then who
5 knows what's after that.

6 So what do Board members think of that?
7 And we don't have to decide on a date today. We
8 could poll members to see sometime, hopefully in
9 December, we could maybe find a day when we could
10 get a quorum together and take some action on
11 this. So what are Board members feeling?

12 MR. FELTON: I like the idea.

13 CHAIR DEVENY: Who was that?

14 MR. FELTON: This is John.

15 CHAIR DEVENY: John Felton. Thanks,
16 John. Other members?

17 MR. BUSBY: This is Dexter. I'm going
18 to have very limited availability for the next --
19 until after the first. I think this has sat for,
20 like you say, more than two years, maybe three
21 years. I'm not sure that we need to push it
22 forward, not that I would be opposed to
23 participating in a special meeting. It is just
24 I'm not sure we need to put everybody through
25 that.

1 CHAIR DEVENY: Other Board member
2 comments? Thoughts?

3 (No response)

4 CHAIR DEVENY: Nobody has any thoughts.
5 Let's throw it out as a motion then. I'll move
6 that we postpone making a decision on the proposed
7 order for a period not to exceed three weeks,
8 during which time we will find a meeting where we
9 can bring a quorum together of the Board for
10 making a decision on this contested case with
11 regards to the proposed order.

12 MS. CLERGET: Items 2 and 3.

13 CHAIR DEVENY: Items 2 and 3 of the
14 proposed order. Is there a second?

15 MS. HANSON: This is Hillary. I'll
16 second it.

17 CHAIR DEVENY: The motion has been moved
18 and seconded. Now do we have discussion?

19 (No response)

20 CHAIR DEVENY: No discussion. Let's
21 take a vote. All those in favor of the motion,
22 please say aye.

23 (Response)

24 CHAIR DEVENY: Those opposed.

25 (No response)

1 CHAIR DEVENY: It appears none were
2 opposed, so we're going to just give the party a
3 little bit more time to meet with their clients,
4 and convene another meeting of the Board
5 telephonically.

6 MS. CLERGET: I just want to be clear
7 that you guys assigned this to me for the purposes
8 of procedure at the last meeting. That will
9 continue through this two week period until we get
10 the new meeting set up?

11 CHAIR DEVENY: Yes, that would be good.
12 And you could also provide the Board members with
13 Ms. Laughner's document, if you would.

14 MS. CLERGET: Yes, I can do that.

15 CHAIR DEVENY: Are we through with this
16 particular issue?

17 MS. CLERGET: Yes. So the next item on
18 the agenda is the Board Counsel update. This is
19 mostly a placeholder for you guys to have a chance
20 to ask me any questions for general issues that
21 you have.

22 The only general issue I have for the
23 Board is that there is -- We discussed a little
24 bit during the orientation and at the last meeting
25 the memo that's posted on the Board website

1 outlining procedure for appearing before the Board
2 and getting filings in front of the Board.

3 I would like, if you guys are amenable,
4 to have the opportunity to present a draft update
5 to that memo to you at the next meeting, if you
6 believe that's a good use of my time, and my staff
7 time. And I apologize because I wanted to have
8 that to you by this Board meeting, but I did not
9 have a chance to get that done yet. So I wanted
10 to find out if you guys are amenable to putting
11 that on as a project.

12 CHAIR DEVENY: I certainly am. I can
13 hardly stand to hear from you too much longer
14 because it is hurting. So other Board members,
15 are you okay with that?

16 UNKNOWN SPEAKER: Yes.

17 UNKNOWN SPEAKER: Yes.

18 CHAIR DEVENY: That sounds good, Sarah.

19 MS. CLERGET: Any other questions for me
20 as your Counsel?

21 (No response)

22 MS. CLERGET: Hearing none, that
23 concludes the Board Counsel update, Madam Chair.

24 CHAIR DEVENY: And now I'd like to open
25 this meeting to public comment. The public may

1 comment on any public matter within the
2 jurisdiction of the Board that's not otherwise on
3 the agenda and that is not related to the
4 contested cases. Is there anybody here or online
5 that would like to speak?

6 (No response)

7 CHAIR DEVENY: Hearing none, I think
8 we're through with that section, and unless
9 anybody has anything else, I'd like to move to
10 adjourn. Could I get a second?

11 MR. BUSBY: I'll second it. This is
12 Dexter.

13 CHAIR DEVENY: Dexter seconded the
14 motion to adjourn, and all in favor, please say
15 aye.

16 (Response)

17 CHAIR DEVENY: Any opposed?

18 (No response)

19 CHAIR DEVENY: Meeting is adjourned.

20 (The proceedings were concluded
21 at 11:25 a.m.)

22 * * * * *

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MONTANA)
 : SS.
COUNTY OF LEWIS & CLARK)

I, LAURIE CRUTCHER, RPR, Court Reporter,
Notary Public in and for the County of Lewis &
Clark, State of Montana, do hereby certify:

That the proceedings were taken before me at
the time and place herein named; that the
proceedings were reported by me in shorthand and
transcribed using computer-aided transcription,
and that the foregoing - 98 - pages contain a true
record of the proceedings to the best of my
ability.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my notarial seal
this _____ day of _____, 2017.

LAURIE CRUTCHER, RPR
Court Reporter - Notary Public
My commission expires
March 9, 2020.

<p style="text-align: center;">1</p> <p>1 [7] 20:1, 21:12, 27:7, 27:15, 33:9, 42:15, 83:10 1)(d - 30:8 111 - 1:10 11:25 - 98:21 11th - 8:1 131.10(g) - 40:16 1520 - 1:11 16th [3] 11:19, 11:22, 11:24</p> <hr/> <p style="text-align: center;">2</p> <p>2 [13] 8:22, 10:9, 14:25, 21:18, 21:19, 34:5, 42:15, 54:13, 90:11, 90:15, 90:20, 95:12, 95:13 2(a - 9:18 2(b - 9:21 2(c - 13:9 2-4-22 - 64:10 2-4-622 [2] 68:5, 87:4 2015 [3] 42:16, 43:15, 49:12 2016 [2] 15:12, 63:8 2017 [5] 1:6, 1:13, 16:2, 86:9, 99:17 2018 [2] 5:21, 6:24 2020 - 99:22 20th [5] 72:13, 75:13, 85:2, 85:16, 86:9 25,000 - 35:15 27th - 80:8 2nd - 6:2</p> <hr/> <p style="text-align: center;">3</p> <p>3 [11] 11:3, 11:18, 20:11, 22:7, 90:11, 90:15, 90:20, 91:6, 91:8,</p>	<p>95:12, 95:13 3,000 - 28:21 30,000 - 37:16 325 [10] 15:10, 16:13, 27:4, 33:7, 37:15, 42:16, 43:11, 43:20, 46:23, 52:9 325's - 36:25</p> <hr/> <p style="text-align: center;">4</p> <p>4 [8] 20:11, 23:8, 23:9, 60:13, 62:7, 82:17, 86:8, 86:11 40 [2] 40:16, 46:14</p> <hr/> <p style="text-align: center;">5</p> <p>5 [2] 27:12, 34:12</p> <hr/> <p style="text-align: center;">6</p> <p>6 - 20:20 60 [2] 9:4, 9:7 66 - 9:18 6th [2] 6:3, 8:14</p> <hr/> <p style="text-align: center;">7</p> <p>7 - 46:7 75-5-222 [4] 14:25, 16:13, 50:18, 56:6 7th - 6:6</p> <hr/> <p style="text-align: center;">8</p> <p>8 [2] 1:6, 1:13 8th - 6:4</p> <hr/> <p style="text-align: center;">9</p> <p>9 [2] 21:1, 99:22 98 - 99:12 9:00 - 1:14 9th [2] 6:17, 8:1</p> <hr/> <p style="text-align: center;">A</p> <p>A-L-S-E-N-T-Z - 35:4</p>	<p>a.m [2] 1:14, 98:21 ability [3] 37:8, 45:6, 99:14 able [2] 29:25, 50:15 absent - 85:11 absolutely [2] 36:3, 69:17 abundant - 29:1 accept - 82:19 accessed - 73:20 account - 80:13 accumulation - 46:15 accurate [2] 3:8, 18:6 achievable - 20:10 achieved [3] 15:8, 21:20, 24:3 acknowledging [2] 4:17, 4:20 act [24] 8:12, 15:21, 18:2, 25:13, 29:8, 30:14, 30:15, 30:16, 37:21, 40:14, 43:25, 53:20, 54:18, 54:21, 68:4, 77:21, 90:11, 90:15, 90:19, 91:15, 91:16, 91:22, 91:22, 91:25 action [8] 14:8, 21:21, 30:4, 62:7, 62:10, 62:19, 90:13, 94:10 actions [2] 22:7, 44:10 active - 80:18 actively - 28:22 actors - 44:11 actual [5] 24:23, 40:16, 40:17, 75:6, 76:17 add [3] 6:10, 67:5, 89:12 added [3]</p>	<p>3:19, 4:22, 54:2 addition [4] 4:14, 15:17, 45:23, 88:22 additional [6] 16:6, 53:18, 54:1, 54:10, 54:18, 57:2 Additionally [3] 29:2, 34:8, 34:15 address [18] 15:6, 15:19, 17:6, 20:19, 30:4, 34:6, 37:4, 49:15, 51:19, 54:24, 55:19, 64:23, 67:25, 77:12, 78:7, 80:18, 80:22, 87:9 addressed [9] 34:20, 54:14, 55:2, 55:11, 56:2, 66:1, 66:19, 76:2, 84:24 addressing [2] 77:16, 93:11 adds - 48:19 adequate [2] 67:19, 85:11 adjourn [2] 98:10, 98:14 adjourned - 98:19 Administrative - 68:4 admitting - 39:8 adopt [3] 16:21, 50:20, 57:7 adsorption - 46:9 Advisory - 15:25 affected - 45:24 affects - 51:13 affixed - 99:16 afforded - 40:23 against - 52:8 agency [8] 46:3, 46:16, 71:6, 74:5,</p>	<p>74:7, 77:1, 78:19, 79:17 agenda [21] 7:22, 8:11, 8:13, 8:16, 8:22, 9:2, 9:20, 9:23, 10:10, 10:19, 11:3, 11:11, 11:17, 11:18, 11:25, 60:13, 62:21, 92:5, 92:6, 96:18, 98:3 agendas - 62:7 agree [11] 3:21, 66:22, 68:8, 68:12, 68:14, 68:17, 81:24, 82:15, 82:17, 83:23, 88:8 agreeable - 48:8 agreed [2] 68:18, 73:24 agreements - 8:18 agricultural - 43:4 agriculture [2] 15:13, 42:23 ahead [14] 3:1, 12:23, 14:18, 17:23, 28:4, 28:15, 42:12, 50:4, 52:6, 57:20, 67:17, 80:6, 87:22, 90:7 aids - 48:25 Alan - 26:20 aligns [2] 20:2, 20:6 allegedly - 40:13 allow [7] 30:9, 37:7, 37:10, 47:1, 87:16, 94:2, 94:3 allowed [3] 28:5, 38:17, 40:10 allowing - 45:19 allows [5] 18:21, 19:1, 21:4, 24:15, 39:11</p>	<p>already [8] 34:20, 52:11, 56:23, 67:23, 68:20, 71:13, 86:16, 89:24 ALSB [2] 78:21, 79:7 Alsentzer [6] 35:2, 35:3, 35:23, 36:3, 36:10, 41:6 alternative [4] 20:15, 20:18, 22:5, 34:12 although [2] 9:5, 47:1 Aluminum [4] 62:8, 67:6, 68:15, 72:10 amenable [2] 97:3, 97:10 amendment [4] 3:13, 3:16, 3:25, 4:9 amendments [2] 5:8, 5:9 amidst - 82:1 amongst - 11:20 amount [5] 19:2, 50:6, 69:19, 71:21, 78:10 amounts - 69:20 analysis [2] 23:3, 39:9 Andres - 63:13 Andrew - 28:12 Annotated [2] 64:10, 87:4 anomalies [2] 72:21, 75:16 answered [2] 91:8, 92:17 answering - 88:20 answers - 91:6 anthropogenic [3] 15:2, 16:23, 29:11 anticipate [2] 10:14, 24:23 anticipated - 14:1 anymore - 9:20</p>
---	---	--	---	--	---

<p>apologize [12] 3:20, 7:20, 8:15, 10:9, 11:14, 12:13, 13:2, 27:4, 34:22, 65:18, 88:18, 97:7</p> <p>appeal [4] 9:1, 11:13, 13:6, 60:16</p> <p>appearing - 97:1</p> <p>appears [4] 30:18, 44:14, 47:19, 96:1</p> <p>applicable [2] 44:9, 87:5</p> <p>applicant [14] 19:7, 19:10, 19:15, 19:17, 20:14, 21:8, 22:3, 22:4, 22:9, 22:21, 23:3, 24:8, 24:9, 24:10</p> <p>application [8] 17:7, 20:12, 21:11, 24:13, 24:24, 37:17, 39:10, 51:2</p> <p>applied [2] 37:23, 51:5</p> <p>apply [7] 16:16, 19:7, 19:15, 20:5, 22:22, 24:10, 29:23</p> <p>applying - 18:23</p> <p>appoint [4] 58:6, 58:9, 58:11, 58:15</p> <p>appointment - 71:12</p> <p>appreciate [7] 32:6, 32:23, 34:25, 42:1, 43:9, 43:11, 73:22</p> <p>approaching - 36:14</p> <p>appropriate [12] 15:4, 16:24, 18:3, 21:16, 38:12, 44:11, 49:8, 49:11, 56:19, 88:17, 89:12, 91:6</p> <p>approval [4]</p>	<p>3:11, 19:13, 19:22, 24:20</p> <p>approve [4] 6:13, 6:23, 7:1, 27:16</p> <p>approved - 5:19</p> <p>approving - 5:8</p> <p>April [2] 6:2, 6:3</p> <p>Arch - 33:14</p> <p>areas - 28:24</p> <p>aren't [2] 42:21, 74:24</p> <p>argument [2] 9:13, 12:2</p> <p>arguments [2] 12:8, 86:20</p> <p>asking [2] 47:6, 87:24</p> <p>asks - 21:19</p> <p>aspect - 50:8</p> <p>aspects - 25:13</p> <p>assign [6] 60:21, 60:24, 61:5, 61:17, 64:14, 64:17</p> <p>assigned [6] 7:17, 12:12, 12:24, 61:10, 63:2, 96:7</p> <p>assigning - 61:12</p> <p>Association [4] 26:21, 32:12, 33:2, 35:8</p> <p>assume - 66:18</p> <p>assumed - 76:4</p> <p>attached - 78:5</p> <p>attainable [3] 19:20, 20:8, 24:2</p> <p>attainment - 22:18</p> <p>attempt - 71:1</p> <p>attempted [4] 78:14, 78:20, 78:21, 79:14</p> <p>attempts - 79:16</p> <p>attended - 57:22</p> <p>attention [2] 47:8, 64:2</p>	<p>attorney [8] 3:14, 7:15, 35:5, 52:22, 69:9, 70:25, 73:25, 91:12</p> <p>attorneys [2] 10:7, 13:6</p> <p>authorization - 51:18</p> <p>availability - 94:18</p> <p>available [5] 17:17, 35:20, 67:23, 75:8, 92:7</p> <p>avenue [2] 1:11, 71:9</p> <p>avenues - 29:23</p> <p>avoid - 88:3</p> <p>aye [11] 4:9, 5:2, 5:14, 7:6, 57:15, 58:24, 61:25, 83:3, 84:5, 95:22, 98:15</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B(1 - 60:13</p> <p>background [5] 28:18, 33:7, 34:4, 75:13, 75:20</p> <p>bad [3] 34:23, 36:5, 70:13</p> <p>Bar - 74:1</p> <p>base [2] 65:7, 66:22</p> <p>baseline - 46:25</p> <p>basic [2] 29:22, 41:8</p> <p>basically [3] 7:23, 71:13, 71:17</p> <p>Basin [4] 28:20, 28:24, 29:15, 35:14</p> <p>become - 46:2</p> <p>bed - 46:12</p> <p>begin [2] 24:14, 62:9</p> <p>beginning [2] 52:17, 71:10</p> <p>behalf [4] 35:6, 42:19, 42:20, 72:9</p> <p>behind [2] 36:25, 43:23</p>	<p>behoove - 36:4</p> <p>believed - 54:20</p> <p>believes - 72:25</p> <p>Ben [11] 73:5, 74:4, 74:8, 75:7, 75:17, 76:3, 76:23, 77:4, 78:2, 79:9, 80:7</p> <p>beneficial - 45:22</p> <p>benefit - 88:4</p> <p>BER [9] 68:24, 72:19, 73:5, 74:6, 75:5, 75:9, 76:16, 79:8, 87:3</p> <p>best [7] 20:9, 24:3, 45:17, 49:16, 57:3, 81:9, 99:13</p> <p>Betsy [6] 73:25, 74:15, 74:23, 86:23, 86:25, 87:1</p> <p>better [4] 41:16, 48:25, 52:17, 75:20</p> <p>beyond [3] 26:15, 54:4, 57:2</p> <p>bill [11] 15:10, 16:13, 17:6, 17:13, 27:4, 33:7, 42:15, 43:11, 43:16, 43:20, 46:23</p> <p>bioaccumulative - 38:24</p> <p>bit [8] 27:12, 31:19, 32:14, 33:6, 75:20, 83:15, 96:3, 96:24</p> <p>board [165] 1:1, 1:5, 1:18, 2:5, 3:2, 3:3, 3:6, 3:12, 4:18, 4:20, 6:8, 6:11, 6:14, 7:15, 9:13, 9:15, 12:7, 12:19, 13:2, 13:14, 14:4,</p>	<p>14:13, 14:16, 14:20, 16:1, 16:3, 16:4, 16:7, 16:10, 25:4, 25:17, 25:19, 26:19, 27:2, 28:18, 31:12, 35:3, 36:24, 37:24, 38:5, 41:21, 42:5, 47:18, 47:22, 48:3, 49:22, 49:24, 50:20, 51:23, 52:2, 52:21, 52:22, 53:2, 53:5, 55:5, 55:14, 56:14, 56:16, 57:7, 57:8, 57:12, 58:5, 58:8, 58:11, 58:13, 59:9, 60:5, 61:2, 61:13, 62:10, 62:20, 63:3, 63:9, 63:11, 63:14, 63:14, 63:15, 63:15, 63:19, 64:8, 64:11, 65:2, 65:4, 65:7, 65:8, 65:10, 65:12, 65:14, 65:23, 66:3, 66:5, 66:9, 66:17, 66:22, 67:9, 67:13, 68:16, 69:3, 69:9, 69:15, 70:1, 70:6, 70:18, 70:21, 70:23, 71:5, 71:14, 72:14, 73:20, 76:20, 77:13, 77:14, 77:23, 78:1, 79:8, 80:2, 81:4, 81:20, 81:23, 82:1, 82:3, 82:5, 82:9, 83:13, 83:15, 83:24, 84:12, 85:2, 85:6, 85:7, 85:9, 85:17, 85:17, 85:19, 87:13, 87:16, 87:18, 89:14, 89:21, 89:24, 90:2,</p>	<p>91:6, 91:13, 91:16, 92:3, 92:5, 92:12, 93:1, 93:7, 93:15, 94:6, 94:11, 95:1, 95:9, 96:4, 96:12, 96:18, 96:23, 96:25, 97:1, 97:2, 97:8, 97:14, 97:23, 98:2</p> <p>Board's [3] 6:23, 70:25, 92:2</p> <p>boards - 92:4</p> <p>bodies - 29:11</p> <p>body [10] 16:17, 16:19, 18:6, 18:8, 19:18, 19:20, 20:9, 21:13, 23:11, 23:16</p> <p>boom - 46:12</p> <p>bounce - 80:17</p> <p>bound [2] 39:14, 51:23</p> <p>bounds - 25:11</p> <p>Bozeman - 61:18</p> <p>brand [3] 37:12, 82:1, 82:1</p> <p>Brandborg [5] 73:25, 74:15, 74:23, 86:23, 87:1</p> <p>break - 59:5</p> <p>Brenda [5] 32:11, 32:13, 32:18, 33:16, 34:24</p> <p>brief [3] 15:5, 33:24, 69:10</p> <p>briefing [2] 7:14, 8:23</p> <p>bring - 95:9</p> <p>bringing [3] 27:5, 43:8, 73:6</p> <p>broad [2] 35:14, 43:22</p> <p>broadly [2] 44:9, 45:12</p> <p>brought [2] 73:2, 88:12</p> <p>brush - 43:22</p> <p>brushed [3]</p>
---	--	--	--	--	---

73:4, 73:14, 74:20 budgetary - 43:13 Building - 1:10 burdens - 37:1 Bureau [2] 16:9, 78:19 Busby [17] 1:19, 2:14, 2:15, 4:5, 4:6, 5:11, 55:16, 55:16, 55:25, 56:15, 59:17, 59:18, 67:15, 67:18, 69:1, 94:17, 98:11 businesses - 35:18 Butte - 43:17	44:10, 49:2, 60:9, 60:13, 60:20, 61:9, 61:19, 62:8, 62:13, 62:19, 63:2, 64:5, 64:7, 64:12, 64:14, 64:16, 68:10, 69:10, 69:16, 80:21, 82:8, 85:15, 93:20, 95:10 case-by-case [4] 23:21, 30:23, 39:9, 45:8 cases [8] 7:16, 7:22, 9:17, 46:11, 66:4, 66:9, 66:14, 98:4 caught - 65:22 cause [3] 22:19, 22:24, 39:4 caused [3] 15:3, 22:17, 29:20 causes - 30:5 caution - 88:14 Center - 44:23 certain [4] 15:4, 16:25, 38:1, 45:16 certainly [2] 3:4, 97:12 certify - 99:7 CFAC [30] 68:15, 69:12, 69:22, 70:14, 71:25, 72:3, 72:6, 72:23, 72:25, 74:18, 75:10, 75:21, 76:4, 76:7, 76:8, 81:10, 84:14, 84:22, 85:10, 86:24, 86:25, 87:17, 87:20, 90:9, 90:22, 90:23, 91:4, 91:7, 91:19, 94:2 CFAC's [4] 72:11, 81:8, 87:6, 91:12 CFR - 40:16	Chair [177] 1:17, 2:4, 2:5, 2:11, 2:25, 3:15, 3:20, 3:24, 4:3, 4:7, 4:11, 4:13, 5:1, 5:4, 5:6, 5:13, 5:16, 5:18, 6:16, 6:19, 6:22, 7:2, 7:5, 7:8, 7:10, 10:2, 10:4, 12:14, 12:16, 12:22, 13:1, 13:16, 13:21, 14:2, 14:6, 14:12, 14:15, 14:20, 17:18, 17:22, 25:16, 25:24, 26:6, 26:12, 27:23, 28:2, 28:8, 28:15, 28:17, 31:16, 32:3, 32:13, 32:20, 33:16, 33:22, 34:1, 34:24, 35:2, 35:23, 36:6, 36:10, 41:2, 41:6, 41:25, 42:5, 42:11, 44:19, 44:24, 45:3, 47:10, 47:17, 48:11, 49:24, 50:4, 50:14, 50:17, 51:8, 51:20, 52:1, 52:3, 52:5, 52:23, 53:4, 53:7, 55:3, 55:13, 55:23, 56:4, 56:9, 56:12, 56:20, 57:11, 57:14, 57:17, 57:19, 58:3, 58:8, 58:20, 58:23, 59:1, 59:3, 59:8, 59:14, 60:5, 60:8, 61:11, 61:16, 61:23, 62:2, 62:4, 62:15, 65:13, 67:1, 69:2, 69:5, 69:8, 72:2, 76:10, 76:18, 77:3,	77:7, 77:10, 77:25, 79:20, 80:2, 80:6, 80:25, 81:3, 81:14, 82:14, 82:23, 83:2, 83:5, 83:7, 83:12, 83:22, 84:3, 84:7, 84:9, 84:23, 85:20, 86:2, 87:22, 88:7, 88:11, 88:18, 89:9, 89:13, 89:17, 90:2, 90:7, 90:16, 92:18, 92:23, 92:25, 93:6, 93:14, 93:24, 94:13, 94:15, 95:1, 95:4, 95:13, 95:17, 95:20, 95:24, 96:1, 96:11, 96:15, 97:12, 97:18, 97:23, 97:24, 98:7, 98:13, 98:17, 98:19 Chairman [3] 26:18, 27:2, 32:10 challenging - 38:21 chance [5] 57:7, 62:25, 80:9, 96:19, 97:9 change [2] 3:25, 10:5 changed - 13:4 changes [9] 5:25, 6:13, 16:6, 49:7, 54:19, 54:25, 55:7, 55:8, 55:11 charge - 74:7 chart - 25:2 check [2] 59:9, 66:16 chemical - 39:1 Chief [3] 10:5, 16:9, 78:19 choose [5] 60:19, 60:21, 61:5, 61:7, 92:3	chooses - 92:13 Chris [9] 1:17, 2:5, 2:10, 2:22, 2:25, 4:19, 59:13, 59:25, 88:15 circumstances - 92:13 citizens - 42:24 City - 42:18 Civil - 61:17 clarification [2] 54:7, 67:9 clarified - 66:7 clarify [5] 32:15, 65:21, 68:14, 70:17, 77:8 Clark [8] 28:13, 28:20, 28:22, 28:23, 29:14, 35:7, 99:4, 99:7 clean [14] 15:21, 18:2, 25:13, 29:1, 30:14, 30:15, 30:16, 37:21, 40:14, 43:25, 44:3, 53:19, 54:18, 54:21 clear [8] 38:5, 43:9, 53:17, 62:9, 66:15, 76:13, 77:13, 96:6 clearer - 32:23 clearly [5] 28:6, 30:19, 32:21, 49:18, 52:11 Clerget [40] 3:14, 3:20, 7:15, 7:19, 10:8, 12:15, 13:13, 58:15, 60:11, 60:12, 61:19, 62:5, 62:15, 62:17, 65:21, 67:17, 67:24, 70:16, 70:16, 77:11, 77:11, 78:3, 80:12, 81:7, 83:8, 84:11, 85:5, 85:22,	86:6, 88:10, 88:14, 90:18, 91:24, 93:19, 95:12, 96:6, 96:14, 96:17, 97:19, 97:22 clerical [2] 65:16, 65:20 client [10] 85:4, 87:17, 87:25, 88:5, 88:8, 88:16, 88:24, 89:1, 89:20, 91:12 clients [2] 94:2, 96:3 close - 34:21 closed [2] 11:12, 45:20 closer - 32:22 coal [3] 33:11, 33:14, 46:12 coalition [5] 28:14, 28:19, 29:7, 31:9, 35:7 Code [2] 64:10, 87:4 codified - 16:13 cold - 29:1 Columbia [4] 62:8, 67:6, 68:15, 72:9 comes [2] 66:5, 91:19 comfortable [2] 75:14, 78:24 coming [3] 16:7, 24:6, 85:11 commend - 26:23 comment [27] 13:9, 21:4, 24:15, 25:18, 25:25, 26:4, 28:9, 31:14, 32:4, 32:8, 34:22, 42:2, 42:14, 44:25, 48:9, 48:12, 49:7, 52:17, 53:15, 56:3, 56:22, 71:25, 81:6, 81:11, 84:14, 97:25, 98:1
C					
calendars - 7:11 can't [11] 7:20, 11:14, 40:6, 40:25, 42:6, 42:8, 42:10, 53:5, 68:20, 81:11, 92:10 cannot [7] 19:17, 22:18, 40:19, 50:25, 53:25, 67:21, 91:25 Canty - 4:18 capability - 49:16 capable - 82:5 capacity - 91:16 captured - 79:1 carcinogens - 46:4 carry - 23:2 cart [2] 72:24, 87:7 case [36] 7:15, 7:24, 10:24, 11:4, 12:9, 12:11, 12:11, 12:20, 12:24, 14:3, 40:21, 44:10,					

<p>commenters - 51:11</p> <p>commenting [2] 26:8, 32:2</p> <p>comments [34] 4:16, 6:14, 16:5, 24:19, 26:13, 28:1, 32:24, 33:24, 35:6, 41:4, 42:1, 49:25, 52:1, 53:11, 53:14, 54:12, 54:13, 54:14, 54:16, 55:14, 56:1, 57:11, 57:22, 67:14, 69:6, 69:11, 70:14, 72:4, 79:21, 79:23, 80:1, 80:25, 83:16, 95:2</p> <p>commission - 99:21</p> <p>commitment - 25:5</p> <p>common - 77:20</p> <p>communication [3] 71:21, 86:18, 88:15</p> <p>communities - 37:1</p> <p>community [3] 17:8, 37:8, 41:19</p> <p>Company [4] 62:8, 67:7, 68:15, 72:10</p> <p>Company's - 11:13</p> <p>comparable - 50:21</p> <p>compared - 51:16</p> <p>compelled - 29:8</p> <p>complete [3] 67:18, 67:22, 71:24</p> <p>compliance [3] 20:17, 21:22, 39:25</p> <p>complicated [3] 71:4, 71:5, 71:6</p> <p>complies - 41:23</p> <p>comply [4]</p>	<p>36:21, 38:4, 41:11, 41:18</p> <p>component - 20:1</p> <p>components [4] 15:6, 15:21, 19:3, 40:2</p> <p>comprehensive - 27:25</p> <p>comprised - 15:12</p> <p>computer-aided - 99:11</p> <p>concentrations - 18:16</p> <p>concept [2] 48:18, 51:12</p> <p>concern [6] 29:22, 30:6, 36:25, 37:19, 50:11, 50:12</p> <p>concerned [4] 37:17, 41:12, 45:12, 77:15</p> <p>concerns [13] 15:19, 29:8, 30:7, 34:4, 43:7, 47:8, 47:25, 49:13, 49:15, 54:9, 54:17, 54:24, 86:3</p> <p>concerted - 70:24</p> <p>concluded - 98:20</p> <p>concludes - 97:23</p> <p>conclusion [5] 24:21, 41:7, 63:22, 64:1, 82:17</p> <p>conclusions [4] 64:25, 65:11, 86:19, 87:19</p> <p>concur - 81:25</p> <p>condition [10] 16:18, 19:18, 19:20, 20:8, 21:13, 23:10, 23:15, 50:25, 51:4, 51:6</p> <p>conditions [14] 15:5, 16:25, 18:4, 18:17, 18:18, 19:8, 19:15,</p>	<p>23:22, 25:1, 27:17, 27:18, 27:21, 30:12, 50:24</p> <p>conduct [3] 64:17, 67:22, 70:1</p> <p>conducted - 64:12</p> <p>conductivity - 46:8</p> <p>conference [10] 8:2, 8:6, 10:18, 10:20, 11:1, 17:16, 29:17, 44:18, 63:16, 86:10</p> <p>conferences [5] 63:19, 63:23, 64:6, 68:11, 85:8</p> <p>confident - 55:1</p> <p>conflict [2] 6:17, 27:11</p> <p>conflicts - 6:9</p> <p>conjunction - 16:11</p> <p>connection [2] 34:23, 36:5</p> <p>Consequently - 47:4</p> <p>conservation [2] 35:12, 42:23</p> <p>consider [2] 21:10, 86:5</p> <p>considerable - 69:18</p> <p>consistent [2] 50:21, 73:7</p> <p>constituencies - 53:13</p> <p>constituents - 15:15</p> <p>constitute - 81:19</p> <p>constitutes [2] 30:21, 45:7</p> <p>constitutional - 36:13</p> <p>construct - 49:16</p> <p>consult [2] 20:13, 87:17</p> <p>consultation - 75:8</p> <p>contact [12] 65:4, 70:24, 78:14, 78:20,</p>	<p>78:22, 78:23, 78:25, 79:15, 79:16, 81:20, 86:20, 89:23</p> <p>contacted - 6:8</p> <p>contacts - 74:11</p> <p>contain - 99:12</p> <p>contains - 16:14</p> <p>contested [14] 7:14, 12:11, 12:11, 12:20, 12:24, 60:9, 60:13, 60:19, 61:18, 66:4, 66:9, 66:13, 95:10, 98:4</p> <p>context [5] 38:23, 40:6, 41:9, 46:1, 55:12</p> <p>contingency - 90:20</p> <p>continual [2] 25:9, 48:3</p> <p>continue [7] 3:1, 18:22, 19:1, 36:9, 45:3, 57:25, 96:9</p> <p>continues - 4:20</p> <p>continuing - 29:19</p> <p>contract [5] 73:8, 77:1, 79:7, 79:8, 79:10</p> <p>contribute [10] 19:17, 23:10, 30:11, 30:13, 31:1, 31:1, 38:15, 39:4, 51:5, 51:15</p> <p>contributing [2] 24:9, 34:19</p> <p>contribution [16] 23:15, 23:18, 24:5, 30:22, 31:3, 34:10, 38:14, 41:9, 45:8, 46:6, 50:7, 53:16, 53:18, 53:23, 53:25,</p>	<p>54:6</p> <p>contributions [4] 39:2, 44:15, 45:5, 46:18</p> <p>contributor - 21:24</p> <p>control [5] 15:25, 37:3, 37:13, 39:17, 39:20</p> <p>controlled - 39:20</p> <p>controls [2] 37:5, 37:9</p> <p>convene [2] 93:15, 96:4</p> <p>conversation - 86:25</p> <p>copies - 42:7</p> <p>Copper [2] 7:24, 7:24</p> <p>correct [3] 3:23, 22:20, 88:9</p> <p>corresponding - 38:18</p> <p>couldn't [2] 33:13, 92:18</p> <p>Council [3] 12:3, 15:25, 42:20</p> <p>Counsel [8] 10:5, 13:10, 13:10, 69:12, 79:11, 96:18, 97:20, 97:23</p> <p>Counsel's - 69:21</p> <p>County [3] 61:18, 99:4, 99:6</p> <p>couple [8] 5:25, 18:3, 23:17, 26:25, 31:23, 36:20, 53:10, 53:14</p> <p>course [2] 41:13, 56:25</p> <p>Court [9] 1:24, 3:7, 13:5, 13:7, 13:15, 32:15, 41:15, 99:5, 99:20</p> <p>create - 51:17</p> <p>created [2] 68:21, 73:10</p> <p>creates - 46:24</p>	<p>creating [2] 29:23, 39:21</p> <p>creation - 46:23</p> <p>credible - 55:19</p> <p>Creek - 33:11</p> <p>criteria [2] 27:11, 50:22</p> <p>criterion [2] 38:7, 51:24</p> <p>crop - 46:13</p> <p>crops - 46:2</p> <p>CRUTCHER [3] 1:23, 99:5, 99:19</p> <p>cumulative - 45:23</p> <p>cure - 75:10</p> <p>current [4] 18:22, 18:25, 19:2, 35:9</p> <p>currently - 27:7</p> <p>cut - 17:21</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>damage - 22:20</p> <p>dams - 18:16</p> <p>date - 94:7</p> <p>dates [8] 5:24, 6:7, 6:9, 6:12, 6:18, 6:23, 7:1, 8:5</p> <p>deadline [2] 11:22, 11:24</p> <p>deal [3] 40:6, 43:13, 56:24</p> <p>dealing - 29:24</p> <p>dealt [2] 81:13, 84:15</p> <p>Dearment [17] 1:18, 2:20, 2:21, 5:10, 52:3, 52:4, 52:5, 52:7, 53:7, 56:20, 56:21, 59:23, 59:24, 62:11, 62:15, 62:18, 86:15</p> <p>December [5] 1:6, 1:13, 6:4, 6:6, 94:9</p> <p>decide [7] 60:14, 60:24,</p>
--	---	---	---	---	---

<p>61:2, 64:13, 64:20, 87:15, 94:7 decides - 70:1 deciding - 12:8 decision [22] 9:15, 61:2, 61:3, 61:3, 62:14, 63:8, 63:11, 64:16, 65:7, 66:23, 66:24, 74:18, 75:15, 76:1, 78:9, 79:4, 81:22, 81:23, 89:15, 90:12, 95:6, 95:10 decisions - 60:23 declared - 83:11 declaring [2] 75:17, 83:25 decline - 13:11 dedicated [2] 28:19, 29:4 deficiencies - 41:11 defined [2] 18:15, 34:11 definitely [3] 27:22, 93:21, 93:23 definition - 34:11 degradation [3] 44:16, 45:6, 47:1 degraded - 46:25 degree - 46:22 delay [2] 13:22, 94:4 deliberation - 92:7 delivered - 80:21 demeanor [17] 68:9, 68:12, 70:5, 73:2, 73:12, 81:11, 84:17, 85:13, 87:9, 88:10, 88:11, 90:10, 90:22, 90:24, 91:4, 91:8, 91:20</p>	<p>demonstrated - 22:10 deny - 41:21 denying - 38:6 Department [22] 16:21, 19:13, 20:14, 21:7, 23:14, 23:20, 24:18, 27:8, 27:10, 27:13, 27:15, 27:22, 30:21, 31:11, 33:13, 34:16, 48:14, 48:21, 49:21, 50:9, 50:23, 55:18 Department's [3] 20:12, 20:21, 23:18 DEQ [50] 3:13, 9:25, 14:11, 14:23, 15:24, 16:16, 19:22, 23:1, 24:12, 26:23, 29:7, 31:6, 36:11, 39:8, 41:13, 41:17, 43:7, 43:21, 47:7, 47:24, 48:2, 48:6, 50:15, 52:24, 56:23, 57:19, 65:9, 65:10, 66:2, 66:7, 66:9, 66:10, 66:12, 66:16, 67:4, 68:15, 69:6, 69:10, 69:20, 70:4, 71:16, 80:3, 87:1, 87:13, 88:2, 89:10, 90:1, 90:3, 90:6, 93:1 DEQ's [17] 12:14, 12:15, 35:9, 36:15, 38:6, 38:11, 41:21, 42:14, 44:16, 45:6, 46:3, 64:24, 72:20, 73:19, 76:15, 81:17, 86:18 Derf - 44:22 described - 86:24 describes [3]</p>	<p>19:6, 19:19, 20:20 deserving - 37:8 design - 36:18 designated - 45:14 designed [2] 33:8, 33:10 desire - 91:11 detailed [2] 23:1, 31:14 determination - 13:5 determinations [5] 38:8, 38:19, 39:7, 39:12, 39:13 determine [5] 23:14, 23:21, 30:21, 68:11, 92:22 determined [3] 70:4, 71:19, 73:5 determines [3] 20:14, 24:12, 27:10 determining - 21:8 devastating - 46:11 develop [4] 20:25, 48:18, 48:24, 49:19 developed [2] 23:1, 48:17 development [2] 15:16, 49:1 Deveny [153] 1:17, 2:4, 2:5, 2:10, 2:11, 2:25, 3:24, 4:3, 4:7, 4:11, 4:13, 5:1, 5:4, 5:6, 5:13, 5:16, 5:18, 6:19, 6:22, 7:2, 7:5, 7:8, 7:10, 10:2, 12:14, 12:16, 12:22, 13:16, 13:21, 14:2, 14:6, 14:15, 17:18, 17:22, 25:16, 25:24, 26:6, 26:12,</p>	<p>28:2, 28:8, 28:15, 31:16, 32:3, 32:13, 32:20, 33:16, 33:22, 34:1, 34:24, 35:23, 36:6, 41:2, 41:25, 42:11, 44:19, 44:24, 45:3, 47:10, 47:17, 49:24, 50:4, 50:14, 51:8, 52:1, 52:5, 52:23, 53:7, 55:3, 55:13, 55:23, 56:4, 56:9, 56:12, 57:11, 57:14, 57:17, 57:19, 58:8, 58:20, 58:23, 59:1, 59:3, 59:8, 59:13, 59:14, 60:5, 60:8, 61:11, 61:16, 61:23, 62:2, 62:4, 67:1, 69:2, 69:5, 72:2, 76:10, 76:18, 77:3, 77:7, 77:10, 77:25, 79:20, 80:2, 80:6, 80:25, 81:3, 81:14, 82:14, 82:23, 83:2, 83:5, 83:7, 83:12, 83:22, 84:3, 84:7, 84:9, 84:23, 85:20, 86:2, 87:22, 88:7, 88:11, 88:18, 89:9, 89:17, 90:2, 90:7, 90:16, 92:18, 92:23, 93:6, 93:14, 93:24, 94:13, 94:15, 95:1, 95:4, 95:13, 95:17, 95:20, 95:24, 96:1, 96:11, 96:15, 97:12, 97:18, 97:24, 98:7, 98:13, 98:17, 98:19 devise - 33:14 Dexter [15]</p>	<p>1:19, 2:14, 4:5, 4:7, 5:11, 55:16, 55:24, 56:15, 59:17, 67:15, 67:17, 67:24, 94:17, 98:12, 98:13 Dickenson's - 9:1 differences - 52:15 differently - 82:11 difficult - 71:22 dilemma - 73:9 dioxin - 30:25 directive [2] 16:21, 25:12 director [2] 26:20, 28:13 disagreement [3] 47:20, 48:4, 52:12 disagreements - 57:5 discard - 82:7 discharge [7] 21:23, 23:10, 30:10, 45:10, 45:14, 45:21, 51:4 discharged - 39:3 discharger [8] 15:2, 16:22, 18:22, 24:1, 37:11, 40:9, 40:12, 40:24 discharger's [2] 38:13, 38:14 dischargers [3] 29:23, 30:19, 30:25 discharges - 45:19 disclosure [5] 64:24, 65:3, 72:19, 74:22, 81:17 discovery [3] 10:12, 10:21, 11:7 discuss [9] 19:3, 41:17, 63:17, 81:3, 81:9, 85:3,</p>	<p>87:25, 88:6, 89:20 discussed [5] 4:17, 86:6, 86:17, 88:12, 96:23 discussion [23] 27:4, 37:24, 43:17, 47:18, 50:1, 50:6, 56:13, 57:12, 58:12, 58:21, 61:14, 61:16, 62:9, 63:13, 82:9, 82:24, 83:2, 83:12, 83:24, 84:4, 86:23, 95:18, 95:20 discussions [2] 6:12, 11:20 dismiss - 11:10 dismissal - 11:15 dismissed [2] 9:18, 9:22 disregard [3] 65:5, 74:25, 81:21 disregarding - 82:5 Division [2] 14:23, 15:24 docket [3] 66:8, 66:13, 66:14 document [4] 46:3, 65:5, 81:21, 96:13 downstream [6] 30:19, 37:11, 40:12, 40:24, 45:14, 45:24 draft [6] 35:9, 38:11, 40:2, 46:3, 52:10, 97:4 drawing - 57:8 drawn - 26:25 drop [2] 11:11, 46:14 due [5] 15:2, 16:22, 18:11, 18:14, 46:14</p>
---	--	--	---	--	--

<p style="text-align: center;">E</p> <p>earlier - 37:25 East - 1:11 EC - 46:8 economic [2] 22:25, 37:1 economy - 81:9 effect - 55:22 effects [2] 45:23, 46:10 efficiently - 31:8 effort [4] 24:21, 70:24, 74:12, 83:18 efforts [3] 29:13, 78:1, 82:3 eight - 74:13 either [5] 47:14, 57:7, 73:10, 87:19, 91:20 electric - 46:8 eligible - 21:9 eliminate - 20:16 email [13] 42:7, 71:2, 78:5, 78:6, 80:7, 80:10, 80:15, 80:18, 80:19, 80:21, 91:16, 92:1, 92:10 emailed - 78:6 emphasis - 36:25 employer - 71:8 employment [3] 63:9, 79:10, 79:12 endorsing - 75:2 Energy - 10:17 enforcement - 7:16 enormous - 69:20 ensure [4] 15:20, 24:17, 34:18, 54:3 ensuring - 54:5 entered [4]</p>	<p>17:16, 17:19, 29:17, 44:18 entertain [2] 6:22, 26:13 entirely - 87:18 environmental [9] 1:1, 2:6, 15:14, 16:3, 22:19, 23:14, 33:13, 34:17, 44:23 EPA [10] 15:19, 15:23, 19:13, 20:23, 21:4, 24:19, 25:7, 49:18, 54:20, 54:24 EPA's - 22:10 equal - 37:19 Eric - 16:10 error [6] 65:16, 65:16, 65:19, 65:20, 65:22, 81:25 especially - 64:3 essentially [7] 7:23, 9:4, 10:21, 61:9, 68:23, 87:5, 90:21 established - 6:7 ethical [2] 73:18, 74:2 evaluated - 23:24 eventually [2] 17:3, 31:1 everybody [10] 2:4, 2:25, 3:9, 3:21, 6:19, 7:19, 14:15, 32:4, 57:21, 94:24 evident - 48:16 ex [7] 65:4, 81:19, 82:3, 86:17, 86:20, 89:23, 89:23 exact - 23:13 exactly [4] 17:25, 30:20, 55:4, 65:10 Examiner [24] 3:17, 7:18, 12:6, 12:12, 12:25, 60:22,</p>	<p>60:24, 61:1, 61:6, 61:6, 61:7, 63:6, 63:12, 64:9, 64:15, 64:20, 64:22, 66:12, 68:6, 68:8, 71:11, 77:17, 83:14, 84:1 example [3] 17:7, 21:21, 91:4 exceed - 95:7 exceedence [2] 31:2, 39:5 exceeding - 18:25 exceptions [3] 9:12, 12:7, 47:2 exchanged - 8:17 excuse [5] 17:18, 32:13, 41:2, 44:19, 47:1 executive [2] 5:23, 26:20 exhaustive - 49:4 exist [2] 38:9, 50:11 existing [2] 30:11, 68:7 exists [2] 20:15, 38:12 expanse - 35:15 expect - 8:20 expensive - 73:11 expertise - 74:1 experts - 69:21 expires - 99:21 explain [4] 17:25, 48:2, 65:10, 72:11 explained - 36:16 explanation - 65:14 explicitly [2] 35:20, 36:11 explored - 71:4 extensive - 23:1</p>	<p>eye - 56:17</p> <p style="text-align: center;">F</p> <p>face - 37:15 facilitate [2] 33:9, 33:10 facing - 29:11 factor [3] 22:21, 22:23, 23:1 factors [9] 18:12, 18:15, 18:19, 22:10, 22:15, 22:16, 23:5, 23:23, 30:9 facts - 73:21 failed - 74:5 fair [3] 50:6, 89:5, 89:7 fairly - 24:24 faith - 83:18 fall [2] 9:19, 69:19 Falls [4] 62:8, 67:6, 68:15, 72:9 familiar [2] 42:22, 58:4 families - 35:18 family [3] 9:10, 42:23, 42:25 farmers [2] 33:3, 46:21 farms - 42:25 favor [11] 4:8, 5:2, 5:14, 7:5, 57:15, 58:24, 61:25, 83:3, 84:5, 95:21, 98:14 February [7] 6:17, 11:19, 11:22, 11:24, 47:23, 55:5, 91:15 Federal [31] 15:21, 18:13, 18:19, 20:7, 22:11, 22:14, 23:5, 24:1, 30:4, 30:14, 36:12, 36:22, 37:21, 38:4, 38:9, 38:18, 39:14, 39:18, 40:17, 41:10,</p>	<p>41:11, 41:23, 43:24, 49:17, 49:20, 50:21, 51:13, 51:16, 53:20, 53:24, 54:4 feedback [7] 16:4, 25:10, 25:11, 31:19, 35:25, 55:10, 60:8 feel [12] 13:9, 27:20, 31:9, 69:15, 73:3, 75:14, 77:23, 82:11, 82:12, 83:13, 88:20, 89:4 feeling [2] 74:18, 94:11 feels - 71:23 fees [2] 10:7, 13:6 Felton [41] 2:12, 2:13, 6:16, 6:17, 7:4, 7:4, 50:2, 50:2, 50:5, 50:17, 51:8, 51:10, 51:20, 51:25, 56:10, 56:10, 56:13, 59:15, 59:16, 61:21, 61:22, 61:23, 80:4, 80:4, 80:7, 80:24, 82:21, 82:21, 82:23, 83:17, 83:17, 90:4, 90:4, 90:8, 91:10, 92:14, 92:20, 93:13, 94:12, 94:14, 94:15 FENTON - 1:20 Field - 8:21 figured - 8:10 filed [3] 11:9, 13:7, 66:17 filing [13] 72:13, 75:12, 75:19, 85:2, 85:16, 85:18, 86:8, 86:11, 87:2, 87:11, 87:12, 87:16, 89:22 filings [2]</p>	<p>63:25, 97:2 final [9] 23:9, 24:7, 60:25, 61:2, 61:3, 64:15, 65:7, 66:23, 81:21 finalizing - 8:18 finally - 23:7 finding [4] 70:3, 87:3, 87:8, 89:25 findings [12] 64:24, 65:11, 70:10, 72:20, 73:19, 73:20, 75:7, 76:15, 76:19, 76:24, 81:18, 86:18 fine [2] 6:18, 27:1 finger - 56:17 finish - 59:5 firm - 11:1 fishery - 29:5 five [12] 21:1, 21:3, 21:14, 21:18, 30:1, 32:7, 40:4, 40:8, 40:18, 41:7, 51:3, 59:4 Fix [12] 29:18, 29:18, 32:1, 32:1, 42:2, 42:4, 42:5, 42:13, 44:19, 45:3, 45:5, 47:10 flag - 44:12 flaws - 41:17 flexibility [2] 18:10, 18:14 flow [3] 18:17, 25:2, 29:4 focus [4] 35:20, 36:11, 36:14, 37:20 focused [2] 29:13, 35:12 folks [6] 7:11, 26:1, 26:7, 40:15, 48:6, 53:8 follow [6] 9:8, 39:15, 68:2, 68:3, 74:8, 91:11 follow-up - 51:9</p>
--	--	--	--	--	--

<p>follows - 91:9 foot - 37:16 FORD [16] 2:10, 2:12, 2:14, 2:16, 2:18, 2:20, 2:22, 2:24, 59:12, 59:15, 59:17, 59:19, 59:21, 59:23, 59:25, 60:2 foregoing - 99:12 Fork [6] 28:14, 28:20, 28:22, 28:23, 29:14, 35:7 formal [3] 49:6, 52:17, 57:9 former [2] 4:18, 71:7 forms - 79:18 forth [5] 19:14, 20:4, 20:11, 21:3, 72:13 forthcoming - 84:18 fortunately - 72:5 forward [21] 16:1, 22:5, 27:5, 27:25, 31:8, 41:13, 47:21, 49:10, 49:15, 52:19, 55:20, 56:16, 57:4, 62:20, 66:2, 67:16, 82:8, 84:13, 93:10, 94:3, 94:22 foundational [3] 23:17, 23:19, 24:4 fourth [3] 64:23, 81:10, 81:15 frankly [2] 24:25, 65:15 free - 85:18 Friday - 6:3 front [9] 9:15, 13:5, 13:14, 13:14, 14:17, 42:8, 60:20, 66:17, 97:2 frustrated [3] 69:24, 75:25,</p>	<p>89:2 full - 86:10 fully [2] 12:2, 43:11 FYI [4] 9:19, 9:22, 11:11, 11:16 <hr/> <p style="text-align: center;">G</p> <hr/> G-O-R-D-E-R - 28:13 Gallatin - 61:18 gave [3] 12:20, 13:3, 78:10 general [6] 4:16, 5:7, 19:9, 43:23, 96:20, 96:22 generally [2] 44:7, 48:14 gentleman - 26:17 George [5] 3:14, 6:10, 48:9, 58:2, 65:12 gets [2] 32:8, 37:23 given [2] 83:19, 85:2 giving - 89:1 Glacier - 11:9 glaring - 41:10 gmail - 80:13 goes [2] 8:24, 27:24 gone - 71:15 Goran - 8:12 Gorder [8] 28:11, 28:12, 28:15, 28:17, 29:19, 31:16, 34:8, 35:7 gotten - 89:4 government - 15:14 governs [2] 51:14, 51:21 gradually - 37:9 grant [4] 27:8, 27:13, 27:22, 40:11 granted - 9:4 Granting - 45:21</p>	<p>grappling - 17:8 grassroots [2] 35:11, 42:23 gravel - 8:13 ground [2] 39:6, 77:24 group [22] 15:9, 15:10, 15:11, 15:12, 15:18, 15:23, 25:7, 25:10, 42:24, 47:25, 48:17, 52:10, 52:16, 52:25, 53:12, 53:13, 54:12, 54:15, 55:9, 55:10, 55:12, 56:22 groups [2] 52:8, 53:11 guarantee - 30:4 guess [24] 13:13, 25:24, 26:1, 28:3, 30:23, 34:3, 48:2, 49:9, 51:16, 56:21, 57:9, 58:14, 62:6, 66:11, 69:11, 69:23, 70:13, 71:25, 72:15, 74:4, 75:3, 85:6, 89:22, 92:15 guessing - 9:5 guidance [3] 23:2, 36:18, 46:3 guidelines - 50:22 guys [8] 9:19, 11:16, 60:14, 73:22, 96:7, 96:19, 97:3, 97:10 <hr/> <p style="text-align: center;">H</p> <hr/> H-A-L-L - 32:19 Haladay [5] 12:6, 63:13, 71:11, 78:14, 79:16 half - 36:1 hands - 26:3 Hanson [10] 1:20, 2:16,</p>	<p>2:17, 4:25, 6:21, 6:25, 58:18, 59:19, 59:20, 95:15 happen [5] 66:19, 80:20, 90:23, 90:25, 92:7 happened [5] 65:18, 65:19, 79:3, 88:1, 89:6 happy [5] 31:11, 36:4, 61:8, 85:18, 87:12 hardly - 97:13 hardness - 23:22 harm [4] 22:25, 23:3, 46:20, 66:21 harmful [3] 46:5, 46:11, 46:17 hasn't [2] 13:4, 70:10 haven't [3] 71:19, 75:25, 88:23 having [6] 33:17, 35:24, 41:14, 43:15, 89:2, 89:19 he's - 71:19 headwaters - 35:16 hear [18] 2:24, 7:20, 12:8, 33:18, 33:20, 33:24, 42:6, 42:8, 42:10, 50:8, 56:9, 64:16, 69:3, 82:14, 84:21, 89:10, 92:18, 97:13 heard [9] 1:10, 49:13, 54:17, 56:23, 56:24, 69:12, 83:14, 86:22, 87:14 hearing [66] 3:17, 7:17, 8:1, 8:4, 8:7, 8:9, 12:6, 12:12, 12:22, 13:12, 14:6, 24:16, 25:24,</p>	<p>32:20, 33:17, 42:11, 48:3, 57:14, 58:6, 58:9, 58:11, 58:16, 58:23, 60:22, 60:24, 60:25, 61:1, 61:5, 61:6, 61:7, 62:24, 63:6, 63:7, 64:9, 64:12, 64:14, 64:17, 64:20, 64:22, 66:12, 67:18, 67:20, 67:22, 68:5, 68:8, 68:19, 68:23, 69:5, 69:20, 70:2, 70:8, 71:11, 73:11, 74:13, 76:5, 77:17, 83:2, 83:14, 84:1, 84:3, 84:9, 84:20, 85:14, 88:3, 97:22, 98:7 hearings [4] 12:24, 43:16, 61:19, 63:12 heavy - 30:25 height - 46:12 held [3] 32:6, 67:19, 85:14 Helena - 1:12 helpful - 31:19 helps [2] 48:23, 48:24 Here's - 67:1 hereby - 99:7 herein - 99:9 hereunto - 99:15 highest [3] 19:19, 20:8, 24:2 highlight [2] 36:20, 40:3 Hillary [7] 1:20, 2:16, 4:25, 6:25, 58:18, 59:19, 95:15 himself - 62:18 historic [6] 17:1, 17:2, 29:24, 30:5, 37:12, 40:7</p>	<p>historically - 43:4 history - 43:23 hold [3] 41:5, 63:16, 68:23 holistic - 44:1 honest - 65:15 hope [3] 41:20, 52:14, 62:24 hopefully [3] 8:7, 19:24, 94:8 horse [2] 72:25, 87:7 hot - 39:22 However - 92:1 human [6] 15:3, 16:23, 22:17, 65:16, 65:19, 81:25 hundreds - 29:20 hurting - 97:14 hydrologic - 18:17 <hr/> <p style="text-align: center;">I</p> <hr/> idea [6] 38:25, 40:4, 43:22, 44:14, 93:25, 94:12 ideas - 15:19 identify [4] 17:20, 31:24, 44:21, 53:8 III-B - 60:12 III-C - 62:6 III.C.1 - 3:17 immaterial [3] 30:17, 68:9, 68:13 immediately [3] 43:13, 45:13, 71:11 impact - 45:11 impacts - 45:12 impaired - 30:22 impairment - 38:15 implement - 14:25 implementable</p>
---	--	--	---	--	---

<p>- 48:25 implementation [3] 36:19, 37:21, 56:5 implemented [2] 50:19, 50:19 implements - 36:11 implication - 29:9 implicitly - 40:20 imposing - 37:2 impossible - 71:23 improving - 35:13 in-stream - 29:4 inadvertent [4] 65:3, 66:21, 81:19, 82:2 inadvertently [2] 76:19, 82:6 inappropriate - 88:19 inaudible [9] 29:20, 30:16, 33:15, 35:21, 44:16, 46:10, 52:13, 52:19, 91:23 include [5] 3:25, 18:15, 20:17, 20:17, 80:10 includes - 62:23 including [4] 20:13, 28:21, 60:25, 65:22 incompatible - 40:4 indeed - 47:2 independently - 79:9 indicate [4] 31:24, 51:12, 77:18, 79:6 indicated [9] 31:21, 47:11, 49:17, 63:6, 70:8, 84:14, 85:8, 92:23, 93:20</p>	<p>indicating - 78:7 indication - 78:13 individual [2] 19:11, 24:16 indulge - 92:14 industry - 15:14 inequity - 75:10 inform [2] 88:1, 88:5 informal [2] 48:17, 54:11 information [4] 8:16, 24:17, 44:23, 60:10 informs - 22:4 initiate [4] 31:13, 49:22, 56:5, 57:4 initiating [2] 52:16, 57:20 initiation [6] 14:9, 14:24, 16:8, 17:12, 49:4, 49:10 innumerable - 35:17 input - 57:25 instances - 38:3 instead - 37:5 instructed - 65:6 instructions - 47:24 integrity - 74:17 intended - 50:10 intent [3] 43:10, 43:19, 43:23 intention - 30:18 interest [2] 28:25, 29:2 interested - 26:7 interests - 81:9 interim - 24:2 interpret - 45:7 interrupting - 36:8</p>	<p>interruption - 45:4 introduced [2] 16:10, 33:8 investigation - 86:22 involved [3] 28:22, 49:3, 92:21 involvement - 62:12 involves - 19:12 irregular - 74:20 irrigate [2] 33:3, 42:17 irrigation [3] 45:16, 45:20, 45:22 irrigator - 45:13 isn't - 13:11 issue [37] 10:7, 14:9, 34:17, 40:21, 50:23, 57:23, 62:5, 63:5, 63:14, 66:1, 67:4, 68:1, 68:2, 70:5, 70:10, 71:5, 71:5, 71:6, 72:22, 73:2, 73:14, 73:18, 74:5, 74:7, 76:3, 76:23, 77:4, 81:10, 81:13, 81:15, 82:10, 84:19, 87:9, 93:8, 93:11, 96:16, 96:22 issued [6] 9:2, 9:11, 20:8, 63:23, 71:12, 71:16 issues [21] 6:15, 10:12, 10:22, 17:9, 31:12, 36:19, 38:8, 39:22, 43:14, 48:24, 73:1, 73:3, 74:2, 76:6, 76:12, 76:22, 77:5, 77:15, 84:15, 84:25, 96:20 issuing - 63:8</p>	<p>item [10] 7:13, 60:12, 62:6, 83:10, 90:11, 91:6, 91:8, 92:5, 92:6, 96:17 items [7] 7:14, 14:8, 64:4, 90:15, 90:20, 95:12, 95:13 itself [7] 15:23, 20:3, 24:16, 25:12, 37:14, 46:25, 87:12</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>January [2] 8:1, 15:12 Joan - 4:18 job [4] 27:1, 55:19, 59:4, 71:24 John [46] 1:18, 1:20, 2:12, 2:20, 5:10, 6:16, 7:4, 10:2, 10:4, 12:16, 12:23, 13:16, 14:3, 14:7, 50:2, 50:4, 50:14, 50:15, 50:16, 51:8, 52:3, 52:5, 52:23, 53:7, 56:10, 56:13, 56:20, 59:15, 59:23, 61:22, 61:23, 62:11, 62:18, 78:18, 80:4, 80:6, 82:21, 82:23, 83:17, 83:23, 86:15, 90:4, 93:12, 94:14, 94:15, 94:16 Johnson [4] 44:22, 44:22, 44:24, 45:2 JR - 61:17 judgment [2] 8:24, 9:11 judicious [2] 39:9, 41:15 jurisdiction - 98:2 justify - 22:13</p>	<hr/> <p style="text-align: center;">K</p> <hr/> <p>Katherine [3] 72:9, 88:16, 93:4 Kelly [11] 14:13, 14:17, 14:19, 14:21, 17:24, 26:23, 34:7, 53:4, 53:9, 53:9, 55:7 Kelly's [2] 37:24, 56:21 key [4] 35:16, 36:19, 38:16, 40:2 knowledge [2] 78:15, 78:23 known - 78:6 knows [2] 3:9, 94:5 Kurt [6] 69:9, 70:17, 73:16, 73:24, 74:2, 93:1</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>L-I-N-D-L-I-E-F - 32:19 lack - 83:19 language [18] 8:18, 20:2, 20:6, 21:6, 23:25, 25:12, 30:8, 37:4, 37:10, 38:3, 38:10, 38:10, 39:10, 40:17, 44:14, 46:6, 54:19, 55:20 later [2] 25:21, 76:25 Laughner [19] 72:8, 72:9, 76:11, 76:14, 76:21, 77:6, 77:9, 84:23, 85:1, 86:3, 87:6, 87:21, 87:22, 87:23, 88:22, 89:11, 89:19, 93:4, 93:4 Laughner's [2] 89:22, 96:13 Laurel - 11:18 LAURIE [3] 1:23, 99:5, 99:19</p>	<p>law [10] 35:21, 36:12, 36:22, 39:14, 39:18, 41:11, 64:25, 65:11, 86:19, 93:20 lawful - 37:20 lawyer - 51:14 lawyers [2] 74:25, 75:1 lay - 64:3 lays - 63:1 leads - 74:19 leaning [2] 57:10, 61:12 least [4] 6:9, 33:9, 48:21, 55:18 leave - 22:20 leaving - 70:9 legacy [5] 17:9, 29:14, 34:7, 43:13, 43:18 legal [12] 10:5, 15:24, 28:13, 41:17, 50:9, 50:12, 71:6, 74:5, 74:8, 77:1, 78:19, 79:17 legally - 50:10 legislation - 49:12 legislative [3] 43:10, 43:16, 43:19 Legislature [5] 31:7, 42:16, 55:17, 56:18, 77:20 legitimate - 50:12 lengthy - 65:14 less [7] 26:15, 32:6, 37:13, 40:11, 41:3, 46:17, 46:19 let's [9] 7:16, 26:16, 34:1, 36:6, 59:4, 81:3, 83:12, 95:5, 95:20 level [2] 37:16, 51:18 Lewis [2] 99:4, 99:6</p>
---	---	--	--	---	--

likelihood - 88:7	69:8, 89:13, 92:25, 97:23	materials - 86:4	95:8, 96:4, 96:8, 96:10, 96:24, 97:5, 97:8, 97:25, 98:19	metal - 38:25	99:2, 99:7
likely [3] 21:13, 21:17, 85:9	main [2] 30:5, 85:24	MATHIEUS [6] 3:15, 3:23, 14:12, 48:11, 58:5, 65:13	meetings [6] 15:11, 53:3, 78:13, 78:17, 79:2, 92:5	metals - 30:25	Montana's [3] 24:14, 37:15, 41:19
likewise - 39:16	maintain - 18:8	matter [3] 13:4, 85:3, 98:1	meets - 24:13	Metcalf - 1:10	Montanore - 11:4
limit [3] 32:5, 40:12, 72:4	maintaining [2] 35:19, 81:10	matters [5] 3:18, 60:21, 60:22, 63:1, 63:3	Melcher - 78:18	methane - 46:12	month - 94:4
limited [8] 19:2, 41:4, 44:7, 44:10, 44:10, 45:18, 47:3, 94:18	makes [3] 34:16, 40:22, 74:10	maybe [8] 27:14, 33:18, 36:1, 36:1, 57:3, 75:5, 94:9, 94:20	member [4] 42:21, 69:15, 76:16, 95:1	method - 23:13	monthly - 15:11
limits - 20:25	making [5] 55:23, 66:16, 89:15, 95:6, 95:10	MCA [3] 14:25, 16:13, 56:5	members [64] 1:18, 3:6, 4:18, 6:8, 6:14, 12:19, 14:4, 14:16, 14:20, 25:7, 25:10, 25:17, 25:19, 26:19, 27:2, 28:18, 28:21, 28:21, 35:3, 42:5, 43:2, 49:24, 52:2, 52:15, 52:21, 52:25, 53:4, 53:12, 54:12, 55:14, 56:14, 59:10, 60:5, 61:13, 62:10, 62:21, 65:2, 65:5, 65:13, 67:9, 67:13, 69:3, 69:8, 75:5, 76:16, 80:2, 81:20, 82:3, 82:9, 83:13, 83:16, 84:12, 89:13, 90:2, 92:25, 93:7, 93:16, 94:6, 94:8, 94:11, 94:16, 96:12, 97:14	miles [3] 4:18, 35:15, 42:18	months [10] 55:9, 56:25, 71:15, 76:25, 79:4, 79:19, 90:14, 91:22, 92:16, 92:22
Lindlief-hall [8] 32:10, 32:11, 32:17, 32:18, 33:1, 33:20, 33:23, 34:3	man-made - 38:12	means [3] 18:24, 43:13, 91:17	meant - 72:4	mind [2] 19:4, 82:7	morning [4] 2:4, 14:14, 14:19, 42:3
Lindsay [2] 2:8, 59:9	management [4] 35:22, 44:1, 66:3, 66:8	measures - 37:3	measures - 37:3	mine [3] 33:11, 43:14, 43:18	Moser [14] 69:8, 69:9, 70:20, 72:2, 72:4, 72:15, 73:7, 74:14, 79:21, 79:25, 89:13, 89:18, 92:25, 93:1
litigate - 41:15	manages - 66:13	mechanism - 37:7	mechanism - 37:7	Minerals - 11:4	motion [34] 3:25, 4:23, 5:7, 6:13, 6:23, 9:3, 55:21, 55:23, 56:4, 56:7, 56:11, 56:13, 56:14, 57:12, 57:19, 58:14, 58:15, 58:21, 59:3, 61:17, 62:4, 82:16, 82:19, 82:24, 83:7, 83:20, 83:23, 83:24, 84:5, 84:9, 95:5, 95:17, 95:21, 98:14
LLC - 61:18	mandatory [2] 34:16, 38:9	meet [9] 6:5, 18:11, 24:2, 25:1, 27:20, 49:20, 53:21, 94:2, 96:3	meet [9] 6:5, 18:11, 24:2, 25:1, 27:20, 49:20, 53:21, 94:2, 96:3	mining [5] 8:12, 9:10, 17:1, 17:2, 29:21	mostly - 96:19
local [6] 15:14, 37:14, 39:4, 39:4, 39:23, 39:23	manner [2] 46:18, 91:7	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meat - 27:18	minute [3] 36:1, 41:3, 59:4	
locate - 78:1	MAPA [2] 65:8, 81:23	meat - 27:18	meat - 27:18	minutes [13] 3:11, 3:12, 3:16, 4:1, 4:14, 4:16, 4:22, 5:8, 5:18, 26:15, 31:23, 32:5, 72:5	
located - 66:16	March [4] 16:2, 47:23, 55:6, 99:22	mechanism - 37:7	mechanism - 37:7	mirrors - 7:23	
Logging - 12:1	Marietta - 4:18	measures - 37:3	measures - 37:3	Missouri [3] 35:5, 35:14, 36:2	
logical - 40:22	Mark [4] 29:18, 32:1, 42:2, 42:5	mechanism - 37:7	mechanism - 37:7	mistake - 75:10	
Logistics - 8:21	material [21] 23:15, 23:18, 24:5, 30:17, 30:22, 31:3, 34:9, 39:19, 41:9, 44:15, 45:5, 45:7, 46:6, 46:19, 50:7, 53:16, 53:17, 53:23, 53:25, 54:5, 60:15	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	misunderstanding - 65:17	
longer [3] 48:22, 80:18, 97:13	materiality [3] 38:8, 38:17, 39:11	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	Modeling - 14:22	
looking [2] 27:3, 37:22	materially [7] 19:17, 23:10, 24:8, 30:11, 30:13, 38:15, 51:5	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	modifications - 18:17	
lost - 39:7		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	moment - 17:25	
LT - 9:21		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	Monday - 6:2	
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	Montana [22] 1:2, 1:12, 14:23, 15:13, 25:1, 26:21, 33:5, 33:12, 35:11, 35:17, 39:14, 42:24, 43:5, 43:12, 44:23, 61:18, 64:10, 68:4, 86:18, 87:4,	
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	move [27] 4:3, 5:24, 6:2, 6:5, 6:25, 8:4, 8:8, 14:8, 21:18, 22:7, 23:8, 31:8, 47:21, 49:14, 55:20, 55:25, 55:25, 56:16, 57:4, 57:20, 82:16, 83:9, 84:13,	
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,		
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,		
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,		
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,		
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,		
		meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13, 9:16, 9:23, 11:22, 11:23, 12:2, 12:4, 12:5, 12:9, 13:19, 16:10, 17:19, 22:13, 22:23, 23:4, 25:13, 54:3, 54:15, 54:17, 57:23, 59:6, 63:3, 63:15, 63:20, 65:1, 65:6, 65:24, 81:19, 85:10, 90:14, 91:15, 91:18, 92:1, 92:3, 92:8, 92:12, 93:3, 93:9, 93:15, 94:23,	meeting [58] 1:5, 2:7, 3:2, 4:1, 5:9, 5:21, 6:9, 6:24, 9:9, 9:13		

<p>85:14, 94:3, 95:5, 98:9 moved [12] 4:8, 5:13, 7:2, 12:4, 24:8, 24:9, 58:20, 61:24, 66:3, 66:8, 70:7, 95:17 movement - 72:23 moves - 82:8 moving [11] 8:25, 10:8, 10:15, 10:24, 11:3, 15:25, 41:12, 49:10, 52:18, 62:20, 93:10 MPDES [2] 20:25, 33:10 multiple [2] 15:22, 18:1 municipal - 37:5 municipalities [2] 43:12, 43:20 mute - 31:18 Myla [8] 14:13, 14:17, 14:21, 25:16, 25:17, 49:17, 53:9, 55:13 myself [3] 42:19, 49:3, 57:10</p> <hr/> <p style="text-align: center;">N</p> <p>named - 99:9 names - 17:16 narrowly [2] 34:6, 34:18 natural [2] 18:17, 18:18 naturally - 18:15 nature [3] 38:20, 41:8, 41:15 nearly - 37:11 necessarily [4] 22:2, 64:19, 77:23, 90:5 needed [5] 18:10, 47:2, 62:7, 67:9,</p>	<p>77:7 needs [9] 34:13, 34:18, 39:8, 58:8, 60:14, 68:19, 74:17, 92:1, 93:20 negotiations - 13:25 neither [2] 38:17, 74:13 nobody [2] 65:22, 95:4 non-material [2] 39:2, 39:19 non-profit - 28:19 nonanthropogen - 16:18 none [10] 12:22, 14:6, 25:24, 57:14, 58:23, 69:5, 84:9, 96:1, 97:22, 98:7 nonenforcement - 9:17 nor - 38:17 normal - 40:9 North [10] 10:2, 10:4, 10:5, 12:23, 13:1, 13:20, 13:24, 50:16, 50:17, 51:20 Northern [3] 42:20, 42:22, 43:2 Northwest [2] 11:13, 11:15 notably - 36:18 notarial - 99:16 Notary [3] 1:24, 99:6, 99:20 note - 17:11 nothing - 71:2 notice [5] 13:6, 80:19, 85:11, 93:17, 93:19 noticed - 92:6 notices - 93:17 novel - 38:7 November [7] 8:14, 63:7,</p>	<p>72:13, 75:13, 85:2, 85:16, 86:9 nutrient - 38:24</p> <hr/> <p style="text-align: center;">O</p> <p>object [2] 87:14, 89:16 objected - 71:17 objection [6] 88:2, 89:19, 89:21, 93:2, 93:5, 93:7 objections - 56:23 obviously - 31:7 occur [2] 21:17, 64:5 occurred [3] 63:2, 67:10, 86:21 occurring [2] 18:16, 67:12 occurs - 61:1 October - 80:8 offer - 49:14 office [3] 66:3, 66:10, 66:13 Officer [5] 58:6, 58:9, 58:11, 58:16, 61:19 Officer's - 13:12 officially - 70:2 Oil - 8:21 Olson [3] 26:18, 26:20, 28:2 ongoing - 14:1 online - 98:4 Oops - 89:7 open [4] 25:25, 32:8, 82:7, 97:24 Opencut [2] 8:12, 9:10 opened - 80:22 operating - 48:21 opinion - 81:13</p>	<p>opportunity [15] 9:12, 19:24, 34:22, 42:13, 47:9, 47:13, 48:5, 57:24, 85:3, 87:25, 88:5, 88:24, 89:1, 89:19, 97:4 oppose [2] 34:15, 35:8 opposed [14] 4:11, 5:4, 5:16, 7:8, 36:15, 57:17, 59:1, 62:2, 83:5, 84:7, 94:22, 95:24, 96:2, 98:17 opposes - 75:21 opposing - 69:21 option [3] 70:21, 70:22, 70:22 options [5] 22:12, 60:19, 61:4, 61:10, 63:17 oral [3] 9:13, 12:1, 12:8 order [34] 2:7, 3:10, 5:20, 8:23, 9:2, 9:3, 9:11, 10:14, 11:5, 11:6, 11:7, 12:5, 62:22, 62:25, 63:18, 64:2, 64:11, 64:18, 75:22, 75:24, 78:5, 81:17, 82:11, 84:19, 84:21, 85:14, 85:24, 86:7, 88:23, 88:25, 90:12, 95:7, 95:11, 95:14 orders - 63:23 organic - 39:1 organization [7] 28:19, 33:3, 35:11, 35:12, 37:20, 38:20, 42:22 organizes - 42:24 orientation -</p>	<p>96:24 other's - 3:5 otherwise [3] 39:20, 82:12, 98:2 Otter - 33:11 outcome - 85:9 outline - 86:11 outlined - 84:20 outlines [2] 19:21, 30:9 outlining - 97:1 outside [2] 42:18, 50:12 outstanding - 63:5 overall - 49:1 overbroad [4] 36:17, 37:6, 41:8, 44:9 overview - 16:11 owners - 29:3</p> <hr/> <p style="text-align: center;">P</p> <p>pace [2] 8:25, 10:16 package [2] 16:3, 25:4 packet [10] 3:12, 5:22, 60:16, 60:17, 62:22, 65:1, 65:12, 65:23, 66:4, 76:20 pages [2] 62:23, 99:12 paints - 43:21 paperwork - 60:17 paragraph - 86:10 parameters [3] 46:1, 46:5, 46:17 parte [7] 65:4, 81:20, 82:3, 86:17, 86:20, 89:23, 89:23 participant [3] 17:16, 29:17, 44:18 participated [2] 43:15, 57:22</p>	<p>participating - 94:23 particular [8] 13:3, 13:21, 14:3, 36:20, 43:18, 45:9, 82:10, 96:16 particularly [5] 38:2, 43:5, 43:24, 45:25, 53:1 parties [25] 8:3, 10:22, 11:9, 12:3, 12:7, 13:11, 62:24, 63:7, 63:16, 63:24, 63:24, 67:3, 68:8, 68:12, 68:13, 68:14, 68:17, 68:24, 69:3, 72:6, 77:13, 79:14, 92:16, 92:16, 92:21 party [5] 68:16, 72:3, 86:22, 86:24, 96:2 passed - 42:16 passes [6] 11:24, 57:19, 59:3, 62:4, 83:7, 84:10 past - 67:10 path - 22:5 Payne - 11:25 Peak - 10:9 percent - 46:14 perform - 74:6 performance [3] 18:23, 18:25, 19:2 perhaps [4] 70:21, 83:9, 86:5, 93:25 period [7] 21:1, 52:17, 56:3, 79:3, 94:1, 95:7, 96:9 periodic - 19:22 permanent [2] 40:20, 40:25 permission - 13:12 permit [13]</p>
---	--	---	---	---	--

<p>20:25, 21:21, 22:6, 23:3, 33:14, 37:12, 40:5, 40:9, 40:18, 40:24, 41:7, 46:20, 51:1 permits - 33:11 permittee [4] 18:10, 20:5, 27:8, 27:20 permitting - 33:10 personal [3] 62:12, 78:15, 78:22 personally - 49:3 perspective [4] 43:6, 49:9, 72:18, 72:18 Petroleum - 26:21 pH - 23:23 Phillips - 9:18 phones - 31:18 physical - 18:18 physically [2] 66:10, 66:16 pick - 38:16 piecemeal - 46:23 pieces - 81:5 pit - 8:13 placeholder - 96:19 plain [4] 37:4, 37:10, 38:10, 39:10 Plains [3] 42:20, 42:22, 43:2 plan [2] 31:25, 44:25 planning [3] 26:3, 32:2, 47:12 play - 35:19 please [21] 3:6, 4:9, 5:2, 5:14, 7:6, 17:19, 28:5, 28:10, 31:24, 32:4, 32:14, 32:14, 32:23, 44:20, 45:3, 50:4, 58:24,</p>	<p>61:25, 84:5, 95:22, 98:14 pleased - 25:3 pleasure - 92:2 plowing - 77:23 plus - 54:4 point [19] 5:25, 12:10, 13:13, 14:16, 14:17, 23:8, 24:12, 25:18, 34:4, 39:6, 40:3, 40:21, 45:9, 56:17, 61:13, 65:9, 84:13, 87:2, 87:20 pointed - 74:16 points [3] 23:17, 23:19, 85:24 policy - 43:24 poll - 94:8 pollutant [3] 17:9, 18:16, 38:24 pollutants [3] 34:7, 38:21, 39:3 pollution [28] 15:1, 15:24, 16:22, 17:5, 22:17, 29:12, 29:14, 29:25, 30:3, 30:5, 30:17, 30:24, 37:2, 37:5, 37:9, 37:12, 37:14, 38:12, 38:14, 39:17, 39:18, 39:21, 39:22, 40:6, 40:7, 40:25, 43:14, 43:18 portions - 43:10 position [13] 69:25, 72:11, 72:12, 72:12, 74:3, 76:7, 76:8, 81:8, 81:11, 84:16, 87:6, 89:22, 89:25 possible [5] 12:18, 31:9, 71:3, 90:19,</p>	<p>91:1 possibly [5] 69:11, 70:14, 71:6, 71:8, 71:24 posted [2] 66:6, 96:25 postpone - 95:6 posture - 64:6 potential [5] 22:21, 22:23, 29:9, 55:11, 86:21 Potentially - 45:2 power [2] 14:16, 14:17 precious - 44:3 preclude - 22:3 prefer - 87:17 preliminary [2] 81:12, 81:13 prepared [3] 1:23, 27:24, 55:21 preparing - 69:19 present [4] 25:3, 43:4, 60:6, 97:4 presented [7] 16:2, 47:5, 55:5, 55:9, 60:10, 73:19, 86:4 presenting [2] 14:13, 35:6 presents - 43:21 press - 74:6 prevented - 67:11 prevents - 22:17 previous [4] 13:8, 47:22, 63:5, 63:5 previously [3] 13:3, 22:12, 36:16 primary [2] 17:5, 36:25 prime - 47:5 principles - 24:4 prior [7]</p>	<p>63:14, 78:13, 78:17, 79:2, 79:8, 81:18, 86:8 private [2] 23:4, 79:11 privileged - 88:16 probably [7] 9:25, 11:23, 26:15, 62:16, 77:14, 88:4, 93:22 problem [7] 21:25, 33:18, 34:19, 51:17, 58:5, 75:17, 76:22 problematic - 31:4 problems [3] 30:20, 34:9, 76:2 procedural [22] 3:18, 52:13, 58:3, 60:20, 60:22, 63:1, 63:3, 64:6, 72:21, 73:1, 73:3, 75:16, 76:2, 76:6, 76:12, 76:22, 76:23, 77:5, 84:15, 84:25, 90:5, 91:14 procedure [4] 67:16, 68:3, 96:8, 97:1 procedures [2] 50:22, 68:4 proceed [3] 12:16, 12:23, 14:7 proceeding [2] 11:5, 72:23 proceedings [6] 1:8, 2:1, 98:20, 99:8, 99:10, 99:13 proceeds - 57:25 process [30] 15:9, 19:6, 19:6, 19:12, 20:18, 20:22, 21:3, 21:7, 21:16, 24:10, 24:14, 24:19,</p>	<p>24:24, 25:9, 27:1, 31:8, 44:8, 46:24, 48:15, 48:17, 48:20, 49:6, 53:22, 54:3, 55:8, 57:6, 57:9, 67:2, 74:20, 89:3 product - 15:8 program [2] 48:13, 53:10 project - 97:11 pronounce - 11:14 properly - 66:24 proposal [2] 43:7, 44:13 propose [4] 3:16, 3:18, 75:9, 91:3 proposed [54] 3:13, 10:13, 12:5, 15:6, 15:17, 15:22, 15:25, 19:4, 19:8, 27:12, 27:21, 29:6, 29:10, 30:8, 31:10, 31:25, 33:11, 37:6, 37:22, 38:3, 39:11, 42:14, 44:25, 47:12, 47:22, 50:7, 61:3, 62:22, 63:8, 63:11, 64:2, 64:18, 64:24, 65:11, 72:20, 75:7, 75:21, 75:24, 76:15, 78:5, 78:9, 81:16, 81:18, 82:11, 84:21, 85:24, 86:7, 86:18, 88:23, 88:25, 90:12, 95:6, 95:11, 95:14 proposes - 61:1 protect [3] 41:19, 42:24, 45:22 protected [2] 45:15, 45:18 protecting [3] 28:20, 29:1,</p>	<p>35:13 protection [4] 29:5, 40:1, 44:1, 44:5 protections [2] 36:13, 41:24 provide [10] 42:14, 44:25, 51:18, 51:23, 63:10, 78:8, 85:19, 87:13, 87:15, 96:12 provided [3] 42:6, 70:5, 89:21 provides [3] 20:24, 50:20, 75:13 providing [2] 50:22, 53:19 provision [5] 16:15, 16:20, 51:3, 51:7, 73:9 provisions - 16:14 public [29] 1:24, 4:16, 4:21, 15:9, 16:5, 19:12, 20:21, 21:4, 23:4, 24:14, 24:15, 24:16, 25:18, 25:25, 26:13, 42:14, 47:14, 48:15, 49:6, 56:2, 92:1, 92:8, 93:17, 93:19, 97:25, 97:25, 98:1, 99:6, 99:20 publicly - 92:6 punish - 30:19 purpose [4] 37:15, 44:6, 58:16, 68:16 purposes [5] 29:4, 60:25, 61:13, 61:20, 96:7 pursuant [4] 64:10, 65:8, 68:18, 81:23 push - 94:21 putting [3] 69:18, 87:7, 97:10</p>
---	--	---	--	---	---

<p style="text-align: center;">Q</p> <p>qualify - 40:17</p> <p>quality [34] 14:22, 14:23, 15:4, 16:12, 16:16, 17:9, 18:5, 18:7, 18:11, 18:25, 21:20, 21:24, 22:8, 22:13, 22:24, 23:14, 23:23, 27:9, 29:3, 29:20, 31:2, 33:13, 34:17, 35:13, 39:5, 42:25, 43:1, 44:6, 44:15, 45:6, 45:11, 45:17, 46:19, 53:10</p> <p>quickly [5] 8:8, 8:20, 10:15, 31:8, 46:2</p> <p>quite [4] 13:25, 26:1, 47:19, 83:15</p> <p>quorum [4] 2:9, 3:1, 94:10, 95:9</p> <p>quote - 30:11</p>	<p>3:3, 3:5, 23:20, 23:23, 25:4, 26:22, 32:21, 33:8, 33:17, 33:24, 38:19, 39:22, 40:3, 51:15, 53:17, 54:1, 70:12, 72:21, 73:11, 73:12, 73:13, 74:24, 78:24, 81:25, 82:1, 92:20, 93:9</p> <p>reason [2] 13:22, 41:20</p> <p>reasonable [5] 20:15, 34:12, 93:20, 93:21, 93:22</p> <p>reasonably [3] 20:10, 24:3, 50:25</p> <p>reasons - 75:22</p> <p>receipt [2] 80:10, 80:10</p> <p>receipts - 80:14</p> <p>received [3] 51:2, 54:13, 54:19</p> <p>receiving [2] 19:18, 21:13</p> <p>recent - 8:16</p> <p>recently - 31:22</p> <p>Recess - 59:7</p> <p>recognize - 3:5</p> <p>recommend [2] 64:8, 85:6</p> <p>recommendation [5] 68:22, 71:17, 81:24, 82:10, 82:20</p> <p>recommendations [2] 81:4, 81:16</p> <p>reconvening - 93:25</p> <p>record [16] 26:19, 28:12, 65:8, 66:23, 68:1, 68:6, 68:7, 68:20, 69:16, 69:17, 69:18, 81:22, 89:24, 91:5, 92:8, 99:13</p>	<p>recorded - 28:6</p> <p>records [2] 67:20, 67:23</p> <p>recusal - 86:15</p> <p>recuse - 62:18</p> <p>recusing - 62:14</p> <p>Reed [24] 63:6, 64:9, 70:2, 70:6, 70:19, 70:24, 71:14, 71:15, 71:18, 71:22, 71:24, 74:5, 74:8, 75:17, 76:3, 76:23, 77:4, 78:2, 79:9, 79:15, 80:8, 83:10, 83:13, 83:25</p> <p>Reed's [3] 71:7, 73:6, 75:7</p> <p>reevaluate - 21:2</p> <p>refer [2] 5:22, 47:6</p> <p>reference - 74:10</p> <p>referenced - 34:7</p> <p>referred - 77:5</p> <p>refers - 4:15</p> <p>Refinery - 11:19</p> <p>reflect - 4:17</p> <p>Reflections - 7:25</p> <p>reflects - 3:22</p> <p>regard [2] 13:3, 13:8</p> <p>regarding - 11:25</p> <p>regards [5] 53:15, 57:23, 83:16, 89:10, 95:11</p> <p>regular - 92:5</p> <p>regularly - 91:17</p> <p>regulations [9] 18:13, 18:20, 20:7, 22:14, 24:1, 30:15, 40:16, 49:20, 54:4</p>	<p>regulatory - 37:7</p> <p>reject - 57:8</p> <p>related [4] 21:21, 22:6, 30:15, 98:3</p> <p>relates - 43:25</p> <p>relatively [4] 8:8, 8:20, 10:15, 11:6</p> <p>relevant - 22:16</p> <p>reluctant - 13:9</p> <p>rely - 35:19</p> <p>remaining [2] 31:10, 62:20</p> <p>remanded - 53:2</p> <p>remedial - 73:22</p> <p>remediate - 40:25</p> <p>remediated [7] 17:4, 17:4, 21:14, 22:19, 30:1, 40:19, 51:1</p> <p>remediation [2] 21:17, 40:18</p> <p>remedy - 86:21</p> <p>remind [6] 3:6, 60:18, 77:25, 85:7, 93:7, 93:17</p> <p>removed [2] 66:10, 66:11</p> <p>renumbering - 27:19</p> <p>reported [2] 13:17, 99:10</p> <p>Reporter [5] 1:24, 3:7, 32:16, 99:5, 99:20</p> <p>represent [3] 20:8, 32:11, 33:1</p> <p>representatives [2] 15:13, 67:6</p> <p>represented - 52:9</p> <p>represents [3] 25:4, 25:8, 37:6</p> <p>request [7]</p>	<p>14:24, 16:7, 19:11, 38:6, 41:21, 49:22, 89:10</p> <p>requested [3] 55:10, 80:8, 86:14</p> <p>requesting - 17:11</p> <p>requests - 15:20</p> <p>require [2] 21:1, 24:1</p> <p>required - 53:21</p> <p>requirement [5] 20:13, 20:22, 23:5, 23:6, 55:17</p> <p>requirements [11] 19:21, 20:5, 20:11, 22:11, 36:12, 38:1, 38:5, 51:22, 53:20, 53:24, 54:21</p> <p>requires - 19:12</p> <p>requiring - 20:7</p> <p>reserve [2] 70:14, 71:25</p> <p>reserved - 79:22</p> <p>resolve - 57:5</p> <p>resolving [2] 52:15, 52:18</p> <p>resort - 44:8</p> <p>resource [2] 42:20, 44:3</p> <p>resources [3] 9:24, 29:5, 35:22</p> <p>respect [6] 29:6, 29:10, 66:4, 72:19, 74:17, 74:22</p> <p>respectfully [2] 49:22, 85:1</p> <p>respond [5] 25:15, 52:24, 71:2, 78:7, 78:9</p> <p>responded - 25:11</p> <p>responds - 24:18</p> <p>response [53] 2:23, 4:2,</p>	<p>4:10, 4:12, 5:3, 5:5, 5:15, 5:17, 7:7, 7:9, 12:21, 13:2, 14:5, 25:23, 26:5, 28:7, 47:16, 56:8, 57:13, 57:16, 57:18, 58:22, 58:25, 59:2, 60:1, 60:4, 60:7, 61:15, 62:1, 62:3, 69:4, 71:1, 71:16, 80:9, 81:2, 82:13, 83:1, 83:4, 83:6, 83:19, 83:20, 84:2, 84:6, 84:8, 86:8, 95:3, 95:19, 95:23, 95:25, 97:21, 98:6, 98:16, 98:18</p> <p>responses - 54:23</p> <p>responsible - 35:21</p> <p>restoration - 28:23</p> <p>restoring - 28:20</p> <p>result [3] 17:2, 37:2, 46:20</p> <p>retain - 64:15</p> <p>retrospect - 65:23</p> <p>return - 80:10</p> <p>review [24] 1:1, 2:6, 3:10, 5:20, 16:3, 19:12, 19:22, 20:12, 20:21, 20:21, 20:23, 21:1, 21:3, 21:4, 23:18, 24:5, 24:20, 62:25, 66:5, 68:20, 85:18, 85:23, 87:16, 91:5</p> <p>reviewed [4] 65:5, 65:23, 68:7, 81:20</p> <p>reviewers - 25:7</p> <p>reviewing -</p>
<p style="text-align: center;">R</p> <p>ranch [2] 11:9, 42:17</p> <p>ranchers [3] 33:3, 46:13, 46:21</p> <p>ranches - 42:25</p> <p>ratchet - 30:3</p> <p>rate - 50:11</p> <p>rates - 63:20</p> <p>rather [2] 26:25, 37:10</p> <p>ratio - 46:9</p> <p>rationale - 40:23</p> <p>readily - 35:19</p> <p>ready [6] 8:8, 12:3, 32:7, 35:1, 47:5, 47:20</p> <p>real - 90:9</p> <p>really [27]</p>					

78:12 reviews - 15:23 Ridge [2] 7:24, 7:24 rights - 29:3 risk [2] 39:21, 39:22 river [9] 32:12, 33:2, 33:4, 35:8, 35:14, 35:16, 42:18, 45:11, 46:13 road - 94:2 Robin - 4:19 Rock - 8:21 roll - 2:8 room [4] 1:10, 26:17, 44:13, 47:15 RPR [3] 1:23, 99:5, 99:19 rule [49] 15:6, 15:17, 15:22, 16:2, 19:4, 19:5, 19:8, 19:14, 19:25, 20:2, 20:2, 20:4, 20:6, 21:6, 23:25, 25:3, 27:7, 27:13, 27:18, 27:21, 31:10, 34:5, 34:14, 34:18, 35:9, 36:15, 36:17, 36:21, 37:6, 37:22, 37:25, 38:3, 38:11, 39:10, 40:3, 40:5, 41:8, 41:18, 47:4, 47:6, 50:7, 50:12, 52:10, 53:2, 54:19, 54:22, 55:3, 57:24, 71:18 rule's - 37:3 rulemaking [32] 14:10, 14:25, 16:8, 17:12, 19:10, 22:16, 24:22, 27:24, 29:6, 31:13, 38:6, 41:14, 41:22, 42:15, 48:18, 49:5, 49:11, 49:23, 51:22,	52:9, 52:10, 52:16, 55:21, 56:1, 56:3, 56:5, 57:4, 57:6, 57:21, 58:7, 58:9, 58:12 rules [24] 16:21, 24:14, 25:25, 29:10, 31:25, 37:18, 38:18, 40:1, 40:17, 41:10, 41:19, 45:1, 46:23, 47:12, 47:20, 47:21, 47:23, 48:24, 49:20, 50:20, 50:21, 50:21, 56:6, 58:16 ruling - 71:12 <hr/> S <hr/> sake - 26:2 salinity [2] 39:2, 46:1 salt [2] 46:14, 46:17 Salts - 46:1 SAR - 46:9 Sarah [36] 3:14, 7:15, 12:17, 12:19, 14:7, 58:10, 58:11, 58:15, 59:3, 60:10, 61:11, 61:12, 61:19, 67:1, 67:10, 67:16, 67:25, 70:16, 73:2, 73:17, 74:10, 77:11, 77:25, 79:20, 80:3, 80:5, 81:4, 81:6, 83:8, 84:11, 85:5, 89:2, 90:17, 91:24, 93:15, 97:18 Sarah's [3] 75:24, 81:16, 90:11 sat - 94:19 satisfy - 38:1 Saturday - 6:4 saying [3] 5:2, 21:22, 58:24 says [6] 8:13, 27:13, 40:19,	75:24, 80:19, 91:20 SB [2] 36:25, 37:15 scenario - 77:19 scenarios - 24:25 schedule [10] 5:21, 6:24, 7:11, 8:7, 8:9, 10:13, 10:23, 11:2, 20:17, 21:22 scheduled [3] 12:1, 86:9, 91:17 scheduling [9] 8:23, 9:3, 10:14, 10:17, 10:20, 10:25, 11:4, 11:6, 11:7 scheme - 37:13 scientific - 40:22 scope [3] 44:7, 44:11, 47:3 seal - 99:16 seconded [10] 4:8, 5:14, 58:21, 61:23, 61:24, 82:23, 82:25, 83:25, 95:18, 98:13 secondly - 23:25 section [10] 3:17, 14:21, 14:22, 27:15, 42:15, 46:7, 68:5, 86:14, 86:17, 98:8 sections [3] 27:19, 36:21, 86:14 sector - 23:4 seeing - 36:17 seek - 48:12 seeking [3] 17:6, 19:10, 22:3 seem - 48:5 seemed - 51:11 seems [6] 27:11, 50:5, 71:22, 72:24,	73:9, 73:13 segments - 39:24 Senate [8] 15:10, 16:12, 27:4, 33:7, 42:15, 43:11, 43:19, 46:23 send [2] 52:14, 57:8 sending - 57:1 senior - 29:3 sense [7] 40:22, 40:22, 52:13, 65:19, 81:14, 88:13, 91:9 sent [6] 36:22, 47:24, 52:10, 62:24, 80:7, 80:13 September - 81:18 series - 21:9 serve - 4:20 service - 4:21 Services [6] 71:7, 74:5, 74:8, 77:2, 78:19, 79:17 sets [3] 19:14, 20:4, 21:2 setting - 88:2 settle - 8:20 settlement [2] 8:17, 9:7 settling - 10:6 seven [3] 18:20, 22:10, 22:12 several [2] 63:18, 86:14 severe - 37:1 shake - 89:5 shall [3] 27:13, 27:16, 50:20 short - 94:1 shorthand - 99:10 shouldn't - 76:4 Shropshire - 4:19 sides - 48:24 Signal - 10:9 significance [4] 38:7, 38:17, 38:19,	39:12 significant [4] 21:24, 38:13, 45:10, 46:10 signify [2] 5:2, 58:24 simple - 65:15 simply [2] 30:15, 36:5 single - 92:4 site [3] 23:22, 23:24, 39:20 situation [2] 23:12, 77:22 situational - 23:16 six [4] 16:6, 54:11, 55:9, 56:25 Sixth - 1:11 smaller - 43:12 smoothly - 13:25 sodium - 46:9 soil - 46:2 solely - 81:22 solicited - 25:9 solution - 41:16 solved - 76:6 somebody [6] 4:4, 33:19, 44:20, 50:15, 60:6, 66:15 sometime - 94:8 somewhat - 31:3 sorry [4] 33:16, 35:23, 45:4, 53:6 sort [3] 51:14, 79:11, 93:25 sorted [2] 72:22, 73:1 sounds [2] 56:22, 97:18 source [4] 17:10, 22:18, 40:7, 45:9 sources [6] 15:3, 16:23, 17:1, 29:14, 29:25, 30:24 southeast - 43:5 southeastern [2] 33:5,	33:12 speak [20] 3:6, 28:9, 28:10, 31:21, 31:25, 32:9, 32:14, 35:1, 47:12, 47:14, 47:15, 50:15, 60:6, 67:3, 67:4, 67:7, 72:3, 78:3, 84:24, 98:5 SPEAKER [8] 17:15, 26:9, 26:10, 26:11, 29:16, 44:17, 97:16, 97:17 speaking [5] 3:8, 48:14, 67:25, 83:8, 84:11 speaks [3] 28:4, 69:12, 70:14 special [3] 74:1, 92:3, 94:23 specific [8] 18:12, 23:22, 23:24, 25:20, 38:8, 39:21, 85:12, 89:14 specifically [5] 20:1, 30:10, 35:12, 76:12, 78:4 specifies - 19:16 spell - 32:15 spelled [3] 18:12, 18:19, 35:4 spent - 69:17 spirit - 27:3 spoke [3] 52:8, 52:25, 53:11 spot - 39:22 square - 35:15 squarely - 37:4 SS - 99:3 staff [12] 25:6, 26:23, 27:1, 27:5, 35:4, 53:3, 66:7, 66:9, 66:9, 69:20, 82:1, 97:6
--	--	---	--	--	--

<p>stakeholder [2] 15:9, 15:18</p> <p>stand [2] 69:23, 97:13</p> <p>standard [5] 21:20, 22:14, 22:24, 24:2, 27:9</p> <p>standards [15] 14:22, 15:4, 16:12, 16:17, 16:24, 18:6, 18:7, 18:11, 19:1, 22:8, 29:10, 31:2, 39:5, 50:23, 53:10</p> <p>start [3] 7:14, 7:16, 26:16</p> <p>started [2] 36:8, 59:8</p> <p>starts - 41:13</p> <p>state [25] 1:2, 3:7, 18:2, 18:12, 23:6, 28:5, 30:4, 36:12, 39:14, 39:17, 43:3, 43:24, 51:11, 51:18, 51:21, 53:19, 54:2, 54:3, 63:9, 74:1, 79:10, 79:11, 80:14, 99:2, 99:7</p> <p>stated [7] 10:12, 27:21, 34:8, 75:22, 86:8, 86:20, 87:18</p> <p>statement [2] 4:15, 85:12</p> <p>states [9] 15:1, 16:16, 21:23, 27:8, 27:15, 38:11, 46:3, 68:5, 87:5</p> <p>status [12] 8:2, 8:6, 8:14, 8:19, 10:6, 13:4, 63:16, 63:19, 63:22, 64:5, 68:11, 85:7</p> <p>statute [19] 15:1, 16:15, 19:8, 20:3, 23:6, 25:12,</p>	<p>29:8, 33:9, 49:17, 50:18, 51:11, 51:21, 51:23, 53:19, 54:3, 68:2, 68:19, 77:16, 77:21</p> <p>statutory [4] 51:6, 51:17, 55:17, 55:19</p> <p>stay [3] 9:4, 9:24, 42:9</p> <p>stayed - 11:19</p> <p>step [12] 17:13, 17:24, 21:12, 21:18, 21:19, 22:7, 23:9, 24:7, 24:19, 49:5, 49:19, 92:22</p> <p>steps - 73:22</p> <p>sticking - 56:17</p> <p>stipulation - 11:10</p> <p>stringency [2] 53:18, 54:1</p> <p>stringent [4] 16:17, 40:11, 46:4, 46:18</p> <p>strong - 40:23</p> <p>strongly - 82:12</p> <p>structurally - 66:11</p> <p>Sub [3] 14:25, 20:1, 20:11</p> <p>Sub(2 - 20:4</p> <p>Sub(5 - 20:20</p> <p>Sub(7 - 20:24</p> <p>Sub(8 - 20:25</p> <p>submit [2] 20:22, 31:13</p> <p>submitted - 76:15</p> <p>Subsection [4] 27:7, 27:12, 30:8, 34:12</p> <p>subsequent [2] 54:14, 90:13</p> <p>substance - 85:25</p> <p>substantial [4] 15:9, 22:24, 23:2, 24:22</p> <p>substantive [2] 60:21, 60:23</p> <p>substitute -</p>	<p>75:5</p> <p>success - 63:21</p> <p>suffice - 93:23</p> <p>sufficient - 74:17</p> <p>sufficiently - 66:20</p> <p>suggest [8] 27:14, 58:10, 64:11, 81:7, 83:9, 84:12, 84:19, 85:13</p> <p>suggested [3] 5:23, 73:24, 81:16</p> <p>suggesting - 70:18</p> <p>suggestion - 64:4</p> <p>suitable - 45:16</p> <p>sum - 31:5</p> <p>summarized [2] 85:23, 87:6</p> <p>summary [6] 5:23, 8:24, 9:11, 19:14, 62:21, 87:11</p> <p>supervisor - 14:21</p> <p>Supreme [2] 13:7, 13:15</p> <p>surprise [2] 87:20, 87:24</p> <p>switch - 71:13</p> <p>system [2] 39:16, 41:16</p> <p>systems - 35:17</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tailored [2] 34:6, 34:18</p> <p>taken [4] 2:2, 59:7, 73:23, 99:8</p> <p>taking [2] 30:2, 62:10</p> <p>talks - 40:5</p> <p>telephone [2] 1:21, 86:9</p> <p>telephonic - 3:2</p> <p>telephonically [2] 94:1, 96:5</p> <p>telling - 77:21</p>	<p>temperature - 39:1</p> <p>ten [5] 26:15, 32:5, 48:22, 62:23, 72:5</p> <p>term [11] 17:1, 18:1, 30:13, 31:3, 34:9, 40:5, 40:8, 40:9, 40:19, 40:24, 51:1</p> <p>terminology [3] 50:6, 50:10, 88:9</p> <p>terms [3] 40:18, 41:7, 65:17</p> <p>testify [2] 28:5, 47:9</p> <p>testifying [2] 42:19, 78:24</p> <p>testimony [4] 2:2, 42:7, 67:20, 83:15</p> <p>text - 3:19</p> <p>thank [50] 4:7, 4:13, 5:1, 5:6, 5:19, 7:5, 7:12, 10:3, 14:2, 14:7, 25:16, 26:18, 28:2, 28:16, 28:17, 31:14, 31:16, 34:2, 34:21, 34:24, 36:10, 41:25, 42:13, 44:24, 47:7, 47:10, 49:23, 50:14, 50:16, 51:25, 52:23, 55:13, 57:21, 58:1, 61:11, 61:24, 67:1, 67:24, 69:1, 70:15, 72:1, 72:2, 72:8, 76:10, 77:8, 79:20, 80:1, 80:24, 89:9, 93:13</p> <p>Thanks [2] 17:22, 94:15</p> <p>themselves [4] 11:20, 17:20, 31:24, 44:21</p> <p>there's [3] 18:20, 33:17,</p>	<p>58:2</p> <p>therefore [6] 43:21, 44:5, 46:16, 46:20, 51:22, 68:18</p> <p>they're [8] 8:18, 9:6, 10:6, 10:12, 11:7, 14:1, 18:23, 87:24</p> <p>they've [5] 5:13, 8:17, 26:24, 74:25, 92:23</p> <p>thing [4] 38:16, 52:18, 58:3, 74:19</p> <p>thinking [2] 90:18, 93:24</p> <p>third [7] 11:23, 12:10, 62:6, 64:13, 86:22, 86:23, 87:2</p> <p>thirty - 9:25</p> <p>though - 6:20</p> <p>thoughts [2] 95:2, 95:4</p> <p>throughout [2] 15:16, 35:13</p> <p>throw - 95:5</p> <p>Thus - 47:6</p> <p>Tim [5] 1:19, 2:18, 17:21, 17:22, 59:21</p> <p>timeliness - 26:2</p> <p>timely - 49:11</p> <p>timing - 45:20</p> <p>title - 86:7</p> <p>TMDL [2] 20:18, 21:23</p> <p>to-wit - 2:2</p> <p>today [35] 14:24, 15:5, 16:1, 17:11, 26:1, 27:6, 29:7, 35:6, 36:15, 36:17, 37:4, 37:25, 38:6, 40:5, 41:21, 42:19, 43:8, 43:21, 45:1, 47:9, 49:13, 52:9, 53:11, 54:17, 55:4, 56:24, 57:23, 67:2, 69:23, 70:19, 88:1, 88:3,</p>	<p>89:16, 93:11, 94:7</p> <p>Tongue [6] 32:12, 33:2, 33:4, 35:8, 42:18, 46:13</p> <p>tool - 18:2</p> <p>tools [2] 30:2, 44:7</p> <p>top - 10:24</p> <p>topic - 16:11</p> <p>tough - 52:12</p> <p>toward [2] 56:1, 61:12</p> <p>towards - 49:5</p> <p>toxic - 46:2</p> <p>toxics [2] 38:25, 46:5</p> <p>transcribed - 99:11</p> <p>transcript [3] 1:8, 3:22, 78:17</p> <p>transcription - 99:11</p> <p>transcripts [3] 78:12, 79:2, 79:13</p> <p>tried - 56:24</p> <p>troublesome - 38:19</p> <p>troubling - 38:2</p> <p>Trucking - 9:21</p> <p>true [2] 51:13, 99:12</p> <p>truly - 82:5</p> <p>turn [2] 14:10, 64:2</p> <p>tweak - 41:22</p> <p>Tweeten [3] 2:22, 4:19, 59:25</p> <p>twelve [2] 79:4, 79:19</p> <p>type [4] 17:5, 17:8, 37:11, 39:11</p> <p>types - 39:21</p> <p>typically - 18:24</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimately [4] 31:12, 45:10, 52:18, 57:6</p> <p>unable - 68:10</p> <p>unanticipated</p>
--	---	---	--	---	--

<p>- 29:9 unattainable - 22:9 unavailability [5] 73:6, 76:3, 77:17, 87:4, 87:8 unavailable [12] 64:9, 68:6, 70:3, 70:6, 70:19, 71:14, 71:20, 75:18, 83:11, 83:14, 83:21, 84:1 uncertainty - 46:24 unclear - 30:20 uncomfortable [2] 70:22, 88:20 uncommon - 77:20 undeliverable [2] 80:17, 80:20 undermine - 39:23 undermines - 39:16 underneath [3] 38:9, 39:13, 40:13 understand [14] 31:5, 43:17, 48:23, 51:10, 62:11, 70:7, 70:8, 70:25, 72:17, 75:1, 75:20, 77:14, 79:13, 91:11 understanding [4] 35:24, 44:2, 62:17, 65:2 understands - 29:7 unfair [2] 73:13, 73:21 unfortunate [2] 73:21, 75:11 unique - 43:1 UNKNOWN [8] 17:15, 26:9, 26:10, 26:11, 29:16, 44:17,</p>	<p>97:16, 97:17 unless [2] 6:10, 98:8 unprecedented [2] 77:18, 92:4 unsuccessful - 79:18 upcoming - 6:9 update [13] 7:15, 8:14, 8:19, 9:7, 10:1, 10:3, 10:11, 10:11, 10:18, 13:15, 96:18, 97:4, 97:23 updates [2] 12:11, 12:20 upon [2] 34:16, 71:12 upper [5] 28:22, 28:23, 29:14, 35:5, 35:14 upstream [7] 15:2, 16:22, 17:10, 30:20, 38:12, 40:7, 41:1 Urban - 16:10 users [7] 32:12, 33:2, 35:8, 36:2, 43:5, 45:13, 45:24 uses [3] 45:15, 45:18, 45:22 using [2] 20:24, 99:11</p> <hr/> <p style="text-align: center;">V</p> <p>vague [2] 34:10, 36:19 value [2] 48:19, 57:1 values - 48:15 variance [48] 15:3, 16:23, 17:8, 17:25, 18:2, 18:21, 18:24, 19:7, 19:9, 19:10, 19:11, 19:16, 19:21, 19:23, 20:6, 20:7, 20:13, 20:16,</p>	<p>20:21, 20:23, 20:24, 21:2, 21:9, 21:11, 21:15, 22:3, 22:22, 24:10, 24:11, 24:13, 24:16, 24:24, 27:9, 27:16, 27:23, 29:10, 30:10, 34:17, 36:15, 37:25, 38:11, 45:21, 45:23, 47:7, 51:2, 51:5, 51:7, 53:21 variances [9] 22:11, 29:24, 38:1, 38:10, 43:19, 43:22, 44:6, 46:20, 50:23 various [5] 43:10, 74:11, 78:15, 78:20, 79:18 varying - 63:20 versus [2] 46:5, 46:5 vested [2] 28:25, 29:2 via - 91:16 view [2] 46:18, 76:9 viewed - 80:23 views - 46:17 visit - 91:12 voice [2] 3:21, 7:21 voices - 3:5 volatile - 39:1 voluntary - 86:15 vote [4] 57:15, 83:3, 84:4, 95:21 voted - 5:9</p> <hr/> <p style="text-align: center;">W</p> <p>Wagoner - 9:10 wait [4] 90:14, 91:15, 91:21, 92:21 waiting [2] 92:16, 93:2 waive [9] 70:4, 72:24,</p>	<p>73:12, 85:12, 88:11, 90:10, 90:24, 91:7, 91:20 waives [2] 90:22, 91:4 waiving [2] 76:5, 84:16 walk [2] 21:5, 21:6 walks - 43:3 wanted [15] 17:13, 28:9, 31:21, 42:2, 47:15, 54:7, 62:13, 64:21, 67:8, 71:13, 72:11, 72:21, 79:22, 97:7, 97:9 Warner [7] 1:19, 2:18, 2:19, 17:21, 17:21, 59:21, 59:22 Waterkeeper - 35:5 waters [2] 33:4, 35:20 watershed - 17:3 watersheds - 44:2 waterway [4] 30:22, 38:15, 39:25, 39:25 waterways [4] 38:22, 39:4, 39:23, 44:1 ways [2] 78:15, 78:20 we'd - 32:23 we'll [13] 3:1, 7:14, 8:24, 10:14, 12:22, 14:6, 21:10, 25:20, 28:3, 49:15, 57:14, 83:3, 84:4 we're [43] 6:5, 8:5, 8:8, 10:19, 10:21, 10:25, 11:5, 14:24, 16:7, 17:11, 23:7, 24:6, 28:22, 29:24, 31:11, 31:18, 32:20, 32:24, 33:16, 34:19, 35:24,</p>	<p>35:25, 36:14, 36:17, 37:17, 40:10, 40:11, 41:1, 41:12, 42:11, 48:3, 53:20, 54:3, 56:17, 59:13, 67:2, 67:4, 69:25, 70:12, 81:15, 87:7, 96:2, 98:8 we've [18] 7:10, 9:2, 15:18, 18:1, 48:20, 49:12, 49:18, 54:17, 56:24, 60:9, 63:18, 66:7, 66:19, 75:23, 83:14, 84:24, 85:7, 89:4 website [2] 66:6, 96:25 week [11] 8:2, 8:3, 8:6, 8:15, 10:11, 10:18, 10:20, 11:1, 13:17, 80:9, 96:9 weeks [4] 93:16, 93:21, 93:23, 95:7 welcome [4] 2:6, 59:12, 85:23, 92:2 Western - 10:17 Westmoreland - 9:24 what's [5] 10:19, 48:4, 74:16, 88:7, 94:5 WHEREOF - 99:15 WHEREUPON - 2:1 whether [17] 21:8, 21:12, 23:15, 30:17, 39:19, 47:20, 64:15, 64:16, 64:20, 64:21, 72:23, 78:8, 80:22, 83:10, 83:13, 87:14, 90:9 who's - 3:8 whoever [3] 28:4, 32:8,</p>	<p>74:7 whole - 39:24 whom - 43:3 whose - 35:5 widespread [2] 22:25, 23:3 wiggle - 44:13 willing [2] 90:10, 92:21 windows - 45:20 wise - 62:16 wish - 72:14 withdraw - 88:19 within [13] 9:7, 25:11, 28:23, 30:1, 45:25, 49:16, 52:15, 55:12, 66:2, 78:9, 79:17, 80:9, 98:1 witness [3] 70:5, 90:10, 99:15 witnesses [15] 68:9, 68:13, 69:21, 73:13, 74:13, 81:12, 84:17, 85:13, 87:10, 88:10, 90:23, 90:24, 91:5, 91:8, 91:21 won't - 9:20 wondering [5] 50:8, 52:7, 52:12, 52:20, 57:3 works [2] 6:19, 80:15 worry [7] 43:20, 44:8, 44:13, 45:25, 46:16, 46:22, 50:13 wouldn't - 87:23 wrap - 41:3 writing [3] 27:10, 31:14, 54:13 written [2] 27:25, 54:23</p> <hr/> <p style="text-align: center;">Y</p> <p>yet [8] 2:24,</p>
--	--	--	---	---	---

3:4, 17:4, 71:20, 73:5, 76:1, 87:5, 97:9 yields - 46:13 you'll [5] 12:5, 12:8, 64:25, 75:19, 92:14 yourself [4] 53:8, 60:23, 62:14, 64:16					
---	--	--	--	--	--