

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

IN THE MATTER OF THE APPEAL) BER 2016-11-OC
OF OIL FIELD ROCK AND LOGISTICS)

TRANSCRIPT OF PROCEEDINGS

Heard at Room 111 of the Metcalf Building
1520 East Sixth Avenue
Helena, Montana
April 6, 2018
10:27 a.m.

BEFORE CHAIR CHRIS DEVENY,
BOARD MEMBERS JOHN DEARMENT, DEXTER BUSBY,
and HILLARY HANSON.
CHRIS TWEETEN and JOHN FENTON (By telephone)

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

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

A P P E A R A N C E S:

ATTORNEY APPEARING AS HEARINGS EXAMINER:

MS. SARAH CLERGET, ESQ.

Special Assistant Attorney General

Agency Legal Services Bureau

P.O. Box 201440

Helena, MT 59620-1440

ATTORNEY APPEARING ON BEHALF OF THE STATE OF
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY:

MR. MARK LUCAS, ESQ.

Staff Attorney

Montana Department of Environmental

Quality

1520 East Sixth Avenue

Helena, MT 59620

ATTORNEY APPEARING ON BEHALF OF THE APPLICANT:

MR. MICHAEL KAKUK, ESQ.

Attorney at Law

1717 Harrison Avenue

Helena, MT 59601

1 proposed order, review the entire record that was
2 before the Hearing Examiner, find the proposed
3 order is not supported by substantial evidence,
4 and modify the findings of fact and conclusions of
5 law in the proposed order accordingly.

6 This could mean modifying the order
7 granting summary judgment in this case, or denying
8 summary judgment, or ordering a hearing, or some
9 combination thereof.

10 CHAIR DEVENY: So I believe our first
11 step is to hear oral arguments.

12 MS. CLERGET: Yes. In your packet you
13 have the proposed order, and there were no
14 exceptions to the proposed order filed, so you
15 don't have those. All you have is the order. And
16 then there are -- My understanding is both parties
17 are here and wish to present oral argument, so
18 however you would wish to do that.

19 CHAIR DEVENY: We will hear oral
20 arguments. I think we'll hear from DEQ first, and
21 then we will hear from the Oil Field Rock and
22 Logistics, and then we'll move on and have a
23 discussion among the Board.

24 MS. CLERGET: Would you like to give the
25 parties a time?

1 CHAIR DEVENY: Could the parties limit
2 their testimony to ten minutes?

3 MR. KAKUK: Yes, ma'am.

4 CHAIR DEVENY: We'll start with DEQ.

5 MR. LUCAS: Good morning, Madam Chair,
6 Board members. My name is Mark Lucas, I'm a staff
7 attorney with the Department's Air Energy and
8 Mining Division. And once again, we find
9 ourselves before you with another opencut mining
10 enforcement case. Once again, we find ourselves
11 before you on an uncontested summary motion as to
12 which there were no disputed issues of fact.

13 This case is a little unique in that it
14 calls upon the Board to apply the well settled
15 administrative law principle of failure to exhaust
16 administrative remedies.

17 The short version of what happened here
18 was the Department issued an opencut mining permit
19 to someone name Fisher in 2010. Fisher moved into
20 the site, removed a quarter of a million cubic
21 yards of material from the site. And then the
22 company, which is the Petitioner before you, Oil
23 Field, took over the site via an assignment of the
24 permit.

25 When Oil Field undertook the assignment

1 of the permit, they undertook all of the
2 obligations under the permit. These opencut
3 cases, as you know, or at least the ones you've
4 seen so far that I've had the honor to bring
5 before you, tend to deal with reclamation a lot.

6 And what happens in the process of
7 opencut mining is that they go in, and they strip
8 off the top layers of soil, which is called
9 overburden, to get to the pay dirt, if you will,
10 below which is the opencut gravel and material.

11 And when Fisher got their permit, it
12 included some soil borings and a plan of operation
13 which called for the reclamation of the site
14 involving the replacement of eighteen inches of
15 the overburden in the mine area, and that is an
16 obligation that Petitioner Oil Field assumed when
17 they took the assignment of the permit. And under
18 the signature of Oil Field's representative, they
19 assumed all the obligations in the permit.

20 Unfortunately for Oil Field, this case
21 represents a complete absence of due diligence
22 prior to taking the assignment, because it turned
23 out things didn't go so well for Oil Field. They
24 were eventually kicked off the site by the
25 landowner. And I believe it was in September of

1 2016 for the first time they advised us that there
2 was not, in their opinion, sufficient overburden
3 material left on the site to complete the
4 reclamation.

5 So what they do is they're supposed to
6 strip the overburden off, and salvage it on site,
7 stockpile it so when they go to fill in the hole,
8 they'll have that.

9 Oil Field had a number of administrative
10 remedies which they did not avail themselves of in
11 this context. First of all, they could have done
12 something called a pre-app, which before you apply
13 for an assignment of a permit, want to take over a
14 permit, you talk to the Department.

15 That was never done. It's apparent to
16 us there was no due diligence done to just go out
17 to the site and say, "Gee, there should be some
18 big giant stock piles of overburden here, and
19 they're not here." We don't know what happened.

20 Part of the problem with what Oil Field
21 is asking you to do is asking you to go back in
22 time, and determine after the removal of 250,000
23 cubic yards of material that there never was
24 eighteen inches of overburden on the site anyway.

25 The problem is they could have done that

1 through a permit amendment; they didn't. They
2 could have done that through the preapplication
3 process; they didn't. They could have appealed
4 the assignment of the permit that we issued them
5 and said, "This eighteen inches of overburden
6 doesn't exist there."

7 So we're faced with a legal and factual
8 impossibility which really goes to the importance
9 of the doctrine of exhaustion of administrative
10 remedies. Instead Oil Field waited until they
11 were kicked off the site, at which point they had
12 to reclaim the site within one year.

13 And then we eventually brought an
14 Administrative Order against them seeking, among
15 other things, a compliance directive that they
16 reclaim the site, and I believe approximately
17 \$17,500 and penalties for related violations.

18 Oil Field appealed that administrative
19 order, but they basically asked in their appeal
20 that the Board go back and amend their permit.
21 The only issue they raised on appeal was their
22 claim that there never was eighteen inches of
23 overburden on the site in the first place, and
24 therefore they can't complete reclamation
25 according to the permit.

1 Once again, they put the Department in
2 an impossible situation. We can't go back and
3 amend a permit once we've gone in to enforce that
4 permit, and the reclamation is overdue and has to
5 be conducted.

6 MS. SOLHEIM: You have five minutes
7 remaining.

8 MR. LUCAS: Thank you. Now, the Board
9 is a creature of the Legislature, and as such the
10 Board is constrained by some very specific
11 limitations that the Legislature gives the Board.

12 On the appeal of an administrative
13 order, your options are to affirm, modify, or
14 reverse the order. There is nothing in the
15 statute that allows you to go back and amend the
16 underlying permit upon which the order is granted,
17 and as I think you can see, that is a legal and
18 factual impossibility here.

19 So recognizing the growing docket of
20 Hearing Examiner Clerget, as well as myself, we
21 try to dispose of these matters on summary
22 judgment where we think summary judgment is
23 appropriate, and avoid a hearing.

24 And I think the Hearing Examiner's order
25 captured pretty well the fact that Oil Field, in

1 addition to failing to exhaust all of its
2 administrative remedies during the permitting
3 process, did not make a meaningful response to our
4 summary judgment motion, didn't cite law, did not
5 dispute the facts we raised. And that order was
6 entered, and then Oil Field never took any
7 exception to that ruling.

8 And here we find their attorney here
9 today, and I would just note for the Board that
10 having failed to take those exceptions, we have
11 yet additional failures to exhaust remedies. He
12 certainly has the right to come here and speak. I
13 just don't know what difference that can make to
14 the Board since now they've failed to exhaust
15 their administrative remedies even in front of
16 this Board.

17 There were no exceptions taken to the
18 ruling. The ruling was sound factually, since no
19 facts were disputed. And once again, we find
20 ourselves here in an opencut case on reclamation
21 dealing with a pure question of law, and that
22 question is:

23 When DEQ brings an administrative order
24 against an opencut operator, does the opencut
25 operator get to travel us all back in time to

1 amend the permit to reflect what they believe was
2 there? And the answer is no. There is nothing to
3 do except affirm, modify, or reverse the
4 Department's Administrative Order.

5 We think the Hearing Examiner got it
6 right. We believe you should adopt her ruling in
7 all respects. And I'd like to save a minute or
8 two for rebuttal in the event I need that. And I
9 will also be available for any questions the Board
10 members might have starting now, or you can call
11 me back when you need me.

12 CHAIR DEVENY: Let's hear from the other
13 party. Thank you, Mr. Lucas.

14 MR. KAKUK: Good morning, ma'am, members
15 of the Board. Michael Kakuk, last name is
16 K-A-K-U-K, representing Oil Field.

17 Board authority. Counsel said it
18 himself. You have authority to amend, or modify,
19 or rescind an order. My client was ordered to
20 replace eighteen inches. We want that modified to
21 twelve inches. And here are the reasons.

22 Counsel was correct. Mistakes were
23 definitely made. We had administrative remedies
24 that we could have used and didn't. I don't
25 think, though, that that rises to the level of

1 failure to exhaust because as I mentioned in my
2 inadequate response, you can't exhaust a remedy to
3 a problem you don't know exists.

4 Should we have known that there wasn't
5 eighteen inches? Yes, we should have. My clients
6 did not do due diligence, and for that, I
7 apologize for dragging everybody here, and for
8 dragging this out.

9 We met with DEQ two years ago, explained
10 the problem, and they said, "Back this up." We
11 showed them documentation from 2010, clear
12 documentation that in this area of the permit
13 there was not eighteen inches of overburden. I
14 thought we had made some progress that day. All
15 we're looking for is a reduction to twelve.

16 I've argued and submitted evidence that
17 that represents \$60,000 to my client on top of
18 administrative penalties, that extra six inches of
19 overburden. We can't reclaim until we know how
20 much overburden we need. So it's not a question
21 of us not stockpiling the overburden, it's that it
22 wasn't there to stockpile.

23 And again, mea culpa. We should have
24 known, we didn't. This Board has full authority
25 to go ahead and modify an order. We were ordered

1 under your statute to replace eighteen inches.
2 Just reduce that to twelve.

3 This is not going to open up Pandora's
4 Box. I don't know of any other situation -- I
5 wouldn't have taken this case. They contacted me
6 after the permit had been rescinded. So you're
7 not being to asked to modify a permit. There is
8 no permit. And I think that's why DEQ couldn't
9 help us with the eighteen to twelve, although we
10 have never heard that. They just never heard back
11 from them at all until I got the motion for
12 summary judgment.

13 So you're not modifying a permit, you're
14 modifying an order which says eighteen inches. I
15 just want it to go to twelve and we'll get it
16 done. We're ready. We have trucks standing by,
17 as they say.

18 It is uncontested that there was not
19 eighteen inches. No one has ever said there was.
20 Again, you have got clear contemporaneous evidence
21 that was there was only twelve, that it was less
22 than twelve inches. We're happy to go to twelve.
23 So this is not going to open up a Pandora's Box.

24 I've never seen a situation like this,
25 as I was saying a minute ago before I lost track.

1 I have never seen a situation where I've got
2 clear, uncontroverted, contemporaneous evidence
3 showing overburden at twelve inches. It is almost
4 unheard of. But there it is.

5 Fisher Sand and Gravel did the due
6 diligence, and there was eighteen inches up here,
7 twelve inches down here -- (indicating) -- My
8 clients had the unfortunate luck to mine down here
9 where it was less than twelve. This was their
10 first foray into Montana opencut mines. They
11 should have had their due diligence, and again,
12 they didn't.

13 In conclusion, again, I'm just going to
14 argue that the law is clear. You have the
15 authority. And the evidence is clear. It should
16 be a twelve, so please reduce it to twelve, and
17 we'll get on with this. Thank you.

18 CHAIR DEVENY: DEQ, would you like to
19 rebut, and then we'll open it up.

20 MR. LUCAS: Briefly, Madam Chair.
21 Counsel just made two errors, and asked you to
22 adopt those errors in your decision here.

23 The first error is that he is seeking to
24 ask you to modify an order. The order doesn't
25 exist in a vacuum. The order is based on the

1 permit, and the regulations say you must comply
2 with the terms of your permit. So you can't
3 really modify the order without effectively
4 modifying the underlying permit.

5 Otherwise what you would do here is open
6 up a Pandora's Box where every time we enforce
7 against someone, they get to go in and try and get
8 you to change the terms of the underlying permit.
9 That just doesn't work. And this isn't strict
10 legal formalism or me playing gotcha with my
11 opponent based on some case law.

12 The whole process falls apart. You just
13 heard him say that it was uncontested that there
14 was twelve inches of soil there. If it was
15 uncontested, perhaps some facts alleged on summary
16 judgment by the Petitioner would have helped.
17 That was the time to claim something was
18 uncontested. They didn't.

19 And in fact, what the facts do show is
20 that the Fisher Sand and Gravel, the original
21 permittee, determined that there was eighteen
22 inches of overburden, and they put that in their
23 plan of operation, and then that permit was
24 assigned to Oil Field. And when Oil Field took
25 the assignment of that permit, they filled out a

1 bond reclamation spreadsheet which indicated that
2 eighteen inches of overburden would be replaced.

3 MS. SOLHEIM: You have one minute.

4 MR. LUCAS: So while these facts were
5 not disputed at the appropriate time and at the
6 appropriate place in the Agency's procedures, they
7 are not uncontested. The facts show what they
8 show, and all that they show is that eighteen
9 inches of overburden was there. That is what Oil
10 Field agreed when they took the assignment of the
11 permit to replace.

12 And it is not like they didn't have
13 multiple opportunities, including most recently on
14 summary judgment, or by taking an exception to the
15 Hearing Examiner's order.

16 So we think the issue before the Board
17 is simple. We understand, as government
18 regulators, sometimes what we have to do is
19 unpleasant, but there has to be a system of rules,
20 there has to be a procedure that is followed, or
21 we're just devolving into basically sheer legal
22 and factual anarchy here. So thank you for your
23 time.

24 CHAIR DEVENY: At this point do members
25 of the Board have questions of DEQ, or of Mr.

1 Kakuk, or a question of Sarah?

2 MR. BUSBY: Just --

3 CHAIR DEVENY: Dexter, do you have a
4 comment?

5 MR. BUSBY: I do. Well, questions. In
6 this case, what's the difference between the plan
7 of operation and the permit?

8 MS. CLERGET: The plan of operation is
9 attached to the permit. It becomes part of the
10 permit. So they're sort of part and parcel of the
11 same. DEQ might be able to correct me if I'm
12 wrong on that, but that's my understanding.

13 MR. LUCAS: That's correct.

14 MR. BUSBY: So if I understood what I
15 heard from both, the plan of operation is what
16 contained the eighteen inch number that seems to
17 be ticked out, not necessarily the permit itself?

18 MS. CLERGET: Well, the plan of
19 operation is part of the permit, so the permit
20 incorporates the plan of operation, so --

21 MR. BUSBY: It references?

22 MS. CLERGET: Not just references, it
23 incorporates it. So the plan of operation becomes
24 the permit as well. Does that make sense? The
25 permit doesn't make any sense without the plan of

1 operation.

2 MR. BUSBY: Okay. I understand.

3 CHAIR DEVENY: Other questions or
4 comments by Board members?

5 (No response)

6 CHAIR DEVENY: I have a question of
7 Sarah. Say, do you concur with DEQ's comments
8 about the Board's legal authority with regards to
9 that, to making changes?

10 MS. CLERGET: I do, and believe that
11 that's reflected in the proposed order.

12 CHAIR DEVENY: Any other questions,
13 discussions by Board members?

14 (No response)

15 CHAIR DEVENY: Anybody would like to
16 make a motion?

17 MR. TWEETEN: Madam Chair, this is
18 Chris. I'm a little I guess confused at this
19 point about exactly what is in front of the Board
20 right now, and I'm sure it's in the packet
21 somewhere and I may have just missed it. But what
22 exactly are we being asked to review here?

23 MS. CLERGET: Chris, it is the --

24 MR. TWEETEN: It is not the revocation
25 of the permit?

1 MS. CLERGET: No. Chris, the proposed
2 findings of fact and conclusions of law and
3 recommended order beginning on Page 206 of your
4 packet. It is my proposed order based on the
5 summary judgment motions.

6 MR. TWEETEN: No. I understand that,
7 Sarah. But when Oil Field filed its request for a
8 hearing in this matter, what was it asking the
9 Board to hear? Were they complaining about the
10 penalties that were imposed for failure to reclaim
11 in accordance with the governing rules and
12 statutes, or -- They're certainly not complaining
13 about the revocation of their permit at this
14 point, are they?

15 MS. CLERGET: I don't want to get too
16 far into the weeds. Would the parties like to
17 respond to that?

18 MR. KAKUK: Thank you.

19 CHAIR DEVENY: Mr. Kakuk.

20 MR. KAKUK: Is that Chris Tweeten on the
21 phone?

22 CHAIR DEVENY: Yes, it is.

23 MR. TWEETEN: Yes, it is, Michael. How
24 are you?

25 MR. KAKUK: No complaints, sir. Nice to

1 hear from you.

2 Again, what Oil Field is looking for is
3 relief from the order requiring it to replace
4 eighteen inches of overburden instead of the
5 twelve.

6 And there are disputed facts, DEQ Fact
7 23, 25, and the additional disputed fact that I
8 have raised in my statement of disputed facts,
9 which placed this clearly in front of the Board.
10 Does that help, Mr. Tweeten?

11 MR. TWEETEN: Well, I guess we don't
12 have all of those background summary judgment
13 documents in our packet. Mr. Lucas tells us that
14 the facts are uncontested. Now you're saying that
15 you filed, with respect to the Department's motion
16 for summary judgment, you filed a statement of
17 contested facts?

18 MR. KAKUK: That's correct, sir.

19 MS. CLERGET: No. This is Sarah, and
20 I'm going interject here because I want make sure
21 that the record is clear.

22 Chris, what happened is that DEQ filed a
23 statement of undisputed facts. There was a
24 response which I've outlined in the order that
25 disputed three of the facts. Those facts are not

1 included in the proposed findings of fact. So the
2 proposed findings of fact do not include any
3 disputed facts. And when Counsel just told you
4 the three numbers that he just cited, those facts
5 are not included in the proposed findings of fact.

6 MR. TWEETEN: So then you would say that
7 those facts were not material to your decision?

8 MS. CLERGET: Yes.

9 MR. TWEETEN: I'm just thinking back to
10 the language of Rule 56 with respect to genuine
11 disputes with respect to material facts is what
12 could block a motion for summary judgment. And if
13 the facts -- it doesn't matter if they're disputed
14 facts if they're not material to the legal issues
15 that are presented.

16 So I take it, Sarah, that your position
17 would be that while there may be arguments about
18 certain facts, they don't affect the propriety of
19 your summary judgment order; is that correct?

20 MS. CLERGET: Correct.

21 MR. TWEETEN: Mr. Kakuk, what do you say
22 to that?

23 MR. KAKUK: I disagree that they're not
24 relevant or material. I think it is the material
25 fact.

1 I interrupted. I apologize. I think it
2 is the material fact as to what actually was on
3 the ground in 2010, eighteen or twelve. Thank
4 you, sir.

5 CHAIR DEVENY: Chris, any follow up, or
6 Sarah, any clarification?

7 MR. TWEETEN: Madam Chair, I need to
8 take a minute before I speak again to take another
9 look at Sarah's order, so if you could give me
10 just a moment. If there were other people that
11 want to speak.

12 CHAIR DEVENY: We're all kind of
13 looking. Let's just take thirty seconds.

14 MS. CLERGET: Chris, to answer your
15 question about the notice. I have the notice of
16 appeal in front of me if you would like additional
17 questions answered about that. I can read you
18 what it says, if you need that answer from the
19 record.

20 MR. TWEETEN: Madam Chair, this is Chris
21 again. And Sarah, with respect to the
22 administrative remedies, I think failure to
23 exhaust is a judicial review principle. It is not
24 exactly -- I don't think it is technically
25 applicable when the matter is still before the

1 agency, because nothing in front of the agency is
2 final until the agency final order is issued,
3 which is what's in front of the Board today.

4 What is there to prevent the Board from
5 remanding this case to DEQ to allow Mr. Kakuk to
6 bring his complaints about the overburden depth
7 question to appropriate administrative channels?
8 I understand that the permit has been revoked.
9 There is nothing to be done with the permit.

10 So is it the case then -- and I'd like
11 to hear the Department's view on this as well --

12 Is it the case then that the time for
13 challenging the factual appropriateness of
14 Fisher's representation that there is eighteen
15 inches of overburden, which was tacitly or overtly
16 adopted by Oil Field when it assumed the permit,
17 the time for taking issue with the depth of the
18 overburden was before the permit was revoked, and
19 that once the permit was revoked, Oil Field was
20 basically stuck with the representations that were
21 made at the time that Oil Field assumed the
22 permit?

23 MS. CLERGET: Chris, I don't want to
24 risk advocating for a party, so I'm going to let
25 Mark from DEQ respond.

1 MR. TWEETEN: That would be great.

2 MR. LUCAS: Madam Hearing Examiner.

3 Member Tweeten, I have to disagree with you on a
4 legal point you just made. It is in fact well
5 settled in Montana -- and I don't have the cases
6 at my fingertips. I believe they were cited in my
7 brief. If not I can get them to you -- that
8 administrative remedies must be exhausted at all
9 levels of agency review.

10 So where you have an intermediate board
11 sitting rendering decisions, you have to exhaust
12 your remedies before you get to that board,
13 because otherwise where would we be, Member
14 Tweeten? We'd be back opening up a permit that
15 was already issued, which involved a technical
16 proceeding and review by technical folks.

17 So you're probably thinking of the MAPA
18 provision -- and I don't have it memorized. Maybe
19 it is 702 -- where it talks about judicial review.
20 That's a different animal because there, MAPA
21 strictly says, and even with a respect to judicial
22 review it says you have to exhaust all
23 administrative remedies before the agency.

24 MAPA does not expressly include an
25 exhaustion requirement. It leaves it to the

1 agencies. There is a savings clause made that
2 says nothing in here affects anything else an
3 agency does basically. Bad paraphrase, but it's
4 there.

5 So what the agencies do, there is an
6 implied exhaustion where we set up a procedure,
7 and you need to follow it, or you wind up where
8 you are here, which is in court on an appeal of an
9 Administrative Order seeking to amend the permit,
10 rather than deal with the order. So the issues
11 you have are issues of statute of limitations, and
12 also jurisdictional limitations.

13 Oil Field appealed the order, and when
14 they provided on May 10th, 2017 their basis for
15 appeal, the sole basis for appeal they raised --
16 and I'm quoting -- the basis of the appeal is that
17 Oil Field cannot complete reclamation under the
18 terms of the permit due to a lack of overburden.

19 That's their words, Mr. Tweeten. When
20 you appeal an Administrative Order, you are
21 limited to affirming, modifying, or reversing the
22 order. You are not allowed to go back and do this
23 post hoc amendment of a permit. I can't even
24 imagine how such a process would be even be
25 undertaken.

1 So that's where we are. The permit had
2 been issued; the time to appeal that permit had
3 run; the opportunity to amend the permit at any
4 time during the term of the permit had run.

5 So it is a very simple case, from our
6 perspective, and we believe the law makes it very
7 simple, too, once you understand those two
8 concepts: Number one, that administrative
9 exhaustion has to occur at all levels of the
10 agency.

11 And number two, Oil Field appealed an
12 Administrative Order. They didn't deny liability,
13 they didn't contest the amount of the penalty, all
14 they said was, "We can't meet the terms of the
15 permit." That's a challenge to the permit, sir.

16 And I realize Oil Field is in a
17 difficult situation, but they've admitted to you
18 themselves here. They're here because of a lack
19 of due diligence on their part. And we have
20 signed statements from them assuming
21 responsibility for replacing eighteen inches of
22 overburden in 2012.

23 So it is a difficult case, Member
24 Tweeten. I understand that. But it also resolves
25 itself rather simply and ultimately in favor of

1 the Department in this case. We just can't go
2 back and do a Mulligan on a permit that is final.

3 And yes, we did talk to them. My first
4 day of work here, we sat in this very room, and we
5 listened to Oil Field's pitch, and we sat there
6 trying to figure out how they could tell that it
7 was uncontested that twelve inches of overburden
8 was there when we knew 250,000 cubic yards of
9 material had already been removed from the site.

10 So it is a legal and a factual
11 impossibility that you're being asked to
12 adjudicate here, and for that reason, we strongly
13 urge you to adopt Hearing Examiner Clerget's order
14 in its entirety. I'm available for further
15 questions. Otherwise, thank you.

16 MR. TWEETEN: Mr. Lucas, I think
17 somewhere in what you just said is the answer to
18 my question. The question that I wanted an answer
19 to was: Is it the case then that once the permit
20 was revoked, there were no further administrative
21 remedies available to Oil Field to change the
22 overburden determination from eighteen inches to
23 twelve? And I gather from your answer that the
24 Department's position is that there were no
25 further remedies available after that time.

1 MR. LUCAS: No remedies that I'm aware
2 of, Member Tweeten. And the problem is the
3 intervening and superseding event was an
4 Administrative Order was brought for a violation
5 of the permit. So you can't -- If you get caught
6 violating your permit, you can't then say, "Okay.
7 I'm going to amend it," because the amendment
8 would not become effective until approved by the
9 Department. The violation will still be there.

10 And we've seen this in other cases, too.
11 While you have that permit, you're bound by the
12 terms of that permit, you need to comply with that
13 permit, and especially on matters of reclamation.
14 There is a constitutional dimension to the
15 requirement for reclamation in Montana.

16 And Oil Field's mistake and lack of
17 diligence cannot under law, under any sense of
18 justice or fairness, be externalized to the people
19 of Montana and the landowner of that land, who was
20 also a participant in this case, and that they can
21 just say, "Well, the permit was wrong in the first
22 place." Those costs can't be internalized to the
23 landowner or the environment, Member Tweeten.
24 Thank you.

25 CHAIR DEVENY: Chris, does that answer

1 your question?

2 MR. TWEETEN: Well, Madam Chair,
3 eventually it did. I think there's a lot more
4 there that doesn't have anything to do with my
5 question, but I think I understand what I think
6 needs to be done with this case at this point, and
7 so I'm ready to make a motion if no one else has
8 any questions or comments.

9 CHAIR DEVENY: Any other questions or
10 comments from Board members?

11 (No response)

12 CHAIR DEVENY: Would you go ahead and
13 make your motion then, Chris.

14 MR. TWEETEN: Sure. Madam Chair, I move
15 that the Board adopt Hearing Examiner Clerget's
16 proposed decision as the Board of Environmental
17 Review's final order in this matter.

18 CHAIR DEVENY: I would second that.

19 MR. TWEETEN: Madam Chair, in support of
20 the motion, I would just state that I think it is
21 clear that, cutting away all of the weeds here,
22 the request to make the change that Mr. Kakuk
23 requests is simply not timely at this point.

24 There were opportunities to make a
25 factual record with respect to this matter while

1 the permit was still in effect. Once the permit
2 was revoked, those opportunities ended, and it is
3 not appropriate or lawful, I think, to go back and
4 amend the permit at this point in response to the
5 complaints regarding the Department's enforcement
6 order.

7 So I think Sarah's proposed decision is
8 entirely correct, and I think that the Board
9 should just adopt it and let this matter come to
10 conclusion, and if Oil Field thinks we've got
11 something wrong legally, they can certainly ask
12 the Courts to intervene and fix it.

13 CHAIR DEVENY: There is a motion before
14 the Board to accept the proposed order in its
15 entirety and adopt it as the Board's final order,
16 and it has been seconded. Is there further
17 discussion by Board members?

18 (No response)

19 CHAIR DEVENY: Hearing none, we'll take
20 a vote. All those in favor of the motion, signify
21 by saying aye.

22 (Response)

23 CHAIR DEVENY: Those opposed, signify by
24 saying nay.

25 (No response)

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

CHAIR DEVENY: Motion carries.

MR. KAKUK: Thank you very much for your
time.

(The proceedings were concluded
at 11:03 a.m.)

* * * * *

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 - 31 - 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 _____, 2018.

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

<u> </u> \$ <u> </u>	<u> </u> 9 <u> </u>	affirming - 25:21	25:16, 25:20, 26:2	18:8	brings - 10:23
\$17,500 - 8:17	9 - 32:22	affixed - 32:16	appealed [4] 8:3, 8:18, 25:13, 26:11	avail - 7:10	brought [2] 8:13, 28:4
\$60,000 - 12:17	<u> </u> A <u> </u>	against [3] 8:14, 10:24, 15:7	APPEARING [3] 2:2, 2:9, 2:18	available [4] 11:9, 27:14, 27:21, 27:25	Building - 1:9
<u> </u> 1 <u> </u>	a.m [2] 1:13, 31:5	agencies [2] 25:1, 25:5	APPLICANT - 2:18	Avenue [3] 1:10, 2:15, 2:21	bulleted - 3:17
10:27 - 1:13	ability - 32:14	agency [8] 2:5, 23:1, 23:1, 23:2, 24:9, 24:23, 25:3, 26:10	applicable - 22:25	avoid - 9:23	Bureau - 2:5
10th - 25:14	able - 17:11	Agency's - 16:6	APPLICANT - 2:18	aye - 30:21	BUSBY [6] 1:17, 17:2, 17:5, 17:14, 17:21, 18:2
111 - 1:9	absence - 6:21	agreed - 16:10	apply [2] 5:14, 7:12	<u> </u> B <u> </u>	<u> </u> C <u> </u>
11:03 - 31:5	accept [3] 3:18, 3:20, 30:14	ahead [3] 3:14, 12:25, 29:12	appropriate [5] 9:23, 16:5, 16:6, 23:7, 30:3	background - 20:12	can't [11] 8:24, 9:2, 12:2, 12:19, 15:2, 25:23, 26:14, 27:1, 28:5, 28:6, 28:22
1520 [2] 1:10, 2:15	accordance - 19:11	alleged - 15:15	appropriateness - 23:13	Bad - 25:3	cannot [2] 25:17, 28:17
1717 - 2:21	according - 8:25	allow - 23:5	approved - 28:8	basically [4] 8:19, 16:21, 23:20, 25:3	captured - 9:25
<u> </u> 2 <u> </u>	accordingly - 4:5	allowed - 25:22	argue - 1:12	become - 28:8	cases [4] 3:5, 6:3, 24:5, 28:10
2010 [3] 5:19, 12:11, 22:3	action - 3:5	allows - 9:15	argued - 12:16	becomes [2] 17:9, 17:23	caught - 28:5
2012 - 26:22	addition - 10:1	already [2] 24:15, 27:9	argument - 4:17	beginning - 19:3	certain - 21:18
201440 - 2:6	additional [3] 10:11, 20:7, 22:16	although - 13:9	arguments [3] 4:11, 4:20, 21:17	BEHALF [2] 2:9, 2:18	certainly [3] 10:12, 19:12, 30:11
2016 - 7:1	adjudicate - 27:12	amend [9] 8:20, 9:3, 9:15, 11:1, 11:18, 25:9, 26:3, 28:7, 30:4	April - 1:12	BER - 1:4	certify - 32:7
2016-11-OC - 1:4	administrative [24] 3:22, 5:15, 5:16, 7:9, 8:9, 8:14, 8:18, 9:12, 10:2, 10:15, 10:23, 11:4, 11:23, 12:18, 22:22, 23:7, 24:8, 24:23, 25:9, 25:20, 26:8, 26:12, 27:20, 28:4	amendment [3] 8:1, 25:23, 28:7	argue - 14:14	best - 32:13	Chair [35] 1:16, 3:4, 3:14, 4:10, 4:19, 5:1, 5:4, 5:5, 11:12, 14:18, 14:20, 16:24, 17:3, 18:3, 18:6, 18:12, 18:15, 18:17, 19:19, 19:22, 22:5, 22:7, 22:12, 22:20, 28:25, 29:2, 29:9, 29:12,
2017 - 25:14	admission - 26:17	among [2] 4:23, 8:14	argued - 12:16	block - 21:12	carries - 31:1
2018 [2] 1:12, 32:17	admitted - 26:17	amount - 26:13	argument - 4:17	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	case [17] 4:7, 5:10, 5:13, 6:20, 10:20, 13:5, 15:11, 17:6, 23:5, 23:10, 23:12, 26:5, 26:23, 27:1, 27:19, 28:20, 29:6
2020 - 32:22	adopt [7] 3:19, 11:6, 14:22, 27:13, 29:15, 30:9, 30:15	anarchy - 16:22	asking [3] 7:21, 7:21, 19:8	board's [3] 3:19, 18:8, 30:15	captured - 9:25
203 - 3:11	adopted - 23:16	animal - 24:20	assigned - 15:24	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	carries - 31:1
204 - 3:16	advised - 7:1	answered - 22:17	assignment [8] 5:23, 5:25, 6:17, 6:22, 7:13, 8:4, 15:25, 16:10	BER - 1:4	caught - 28:5
206 - 19:3	advocating - 23:24	anyway - 7:24	asked [3] 7:21, 7:21, 19:8	best - 32:13	cases [4] 3:5, 6:3, 24:5, 28:10
23 - 20:7	affect - 21:18	apart - 15:12	Assistant - 2:4	block - 21:12	caught - 28:5
25 - 20:7	affects - 25:2	apologize [2] 12:7, 22:1	assigned - 15:24	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	cases [4] 3:5, 6:3, 24:5, 28:10
250,000 [2] 7:22, 27:8	affirm [2] 9:13, 11:3	appeal [11] 1:4, 8:19, 8:21, 9:12, 22:16, 25:8, 25:15, 25:15,	Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	caught - 28:5
<u> </u> 3 <u> </u>			assignment [8] 5:23, 5:25, 6:17, 6:22, 7:13, 8:4, 15:25, 16:10	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	certainty [3] 10:12, 19:12, 30:11
31 - 32:12			asking [3] 7:21, 7:21, 19:8	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	certify - 32:7
<u> </u> 5 <u> </u>			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	Chair [35] 1:16, 3:4, 3:14, 4:10, 4:19, 5:1, 5:4, 5:5, 11:12, 14:18, 14:20, 16:24, 17:3, 18:3, 18:6, 18:12, 18:15, 18:17, 19:19, 19:22, 22:5, 22:7, 22:12, 22:20, 28:25, 29:2, 29:9, 29:12,
56 - 21:10			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	cases [4] 3:5, 6:3, 24:5, 28:10
59601 - 2:22			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	caught - 28:5
59620 - 2:16			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	cases [4] 3:5, 6:3, 24:5, 28:10
59620-1440 - 2:7			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	caught - 28:5
<u> </u> 6 <u> </u>			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	cases [4] 3:5, 6:3, 24:5, 28:10
6 - 1:12			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	caught - 28:5
<u> </u> 7 <u> </u>			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	cases [4] 3:5, 6:3, 24:5, 28:10
702 - 24:19			Assistant - 2:4	board [33] 1:1, 1:17, 4:23, 5:6, 5:14, 8:20, 9:8, 9:10, 9:11, 10:9, 10:14, 10:16, 11:9, 11:15, 11:17, 12:24, 16:16, 16:25, 18:4, 18:13, 18:19, 19:9, 20:9, 23:3, 23:4, 24:10, 24:12, 29:10, 29:15, 29:16, 30:8, 30:14, 30:17	caught - 28:5

<p>29:14, 29:18, 29:19, 30:13, 30:19, 30:23, 31:1</p> <p>challenge - 26:15</p> <p>challenging - 23:13</p> <p>change [3] 15:8, 27:21, 29:22</p> <p>changes - 18:9</p> <p>channels - 23:7</p> <p>Chris [13] 1:16, 1:19, 18:18, 18:23, 19:1, 19:20, 20:22, 22:5, 22:14, 22:20, 23:23, 28:25, 29:13</p> <p>cite - 10:4</p> <p>cited [2] 21:4, 24:6</p> <p>claim [2] 8:22, 15:17</p> <p>clarification - 22:6</p> <p>Clark [2] 32:4, 32:7</p> <p>clause - 25:1</p> <p>clear [7] 12:11, 13:20, 14:2, 14:14, 14:15, 20:21, 29:21</p> <p>clearly - 20:9</p> <p>Clerget [18] 2:3, 3:7, 3:16, 4:12, 4:24, 9:20, 17:8, 17:18, 17:22, 18:10, 18:23, 19:1, 19:15, 20:19, 21:8, 21:20, 22:14, 23:23</p> <p>Clerget's [2] 27:13, 29:15</p> <p>client [2] 11:19, 12:17</p> <p>clients [2] 12:5, 14:8</p> <p>combination - 4:9</p> <p>comment - 17:4</p> <p>comments [4]</p>	<p>18:4, 18:7, 29:8, 29:10</p> <p>commission - 32:21</p> <p>company - 5:22</p> <p>complaining [2] 19:9, 19:12</p> <p>complaints [3] 19:25, 23:6, 30:5</p> <p>complete [4] 6:21, 7:3, 8:24, 25:17</p> <p>compliance - 8:15</p> <p>comply [2] 15:1, 28:12</p> <p>computer-aided - 32:11</p> <p>concepts - 26:8</p> <p>concluded - 31:4</p> <p>conclusion [3] 3:21, 14:13, 30:10</p> <p>conclusions [2] 4:4, 19:2</p> <p>concur - 18:7</p> <p>conducted - 9:5</p> <p>confused - 18:18</p> <p>constitutional - 28:14</p> <p>constrained - 9:10</p> <p>contacted - 13:5</p> <p>contain - 32:12</p> <p>contained - 17:16</p> <p>contemporaneous [2] 13:20, 14:2</p> <p>contest - 26:13</p> <p>contested [2] 3:5, 20:17</p> <p>context - 7:11</p> <p>correct [7] 11:22, 17:11, 17:13, 20:18, 21:19, 21:20, 30:8</p> <p>costs - 28:22</p> <p>couldn't -</p>	<p>13:8</p> <p>Counsel [4] 11:17, 11:22, 14:21, 21:3</p> <p>County [2] 32:4, 32:6</p> <p>court [4] 1:22, 25:8, 32:5, 32:20</p> <p>Courts - 30:12</p> <p>creature - 9:9</p> <p>CRUTCHER [3] 1:21, 32:5, 32:19</p> <p>cubic [3] 5:20, 7:23, 27:8</p> <p>culpa - 12:23</p> <p>cutting - 29:21</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>deal [2] 6:5, 25:10</p> <p>dealing - 10:21</p> <p>DEARMENT - 1:17</p> <p>decision [5] 3:10, 14:22, 21:7, 29:16, 30:7</p> <p>decisions - 24:11</p> <p>definitely - 11:23</p> <p>deny - 26:12</p> <p>denying - 4:7</p> <p>Department [7] 2:10, 2:13, 5:18, 7:14, 9:1, 27:1, 28:9</p> <p>Department's [6] 5:7, 11:4, 20:15, 23:11, 27:24, 30:5</p> <p>depth [2] 23:6, 23:17</p> <p>DEQ [12] 4:20, 5:4, 10:23, 12:9, 13:8, 14:18, 16:25, 17:11, 20:6, 20:22, 23:5, 23:25</p> <p>DEQ's - 18:7</p> <p>determination - 27:22</p> <p>determine -</p>	<p>7:22</p> <p>determined - 15:21</p> <p>DEVENY [27] 1:16, 3:4, 3:14, 4:10, 4:19, 5:1, 5:4, 11:12, 14:18, 16:24, 17:3, 18:3, 18:6, 18:12, 18:15, 19:19, 19:22, 22:5, 22:12, 28:25, 29:9, 29:12, 29:18, 30:13, 30:19, 30:23, 31:1</p> <p>devolving - 16:21</p> <p>Dexter [2] 1:17, 17:3</p> <p>difference [2] 10:13, 17:6</p> <p>difficult [2] 26:17, 26:23</p> <p>diligence [7] 6:21, 7:16, 12:6, 14:6, 14:11, 26:19, 28:17</p> <p>dimension - 28:14</p> <p>directive - 8:15</p> <p>dirt - 6:9</p> <p>disagree [2] 21:23, 24:3</p> <p>discussion [2] 4:23, 30:17</p> <p>discussions - 18:13</p> <p>dispose - 9:21</p> <p>dispute - 10:5</p> <p>disputed [9] 5:12, 10:19, 16:5, 20:6, 20:7, 20:8, 20:25, 21:3, 21:13</p> <p>disputes - 21:11</p> <p>Division - 5:8</p> <p>docket - 9:19</p> <p>doctrine - 8:9</p> <p>documentation [2] 12:11, 12:12</p> <p>documents - 20:13</p>	<p>dragging [2] 12:7, 12:8</p> <p>due [7] 6:21, 7:16, 12:6, 14:5, 14:11, 25:18, 26:19</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>East [2] 1:10, 2:15</p> <p>effect - 30:1</p> <p>effective - 28:8</p> <p>effectively - 15:3</p> <p>eighteen [21] 6:14, 7:24, 8:5, 8:22, 11:20, 12:5, 12:13, 13:1, 13:9, 13:14, 13:19, 14:6, 15:21, 16:2, 16:8, 17:16, 20:4, 22:3, 23:14, 26:21, 27:22</p> <p>ended - 30:2</p> <p>Energy - 5:7</p> <p>enforce [2] 9:3, 15:6</p> <p>enforcement [2] 5:10, 30:5</p> <p>entered - 10:6</p> <p>entire [2] 3:24, 4:1</p> <p>entirely - 30:8</p> <p>entirety [3] 3:19, 27:14, 30:15</p> <p>environment - 28:23</p> <p>Environmental [4] 1:1, 2:10, 2:13, 29:16</p> <p>error - 14:23</p> <p>errors [2] 14:21, 14:22</p> <p>especially - 28:13</p> <p>ESQ [3] 2:3, 2:11, 2:19</p> <p>Essentially - 3:17</p> <p>event [2] 11:8, 28:3</p> <p>eventually [3] 6:24, 8:13, 29:3</p>	<p>everybody - 12:7</p> <p>evidence [5] 4:3, 12:16, 13:20, 14:2, 14:15</p> <p>exactly [3] 18:19, 18:22, 22:24</p> <p>Examiner [7] 2:2, 4:2, 9:20, 11:5, 24:2, 27:13, 29:15</p> <p>Examiner's [2] 9:24, 16:15</p> <p>except - 11:3</p> <p>exception [2] 10:7, 16:14</p> <p>exceptions [3] 4:14, 10:10, 10:17</p> <p>exhaust [9] 5:15, 10:1, 10:11, 10:14, 12:1, 12:2, 22:23, 24:11, 24:22</p> <p>exhausted - 24:8</p> <p>exhaustion [4] 8:9, 24:25, 25:6, 26:9</p> <p>exist [2] 8:6, 14:25</p> <p>exists - 12:3</p> <p>expires - 32:21</p> <p>explained - 12:9</p> <p>explains - 3:8</p> <p>expressly - 24:24</p> <p>externalized - 28:18</p> <p>extra - 12:18</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>faced - 8:7</p> <p>facts [20] 10:5, 10:19, 15:15, 15:19, 16:4, 16:7, 20:6, 20:8, 20:14, 20:17, 20:23, 20:25, 20:25, 21:3, 21:4, 21:7, 21:11, 21:13,</p>
---	--	--	---	---	---

<p>21:14, 21:18 factual [6] 8:7, 9:18, 16:22, 23:13, 27:10, 29:25 factually - 10:18 failed [2] 10:10, 10:14 failing - 10:1 failure [4] 5:15, 12:1, 19:10, 22:22 failures - 10:11 fairness - 28:18 falls - 15:12 favor [2] 26:25, 30:20 FENTON - 1:19 Field [28] 1:5, 4:21, 5:23, 5:25, 6:16, 6:20, 6:23, 7:9, 7:20, 8:10, 8:18, 9:25, 10:6, 11:16, 15:24, 15:24, 16:10, 19:7, 20:2, 23:16, 23:19, 23:21, 25:13, 25:17, 26:11, 26:16, 27:21, 30:10 Field's [3] 6:18, 27:5, 28:16 figure - 27:6 filed [5] 4:14, 19:7, 20:15, 20:16, 20:22 fill - 7:7 filled - 15:25 final [6] 3:19, 23:2, 23:2, 27:2, 29:17, 30:15 findings [6] 3:20, 4:4, 19:2, 21:1, 21:2, 21:5 fingertips - 24:6 Fisher [5] 5:19, 5:19, 6:11, 14:5,</p>	<p>15:20 Fisher's - 23:14 five - 9:6 fix - 30:12 folks - 24:16 follow [2] 22:5, 25:7 followed - 16:20 foray - 14:10 foregoing - 32:12 formalism - 15:10 front [6] 10:15, 18:19, 20:9, 22:16, 23:1, 23:3 full - 12:24</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gather - 27:23 Gee - 7:17 General - 2:4 genuine - 21:10 giant - 7:18 gives - 9:11 goes - 8:8 gone - 9:3 gotcha - 15:10 governing - 19:11 government - 16:17 granted - 9:16 granting - 4:7 gravel [3] 6:10, 14:5, 15:20 ground - 22:3 growing - 9:19 guess [2] 18:18, 20:11</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>HANSON - 1:18 happened [3] 5:17, 7:19, 20:22 happens - 6:6 happy - 13:22 Harrison - 2:21 having - 10:10</p>	<p>hear [8] 4:11, 4:19, 4:20, 4:21, 11:12, 19:9, 20:1, 23:11 heard [5] 1:9, 13:10, 13:10, 15:13, 17:15 hearing [12] 4:2, 4:8, 9:20, 9:23, 9:24, 11:5, 16:15, 19:8, 24:2, 27:13, 29:15, 30:19 HEARINGS - 2:2 Helena [4] 1:11, 2:7, 2:16, 2:22 helped - 15:16 hereby - 32:7 herein - 32:9 hereunto - 32:15 HILLARY - 1:18 himself - 11:18 hoc - 25:23 hole - 7:7 honor - 6:4 however - 4:18</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>imagine - 25:24 implied - 25:6 importance - 8:8 imposed - 19:10 impossibility [3] 8:8, 9:18, 27:11 impossible - 9:2 inadequate - 12:2 inch - 17:16 inches [25] 6:14, 7:24, 8:5, 8:22, 11:20, 11:21, 12:5, 12:13, 12:18, 13:1, 13:14, 13:19, 13:22, 14:3,</p>	<p>14:6, 14:7, 15:14, 15:22, 16:2, 16:9, 20:4, 23:15, 26:21, 27:7, 27:22 include [2] 21:2, 24:24 included [3] 6:12, 21:1, 21:5 including - 16:13 incorporates [2] 17:20, 17:23 indicated - 16:1 indicating - 14:7 instead [2] 8:10, 20:4 interject - 20:20 intermediate - 24:10 internalized - 28:22 interpretations - 3:22 interrupted - 22:1 intervene - 30:12 intervening - 28:3 involved - 24:15 involving - 6:14 isn't - 15:9 issue [3] 8:21, 16:16, 23:17 issued [5] 5:18, 8:4, 23:2, 24:15, 26:2 issues [4] 5:12, 21:14, 25:10, 25:11 itself [2] 17:17, 26:25</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>JOHN [2] 1:17, 1:19 judgment [13] 4:7, 4:8, 9:22, 9:22,</p>	<p>10:4, 13:12, 15:16, 16:14, 19:5, 20:12, 20:16, 21:12, 21:19 judicial [3] 22:23, 24:19, 24:21 jurisdictional - 25:12 justice - 28:18</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>K-A-K-U-K - 11:16 Kakuk [15] 2:19, 5:3, 11:14, 11:15, 17:1, 19:18, 19:19, 19:20, 19:25, 20:18, 21:21, 21:23, 23:5, 29:22, 31:2 kicked [2] 6:24, 8:11 known [2] 12:4, 12:24</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lack [3] 25:18, 26:18, 28:16 landowner [3] 6:25, 28:19, 28:23 language - 21:10 LAURIE [3] 1:21, 32:5, 32:19 law [11] 2:20, 3:21, 4:5, 5:15, 10:4, 10:21, 14:14, 15:11, 19:2, 26:6, 28:17 lawful - 30:3 layers - 6:8 least - 6:3 leaves - 24:25 legal [9] 2:5, 8:7, 9:17, 15:10, 16:21, 18:8, 21:14, 24:4, 27:10 legally - 30:11 Legislature [2] 9:9, 9:11</p>	<p>less [2] 13:21, 14:9 Let's [2] 11:12, 22:13 level - 11:25 levels [2] 24:9, 26:9 Lewis [2] 32:4, 32:6 liability - 26:12 limit - 5:1 limitations [3] 9:11, 25:11, 25:12 limited - 25:21 listened - 27:5 Logistics [2] 1:5, 4:22 looking [3] 12:15, 20:2, 22:13 lost - 13:25 Lucas [12] 2:11, 5:5, 5:6, 9:8, 11:13, 14:20, 16:4, 17:13, 20:13, 24:2, 27:16, 28:1 luck - 14:8</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am [2] 5:3, 11:14 Madam [9] 5:5, 14:20, 18:17, 22:7, 22:20, 24:2, 29:2, 29:14, 29:19 makes - 26:6 making - 18:9 MAPA [4] 3:10, 24:17, 24:20, 24:24 March - 32:22 Mark [3] 2:11, 5:6, 23:25 material [11] 5:21, 6:10, 7:3, 7:23, 21:7, 21:11, 21:14, 21:24, 21:24, 22:2, 27:9 matter [7] 1:4,</p>
--	---	---	--	--	---

<p>19:8, 21:13, 22:25, 29:17, 29:25, 30:9</p> <p>matters [2] 9:21, 28:13</p> <p>Maybe - 24:18</p> <p>mea - 12:23</p> <p>meaningful - 10:3</p> <p>meet - 26:14</p> <p>Member [5] 24:3, 24:13, 26:23, 28:2, 28:23</p> <p>members [9] 1:17, 5:6, 11:10, 11:14, 16:24, 18:4, 18:13, 29:10, 30:17</p> <p>memo [2] 3:7, 3:11</p> <p>memorized - 24:18</p> <p>mentioned - 12:1</p> <p>met - 12:9</p> <p>Metcalf - 1:9</p> <p>Michael [3] 2:19, 11:15, 19:23</p> <p>million - 5:20</p> <p>mine [2] 6:15, 14:8</p> <p>mines - 14:10</p> <p>mining [4] 5:8, 5:9, 5:18, 6:7</p> <p>minute [4] 11:7, 13:25, 16:3, 22:8</p> <p>minutes [2] 5:2, 9:6</p> <p>missed - 18:21</p> <p>mistake - 28:16</p> <p>Mistakes - 11:22</p> <p>modified - 11:20</p> <p>modify [9] 3:21, 4:4, 9:13, 11:3, 11:18, 12:25, 13:7, 14:24, 15:3</p> <p>modifying [5] 4:6, 13:13,</p>	<p>13:14, 15:4, 25:21</p> <p>moment - 22:10</p> <p>Montana [10] 1:2, 1:11, 2:10, 2:13, 14:10, 24:5, 28:15, 28:19, 32:2, 32:7</p> <p>morning [2] 5:5, 11:14</p> <p>motion [12] 5:11, 10:4, 13:11, 18:16, 20:15, 21:12, 29:7, 29:13, 29:20, 30:13, 30:20, 31:1</p> <p>motions - 19:5</p> <p>move [2] 4:22, 29:14</p> <p>moved - 5:19</p> <p>moving - 3:4</p> <p>MT [3] 2:7, 2:16, 2:22</p> <p>Mulligan - 27:2</p> <p>multiple - 16:13</p> <p>myself - 9:20</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>named - 32:9</p> <p>nay - 30:24</p> <p>necessarily - 17:17</p> <p>needs - 29:6</p> <p>Nice - 19:25</p> <p>none - 30:19</p> <p>notarial - 32:16</p> <p>Notary [3] 1:22, 32:6, 32:20</p> <p>note - 10:9</p> <p>nothing [5] 9:14, 11:2, 23:1, 23:9, 25:2</p> <p>notice [2] 22:15, 22:15</p> <p>numbers - 21:4</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>obligation - 6:16</p>	<p>obligations [2] 6:2, 6:19</p> <p>occur - 26:9</p> <p>Oil [31] 1:5, 4:21, 5:22, 5:25, 6:16, 6:18, 6:20, 6:23, 7:9, 7:20, 8:10, 8:18, 9:25, 10:6, 11:16, 15:24, 15:24, 16:9, 19:7, 20:2, 23:16, 23:19, 23:21, 25:13, 25:17, 26:11, 26:16, 27:5, 27:21, 28:16, 30:10</p> <p>ones - 6:3</p> <p>open [4] 13:3, 13:23, 14:19, 15:5</p> <p>opencut [9] 5:9, 5:18, 6:2, 6:7, 6:10, 10:20, 10:24, 10:24, 14:10</p> <p>opening - 24:14</p> <p>operation [9] 6:12, 15:23, 17:7, 17:8, 17:15, 17:19, 17:20, 17:23, 18:1</p> <p>operator [2] 10:24, 10:25</p> <p>opinion - 7:2</p> <p>opponent - 15:11</p> <p>opportunities [3] 16:13, 29:24, 30:2</p> <p>opportunity - 26:3</p> <p>opposed - 30:23</p> <p>option [2] 3:18, 3:25</p> <p>options [4] 3:9, 3:13, 3:17, 9:13</p> <p>oral [3] 4:11, 4:17, 4:19</p> <p>order [48] 3:5, 3:18, 3:19, 3:21, 4:1, 4:3, 4:5, 4:6,</p>	<p>4:13, 4:14, 4:15, 8:14, 8:19, 9:13, 9:14, 9:16, 9:24, 10:5, 10:23, 11:4, 11:19, 12:25, 13:14, 14:24, 14:24, 14:25, 15:3, 16:15, 18:11, 19:3, 19:4, 20:3, 20:24, 21:19, 22:9, 23:2, 25:9, 25:10, 25:13, 25:20, 25:22, 26:12, 27:13, 28:4, 29:17, 30:6, 30:14, 30:15</p> <p>ordered [2] 11:19, 12:25</p> <p>ordering - 4:8</p> <p>original - 15:20</p> <p>otherwise [3] 15:5, 24:13, 27:15</p> <p>ourselves [3] 5:9, 5:10, 10:20</p> <p>outlined - 20:24</p> <p>overburden [24] 6:9, 6:15, 7:2, 7:6, 7:18, 7:24, 8:5, 8:23, 12:13, 12:19, 12:20, 12:21, 14:3, 15:22, 16:2, 16:9, 20:4, 23:6, 23:15, 23:18, 25:18, 26:22, 27:7, 27:22</p> <p>overdue - 9:4</p> <p>overtly - 23:15</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P.O. - 2:6</p> <p>packet [6] 3:8, 3:11, 4:12, 18:20, 19:4, 20:13</p> <p>pages - 32:12</p> <p>Pandora's [3] 13:3, 13:23,</p>	<p>15:6</p> <p>paraphrase - 25:3</p> <p>parcel - 17:10</p> <p>participant - 28:20</p> <p>parties [4] 4:16, 4:25, 5:1, 19:16</p> <p>party [2] 11:13, 23:24</p> <p>pay - 6:9</p> <p>penalties [3] 8:17, 12:18, 19:10</p> <p>penalty - 26:13</p> <p>perhaps - 15:15</p> <p>permit [66] 5:18, 5:24, 6:1, 6:2, 6:11, 6:17, 6:19, 7:13, 7:14, 8:1, 8:4, 8:20, 8:25, 9:3, 9:4, 9:16, 11:1, 12:12, 13:6, 13:7, 13:8, 13:13, 15:1, 15:2, 15:4, 15:8, 15:23, 15:25, 16:11, 17:7, 17:9, 17:10, 17:17, 17:19, 17:19, 17:24, 17:25, 18:25, 19:13, 23:8, 23:9, 23:16, 23:18, 23:19, 23:22, 24:14, 25:9, 25:18, 25:23, 26:1, 26:2, 26:3, 26:4, 26:15, 26:15, 27:2, 27:19, 28:5, 28:6, 28:11, 28:12, 28:13, 28:21, 30:1, 30:1, 30:4</p> <p>permittee - 15:21</p> <p>permitting - 10:2</p> <p>perspective - 26:6</p> <p>Petitioner [3]</p>	<p>5:22, 6:16, 15:16</p> <p>piles - 7:18</p> <p>pitch - 27:5</p> <p>placed - 20:9</p> <p>plan [9] 6:12, 15:23, 17:6, 17:8, 17:15, 17:18, 17:20, 17:23, 17:25</p> <p>playing - 15:10</p> <p>please - 14:16</p> <p>point [8] 8:11, 16:24, 18:19, 19:14, 24:4, 29:6, 29:23, 30:4</p> <p>position [2] 21:16, 27:24</p> <p>post - 25:23</p> <p>pre-app - 7:12</p> <p>preapplication - 8:2</p> <p>PREPARED - 1:21</p> <p>present - 4:17</p> <p>presented - 21:15</p> <p>prevent - 23:4</p> <p>principle [2] 5:15, 22:23</p> <p>prior - 6:22</p> <p>probably - 24:17</p> <p>problem [5] 7:20, 7:25, 12:3, 12:10, 28:2</p> <p>procedure [2] 16:20, 25:6</p> <p>procedures [2] 3:9, 16:6</p> <p>proceeding - 24:16</p> <p>proceedings [6] 1:7, 3:1, 3:14, 32:8, 32:10, 32:13</p> <p>process [5] 6:6, 8:3, 10:3, 15:12, 25:24</p> <p>progress - 12:14</p> <p>proposed [17] 3:10, 3:18, 3:21, 4:1, 4:2, 4:5, 4:13, 4:14,</p>
--	--	---	---	---	---

<p>18:11, 19:1, 19:4, 21:1, 21:2, 21:5, 29:16, 30:7, 30:14</p> <p>propriety - 21:18</p> <p>provided - 25:14</p> <p>provision - 24:18</p> <p>Public [3] 1:22, 32:6, 32:20</p> <p>pure - 10:21</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>Quality [2] 2:10, 2:14</p> <p>quarter - 5:20</p> <p>quoting - 25:16</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raised [4] 8:21, 10:5, 20:8, 25:15</p> <p>rather [2] 25:10, 26:25</p> <p>ready [2] 13:16, 29:7</p> <p>realize - 26:16</p> <p>really [2] 8:8, 15:3</p> <p>reason - 27:12</p> <p>reasons - 11:21</p> <p>rebut - 14:19</p> <p>rebuttal - 11:8</p> <p>recently - 16:13</p> <p>reclaim [4] 8:12, 8:16, 12:19, 19:10</p> <p>reclamation [10] 6:5, 6:13, 7:4, 8:24, 9:4, 10:20, 16:1, 25:17, 28:13, 28:15</p> <p>recognizing - 9:19</p> <p>recommended - 19:3</p> <p>record [6] 3:24, 4:1,</p>	<p>20:21, 22:19, 29:25, 32:13</p> <p>reduce [2] 13:2, 14:16</p> <p>reduction - 12:15</p> <p>references [2] 17:21, 17:22</p> <p>reflect - 11:1</p> <p>reflected - 18:11</p> <p>regard - 3:10</p> <p>regarding - 30:5</p> <p>regards - 18:8</p> <p>regulations - 15:1</p> <p>regulators - 16:18</p> <p>reject - 3:25</p> <p>related - 8:17</p> <p>relevant - 21:24</p> <p>relief - 20:3</p> <p>remaining - 9:7</p> <p>remanding - 23:5</p> <p>remedies [14] 5:16, 7:10, 8:10, 10:2, 10:11, 10:15, 11:23, 22:22, 24:8, 24:12, 24:23, 27:21, 27:25, 28:1</p> <p>remedy - 12:2</p> <p>reminder - 3:13</p> <p>reminds - 3:8</p> <p>removal - 7:22</p> <p>removed [2] 5:20, 27:9</p> <p>rendering - 24:11</p> <p>replace [4] 11:20, 13:1, 16:11, 20:3</p> <p>replaced - 16:2</p> <p>replacement - 6:14</p> <p>replacing - 26:21</p> <p>reported - 32:10</p> <p>Reporter [3] 1:22, 32:5, 32:20</p>	<p>representation - 23:14</p> <p>representations - 23:20</p> <p>representative - 6:18</p> <p>representing - 11:16</p> <p>represents [2] 6:21, 12:17</p> <p>request [2] 19:7, 29:22</p> <p>requests - 29:23</p> <p>requirement [2] 24:25, 28:15</p> <p>requiring - 20:3</p> <p>rescind - 11:19</p> <p>rescinded - 13:6</p> <p>resolves - 26:24</p> <p>respect [6] 20:15, 21:10, 21:11, 22:21, 24:21, 29:25</p> <p>respects - 11:7</p> <p>respond [2] 19:17, 23:25</p> <p>response [10] 10:3, 12:2, 18:5, 18:14, 20:24, 29:11, 30:4, 30:18, 30:22, 30:25</p> <p>responsibility - 26:21</p> <p>reverse [2] 9:14, 11:3</p> <p>reversing - 25:21</p> <p>review [9] 1:1, 3:23, 4:1, 18:22, 22:23, 24:9, 24:16, 24:19, 24:22</p> <p>Review's - 29:17</p> <p>revocation [2] 18:24, 19:13</p> <p>revoked [5] 23:8, 23:18, 23:19, 27:20, 30:2</p> <p>rises - 11:25</p> <p>risk - 23:24</p>	<p>Rock [2] 1:5, 4:21</p> <p>room [2] 1:9, 27:4</p> <p>RPR [3] 1:21, 32:5, 32:19</p> <p>Rule [2] 3:22, 21:10</p> <p>rules [2] 16:19, 19:11</p> <p>ruling [4] 10:7, 10:18, 10:18, 11:6</p> <p>run [3] 3:15, 26:3, 26:4</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>salvage - 7:6</p> <p>Sand [2] 14:5, 15:20</p> <p>Sarah [9] 2:3, 3:6, 17:1, 18:7, 19:7, 20:19, 21:16, 22:6, 22:21</p> <p>Sarah's [2] 22:9, 30:7</p> <p>sat [2] 27:4, 27:5</p> <p>save - 11:7</p> <p>savings - 25:1</p> <p>saying [4] 13:25, 20:14, 30:21, 30:24</p> <p>says [5] 13:14, 22:18, 24:21, 24:22, 25:2</p> <p>seal - 32:16</p> <p>seconded - 30:16</p> <p>seconds - 22:13</p> <p>seeking [3] 8:14, 14:23, 25:9</p> <p>seems - 17:16</p> <p>sense [3] 17:24, 17:25, 28:17</p> <p>September - 6:25</p> <p>Services - 2:5</p> <p>settled [2] 5:14, 24:5</p> <p>sheer - 16:21</p> <p>short - 5:17</p> <p>shorthand - 32:10</p>	<p>showed - 12:11</p> <p>showing - 14:3</p> <p>signature - 6:18</p> <p>signed - 26:20</p> <p>signify [2] 30:20, 30:23</p> <p>simple [3] 16:17, 26:5, 26:7</p> <p>simply [2] 26:25, 29:23</p> <p>site [14] 5:20, 5:21, 5:23, 6:13, 6:24, 7:3, 7:6, 7:17, 7:24, 8:11, 8:12, 8:16, 8:23, 27:9</p> <p>sitting - 24:11</p> <p>situation [5] 9:2, 13:4, 13:24, 14:1, 26:17</p> <p>six - 12:18</p> <p>Sixth [2] 1:10, 2:15</p> <p>soil [3] 6:8, 6:12, 15:14</p> <p>sole - 25:15</p> <p>SOLHEIM [2] 9:6, 16:3</p> <p>someone [2] 5:19, 15:7</p> <p>somewhere [2] 18:21, 27:17</p> <p>sort - 17:10</p> <p>speak [3] 10:12, 22:8, 22:11</p> <p>Special - 2:4</p> <p>specific - 9:10</p> <p>spreadsheet - 16:1</p> <p>SS - 32:3</p> <p>staff [2] 2:12, 5:6</p> <p>standing - 13:16</p> <p>start - 5:4</p> <p>starting - 11:10</p> <p>state [5] 1:2, 2:9, 29:20, 32:2, 32:7</p> <p>statement [3]</p>	<p>20:8, 20:16, 20:23</p> <p>statements - 26:20</p> <p>statute [3] 9:15, 13:1, 25:11</p> <p>statutes - 19:12</p> <p>step - 4:11</p> <p>stock - 7:18</p> <p>stockpile [2] 7:7, 12:22</p> <p>stockpiling - 12:21</p> <p>strict - 15:9</p> <p>strictly - 24:21</p> <p>strip [2] 6:7, 7:6</p> <p>strongly - 27:12</p> <p>stuck - 23:20</p> <p>submitted - 12:16</p> <p>substantial - 4:3</p> <p>sufficient - 7:2</p> <p>summary [14] 4:7, 4:8, 5:11, 9:21, 9:22, 10:4, 13:12, 15:15, 16:14, 19:5, 20:12, 20:16, 21:12, 21:19</p> <p>superseding - 28:3</p> <p>support - 29:19</p> <p>supported - 4:3</p> <p>supposed - 7:5</p> <p>system - 16:19</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tacitly - 23:15</p> <p>taken [3] 10:17, 13:5, 32:8</p> <p>taking [3] 6:22, 16:14, 23:17</p> <p>talks - 24:19</p> <p>technical [2] 24:15, 24:16</p>
---	---	---	--	---	--

<p>technically - 22:24 telephone - 1:19 tells - 20:13 ten - 5:2 tend - 6:5 term - 26:4 terms [5] 15:2, 15:8, 25:18, 26:14, 28:12 testimony - 5:2 thank [9] 9:8, 11:13, 14:17, 16:22, 19:18, 22:3, 27:15, 28:24, 31:2 themselves [2] 7:10, 26:18 there's - 29:3 therefore - 8:24 thereof - 4:9 they'll - 7:8 they're [8] 7:5, 7:19, 17:10, 19:12, 21:13, 21:14, 21:23, 26:18 they've [2] 10:14, 26:17 thinking [2] 21:9, 24:17 thinks - 30:10 third - 3:25 thirty - 22:13 though - 11:25 ticked - 17:17 timely - 29:23 today [2] 10:9, 23:3 top [2] 6:8, 12:17 track - 13:25 transcribed - 32:11 TRANSCRIPT - 1:7 transcription - 32:11 travel - 10:25 trucks - 13:16 true - 32:12 turned - 6:22 Tweeten [24] 1:19, 18:17,</p>	<p>18:24, 19:6, 19:20, 19:23, 20:10, 20:11, 21:6, 21:9, 21:21, 22:7, 22:20, 24:1, 24:3, 24:14, 25:19, 26:24, 27:16, 28:2, 28:23, 29:2, 29:14, 29:19 twelve [18] 11:21, 12:15, 13:2, 13:9, 13:15, 13:21, 13:22, 13:22, 14:3, 14:7, 14:9, 14:16, 14:16, 15:14, 20:5, 22:3, 27:7, 27:23 <hr/> U <hr/> ultimately - 26:25 uncontested [8] 5:11, 13:18, 15:13, 15:15, 15:18, 16:7, 20:14, 27:7 uncontroverted - 14:2 underlying [3] 9:16, 15:4, 15:8 understand [7] 16:17, 18:2, 19:6, 23:8, 26:7, 26:24, 29:5 understanding [3] 3:12, 4:16, 17:12 understood - 17:14 undertaken - 25:25 undertook [2] 5:25, 6:1 undisputed - 20:23 unfortunate - 14:8 Unfortunately - 6:20 unheard - 14:4 unique - 5:13</p>	<p>unpleasant - 16:19 upon [2] 5:14, 9:16 urge - 27:13 using - 32:11 <hr/> V <hr/> vacuum - 14:25 version - 5:17 via - 5:23 view - 23:11 violating - 28:6 violation [2] 28:4, 28:9 violations - 8:17 vote - 30:20 <hr/> W <hr/> waited - 8:10 wanted - 27:18 We'd - 24:14 we'll [7] 4:20, 4:22, 5:4, 13:15, 14:17, 14:19, 30:19 we're [7] 3:4, - 14:2, 8:7, 12:15, 13:16, 13:22, 16:21, 22:12 we've [3] 9:3, 28:10, 30:10 weeds [2] 19:16, 29:21 what's [2] 17:6, 23:3 WHEREOF - 32:15 WHEREUPON - 3:1 whole - 15:12 wind - 25:7 wish [2] 4:17, 4:18 within - 8:12 WITNESS - 32:15 wouldn't - 13:5 wrong [3] 17:12, 28:21, 30:11</p>	<p><hr/> Y <hr/> yards [3] 5:21, 7:23, 27:8 yet - 10:11</p>		
--	---	---	--	--	--