

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)
June 8, 2018)

TRANSCRIPT OF PROCEEDINGS

Heard at Room 111 of the Metcalf Building
1520 East Sixth Avenue
Helena, Montana
June 8, 2018
9:00 a.m.

BEFORE CHAIR CHRIS DEVENY,
BOARD MEMBERS JOHN DEARMENT,
CHRIS TWEETEN, DEXTER BUSBY,
HILLARY HANSON;
and JOHN FENTON (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 and welcome to the Board of Environmental Review.
6 I'm Chris Deveny, Chair of the Board. We'll go
7 ahead, and Lindsay will have a roll call, please.

8 MS. FORD: Chris Deveny.

9 CHAIR DEVENY: Present.

10 MS. FORD: John Felton.

11 MR. FELTON: Present.

12 MS. FORD: Dexter Busby.

13 MR. BUSBY: I'm here.

14 MS. FORD: Hillary Hanson.

15 MS. HANSON: Here.

16 MS. FORD: Tim Warner.

17 (No response)

18 MS. FORD: Tim Warner.

19 (No response)

20 MS. FORD: John Dearment.

21 MR. DEARMENT: Here.

22 MS. FORD: Chris Tweeten.

23 MR. TWEETEN: Here.

24 MS. FORD: We do have a quorum.

25 CHAIR DEVENY: Okay. Thank you. Let's

1 go around and identify others in the room that are
2 at the meeting. If you want start over there.

3 MS. SCHERER: Sandy Scherer, legal
4 secretary, DEQ.

5 MR. LUCAS: Mark Lucas, DEQ staff
6 attorney, Air Energy and Mining Division.

7 MR. KLEMP: David Klemp, Air Quality
8 Bureau Chief.

9 MS. HARBAGE: Rebecca Harbage, Air
10 Quality planner.

11 MR. RASH: I'm Hoby Rash, Field Services
12 Section Supervisor, Air Quality.

13 MR. MOSER: Kurt Moser, DEQ Water
14 Quality Attorney.

15 MS. TRUEBLOOD: Carla Trueblood,
16 Financial Specialist, Air Energy and Mining
17 Division.

18 MS. ULRICH: Liz Ulrich, DEQ, Analysis
19 and Planning Section, Air Quality Bureau.

20 MR. OLSON: Alan Olson, Montana
21 Petroleum Association.

22 MS. TRENK: I'm Peggy Trenk, Treasure
23 State Resources Association.

24 MR. CRISWELL: Gordon Criswell, Talen
25 Montana.

1 MR. DAVIS: Tim Davis, I'm Water Quality
2 Division Administrator.

3 MR. URBAN: Eric Urban, Water Quality
4 Planning Bureau Chief.

5 CHAIR DEVENY: Thank you. Are there any
6 other members or people from the public that are
7 on the phone line today? If there are, could they
8 speak up and identify themselves.

9 (No response)

10 CHAIR DEVENY: Okay. So Lindsay, it is
11 just John Felton is the only one that's on the
12 phone?

13 MS. FORD: Correct.

14 CHAIR DEVENY: Okay. Great. Thank you.
15 Welcome, John. All right. Well, with that, let's
16 move on to our administrative items then. You
17 have the minutes before you. Does anybody, any
18 Board members have additions or corrections to the
19 minutes?

20 (No response)

21 CHAIR DEVENY: Or any from DEQ staff? I
22 know George was just going to be a little late
23 today. Any staff members know of any -- George,
24 any corrections or additions to the minutes that
25 you --

1 MR. MATHIEUS: (Shakes head)

2 MR. TWEETEN: Move adoption.

3 CHAIR DEVENY: Chris Tweeten has moved
4 the adoption of the minutes. Is there a second?

5 MR. BUSBY: Second.

6 CHAIR DEVENY: Seconded by Dexter. All
7 in favor, please say aye.

8 (Response)

9 CHAIR DEVENY: Any opposed?

10 (No response)

11 CHAIR DEVENY: All right. With that,
12 let's move on to our next order of business which
13 is briefing items, and we'll start with contested
14 cases, and I'll turn it over to Sarah Clerget, our
15 Board attorney.

16 MS. CLERGET: Good morning, everybody.
17 I'll just go through these on the agenda. First
18 we have under briefing items II(A)(1)(a), CMG
19 Construction, this is just proceeding through a
20 scheduling order. No updates there.

21 Columbia Falls. I apologize for not
22 having the decision to you for this meeting. I
23 hope to have it for the next meeting. But you all
24 know the status of that case very well.

25 Copper Ridge Subdivision is Items (c)

1 and (d) together. We were hoping that the parties
2 were going to stipulate to a schedule that would
3 allow it to be on this case, but they wanted more
4 time for their exceptions briefs, so that will be
5 on the agenda for the next meeting for a decision
6 from you guys.

7 Item (e), Fischer Land Development, the
8 scheduling order is in place and they're
9 proceeding.

10 Item (f), Wagoner Family, we're in the
11 penalty phase, and just put a scheduling order in
12 place for that.

13 Little Bear is Item (g). And we issued
14 a scheduling order and had a scheduling
15 conference, so that is proceeding according to
16 that.

17 No. 2 is the non-enforcement cases.
18 2(a) is Westmoreland. There's a stay on that
19 pending a decision from the Montana Supreme Court,
20 so no update there.

21 Item (b), we have a little bit more to
22 talk about, and I'm going to wait. Lindsay is
23 going to need to pass you out something here. But
24 the big news here is this case is proceeding on a
25 scheduling order, but one of the parties, the

1 mine, has issued two subpoenas which the Montana
2 Environmental Center has moved to quash, and the
3 way that they moved to quash was based on
4 constitutional grounds and for separation of
5 powers issue. As an Executive Branch board, we
6 can't rule on constitutional issues. That's the
7 purview of the Court.

8 So after an oral argument and a bit of
9 discussion on the issue, all the parties decided
10 to go to District Court, and they filed an action
11 there regarding the subpoenas, so the District
12 Court can decide whether or not the subpoenas will
13 be quashed.

14 In that process, BER was named as one of
15 the parties in the District Court suit, so I
16 wanted to let you guys know that BER has been
17 named in the suit, but my intention -- if you
18 believe that you can assign it to me, and I don't
19 see any reason why you couldn't -- my intention
20 would be to just file a notice of appearance in
21 the case so we get any information that's filed,
22 and then file what's called essentially a notice
23 of non-participation. So you just say, "Court,
24 we're here, but we don't take a position one way
25 or the other," and let them sort it out.

1 And then the underlying case has been
2 stayed while they sort that out in District Court.
3 And then once they come back with an answer from
4 the District Court, the underlying case will
5 proceed.

6 So I wanted Lindsay to pass out to you
7 the Notice and Complaint, just so you had it, to
8 you know you have been sued, but there is really
9 nothing that you need to be concerned about, or
10 nothing that you need to do as long as you agree
11 with me that we're not going to participate in any
12 -- take any position or participate in any
13 meaningful way.

14 MR. FELTON: Sarah, excuse me. This is
15 John Felton. Can that be emailed to me, please?

16 MS. FORD: Yes.

17 CHAIR DEVENY: So is that something we
18 need to take action on now?

19 MS. CLERGET: I think the only thing
20 that you would need to take action on would be to
21 decide whether or not you're comfortable with me
22 representing you in the District Court action as
23 both the Hearing Examiner and the Board attorney.

24 If there were any kind of meaningful
25 reaction, if we were going to have to do any kind

1 of argument or briefing, I would encourage you to
2 have another attorney; but because it is
3 essentially just filing a notice of appearance and
4 this notice of non-participation, I think I can
5 handle it without you guys having to bring
6 somebody else into it.

7 So that I think is what takes a seconded
8 motion is if you just wanted me to represent you
9 in this and follow that.

10 CHAIR DEVENY: Let's have a Board
11 discussion on this while we're here on the agenda
12 item. Do any of the Board members feel that we
13 need to have anybody other than Sarah work on this
14 issue?

15 MR. TWEETEN: Madam Chair. I don't
16 necessarily, but I have a question, I guess.

17 Just looking at the Complaint really
18 quickly, it looks like it only demands declaratory
19 injunctive relief, correct?

20 MS. CLERGET: Yes, I think so.

21 MR. TWEETEN: It does demand a
22 declaration with respect to the jurisdiction of
23 the Board and the Hearing Examiner to resolve
24 constitutional claims raised by certain parties.
25 Is that an issue on which you think the Board

1 might want to take a position one way or other?

2 MS. CLERGET: I don't think so because
3 it is pretty straight forward. I mean Jarussi is
4 a Supreme Court case on point, and it says that
5 executive branch boards don't have jurisdiction
6 over constitutional issues, so it's pretty
7 straight forward.

8 And that was what I brought up to the
9 parties, in that they filed a motion to quash in
10 the underlying case, and it was on the First
11 Amendment grounds, and I said, "I can't rule,
12 based on Jarussi, I can't rule on First Amendment
13 grounds. What do you want to do? Do you want to
14 withdraw that as a ground for this motion to
15 quash, or do you want to proceed and get an answer
16 from the District Court?," and so they decided
17 they wanted to go to District Court.

18 MR. TWEETEN: So when those kinds of
19 issues are raised in front of the Board, we rely
20 on the presumption of constitutionality in
21 statutes, and presumption of regularity, and just
22 reject those claims out of hand and let them raise
23 them on judicial review; is that the way it works?

24 MS. CLERGET: Yes, but I think they need
25 a practical answer on this motion to quash on

1 whether they can depose these two witnesses, so we
2 couldn't put it off until the end of the case.

3 MR. TWEETEN: No, I understand that. I
4 guess I'm just trying to clarify in my own mind
5 whether there might be some benefit to the Board
6 appearing and filing arguments on that question,
7 but I agree with you. I think the issue of law
8 doesn't seem to be all that unclear right now, and
9 I don't think we want to be deciding the
10 constitutionality of statutes and things like that
11 anyway.

12 MS. CLERGET: No. And I think on the
13 grounds of this, it is a constitutional issue that
14 they're talking about jurisdiction on is the First
15 Amendment, essentially whether it is going to
16 chill their First Amendment rights, the issuance
17 of the subpoena is going to chill their First
18 Amendment rights, association particularly. So I
19 don't think that's ever something that we would
20 want to be ruling on.

21 MR. TWEETEN: No, but who will be --
22 Will the Department be appearing and opposing on
23 this?

24 MS. CLERGET: The Department is not
25 named, so I don't know. My expectation is that it

1 would probably be MEIC. I know in the underlying
2 action, Ms. Pfister and Mr. Charter both have
3 Counsel to represent them in addition to MEIC, so
4 they've appeared in the underlying action, so my
5 guess is they would probably appear to represent
6 them here as well.

7 MR. TWEETEN: Is MEIC's position running
8 parallel with that of the Board here?

9 MS. CLERGET: No. The Board hasn't
10 taken a position one way or the other.

11 MR. TWEETEN: Thank you.

12 CHAIR DEVENY: Chris, are you
13 comfortable with Sarah's recommendation to us
14 then?

15 MR. TWEETEN: Yes, Madam Chair, I think
16 I am.

17 CHAIR DEVENY: Is there a motion then
18 from the Board members to continue to have Sarah
19 represent us on this case and before the District
20 Court?

21 MS. HANSON: So moved.

22 MR. BUSBY: I'll second that.

23 CHAIR DEVENY: It's been moved and
24 seconded. Is there any further discussion?

25 (No response)

1 CHAIR DEVENY: All those in favor, say
2 aye.

3 (Response)

4 CHAIR DEVENY: Any opposed?

5 (No response)

6 CHAIR DEVENY: Motion carries.

7 MS. CLERGET: So moving on to 2(c) is
8 Western Energy, and the parties are still working
9 on their post hearing briefing. They haven't
10 submitted it to me yet. So they asked for an
11 extension on that, which I granted. This was a
12 big hearing, so the proposed findings of fact and
13 conclusions of law are big. And so that will
14 probably be coming before me for a decision
15 relatively soon. I can't remember the deadline
16 that I gave them on that. Then I'll get to
17 issuing a decision.

18 Montinore Minerals is (d), and we just
19 yesterday actually -- Summary judgment is pending
20 in this case, and the parties asked for oral
21 argument, and they couldn't get themselves
22 scheduled for oral argument until the 9th of July.

23 So we had a scheduling conference
24 yesterday and vacated the hearing that's set for
25 August 20th, and they're going to wait until they

1 get a decision on summary judgment before we set a
2 new schedule if necessary, because depending on
3 what happens with summary judgment, we may not
4 need a new schedule.

5 (e) Laurel Refinery is stayed until
6 August 24th, and that's hopefully because they're
7 going to settle.

8 (f) JR Civil is stayed. They're filing
9 a joint status report every I think it's 30 days
10 or 60 days -- I can't remember -- so the next one
11 is due next week, and they're continuing to work
12 on their settlement.

13 (g) is Motor Vehicle Wrecking Facility
14 No. 0376. And we have stayed it until June 1.
15 And I haven't heard -- I apologize because I
16 haven't updated this since this happened -- but
17 the bottom line is Mr. Payne has tried to appear.
18 His Counsel has withdrawn, and he's trying to
19 appear on his own behalf, but he's appearing as a
20 corporation. Payne Logging is a corporation. So
21 he can't appear.

22 When you have a corporation, you have to
23 have a lawyer. And so we've issued an order
24 telling him that, and he had until June 1st to
25 show cause or get a lawyer, and that hasn't

1 happened. He's called several people several
2 times to try and get legal advice, but obviously
3 that has not happened.

4 And so I think he's struggling a little
5 bit, and I would probably have to issue another
6 order here shortly because it doesn't seem like
7 he's gotten Counsel in that case. So we can't
8 move forward without him having Counsel.

9 No. 3, contested cases not assigned to a
10 Hearing Examiner, Western Energy.

11 CHAIR DEVENY: Do we want to have DEQ --

12 MS. CLERGET: Yes, I think probably.

13 CHAIR DEVENY: Norm, I think you were
14 going to cover this for us.

15 MR. MULLEN: Norm Mullen, Department
16 staff attorney, and I'm acting as Chief Counsel
17 today.

18 The situation, as I understand it, as is
19 stated in the item in the agenda, the last
20 sentence. There is an appeal to District Court,
21 and opening briefs are due on June 13th, next
22 week.

23 Because this is an appeal of a matter
24 that is before the Board, we have to be very
25 careful about talking about matters that are in a

1 contested case outside of a formal proceeding with
2 Counsel for the other sides present.

3 CHAIR DEVENY: Yes. Okay. Thank you.

4 MR. MULLEN: Thank you.

5 MS. CLERGET: No. 4 Oilfield. I just
6 wanted to let you guys know that that has been
7 appealed. That was a decision that you rendered
8 at your last meeting. That's been appealed up to
9 District Court. So Lindsay filed a certified
10 record of our proceeding, and that is going
11 forward, and I will keep you updated on the
12 status. Hopefully it doesn't come back.

13 I think that concludes the contested
14 case update.

15 CHAIR DEVENY: Thank you, Sarah. We'll
16 move over to DEQ then, George, for other briefing
17 items. I think we have some briefing on some
18 revised water quality standards.

19 MR. MATHIEUS: Yes, Madam Chair. I
20 believe Eric Urban is presenting before the Board
21 on that.

22 MR. URBAN: Madam Chair, members of the
23 Board, for the record, my name is Eric Urban. I'm
24 the Bureau Chief for the Water Quality Planning
25 Bureau here at the Department, and that

1 responsibility, one of my roles is overseeing our
2 Water Quality Standards Program.

3 Today I'm here to speak largely to two
4 different topics. One will be setting site
5 specific criteria for arsenic on the Yellowstone
6 River, and the other will be speaking to frequency
7 and duration for human health criteria. I'll try
8 and make that little less jargony when we get
9 there.

10 So starting with the Yellowstone
11 arsenic, I guess before I get too far, I do want
12 to point out that we have others in the audience
13 working for the Department that are integral in
14 this topic. One is Melissa Schaar. She is our
15 lead technical expert, and has been on this topic
16 for several years now, and has done some I guess
17 nationally cutting edge type work on setting
18 criteria for natural.

19 And other would be Ms. Myla Kelly, our
20 Standards Section Supervisor. So I wanted to make
21 sure I pointed that out.

22 So arsenic in Montana has been a topic
23 that is well known for at least the last 30, 40,
24 50 years. We've known that it's high in
25 concentration in our surface waters and

1 groundwater throughout much of Montana. The
2 highest concentrations originate off of
3 Yellowstone National Park and geologic formations
4 therein.

5 Over the past several years we've
6 collected additional data on both the Madison
7 River side and the Yellowstone River side in an
8 attempt to understand what those concentrations
9 are, and largely how much of it is truly natural.

10 In addition to the science side of this,
11 we've worked with work groups and stakeholders for
12 several years now in an attempt to understand how
13 to set natural criteria or standards to protect
14 natural.

15 Through the course of that, we feel very
16 confident that we know what the natural
17 concentrations are for the Yellowstone River, to
18 the levels of -- very little of the arsenic do we
19 not know where it comes from, and the majority of
20 it, some 95 percent or more, is coming from
21 natural sources.

22 Less than 2 percent or around 2 percent
23 of that arsenic can be attributed to humans, that
24 being either point source or nonpoint source, and
25 then there is a little uncertainty where our

1 technique isn't that sharp, but for the purposes
2 of setting criteria and managing surface waters,
3 we're very confident in our knowledge of arsenic.

4 So that gives us a concentration. We
5 know that arsenic in Montana ranges, and
6 Yellowstone, ranges from high 30 micrograms per
7 liter down to, well, zero in some situations. But
8 coming out of Yellowstone, it is high 30s, pushing
9 40 micrograms per liter arsenic.

10 For scale, the human health criteria or
11 MCL for arsenic is ten, and that is the current
12 standard that's set for the Yellowstone River.
13 And you can see the conundrum we're in when it
14 comes to applying standards where naturally
15 they're exceeded constantly, if not frequently.

16 So we've got this range. I guess I
17 should also point out the aquatic life criteria in
18 arsenic is much higher than the human health one.
19 It is 150 micrograms. So this effort will not be
20 changing aquatic life criteria for the Yellowstone
21 River.

22 So now we've got the science done, and
23 we're very confident of arsenic levels. The next
24 question is: How do you pick a number out of a
25 range? How do you consistently choose a number

1 when it's constantly variable, daily, monthly,
2 annually, flow based, etc.? And that's where Ms.
3 Schaar has provided that technical expertise, and
4 provided the consistent documentation on how to do
5 that.

6 In the fall of this year, we'll be
7 coming to the Board presenting a rule package that
8 shows multiple numbers from the Yellowstone
9 through to the mouth of the Clark Fork River
10 somewhere near Laurel.

11 And this rulemaking will be calling out
12 a different approach than what exists today.
13 Today the arsenic number is to protect human
14 health. The arsenic number going forward will be
15 driven to protect natural. Because it is higher
16 than the human health numbers, we want to be very
17 transparent in what that number is meant to
18 protect, so we'll be calling out a different use
19 there.

20 The rule package will have a table that
21 specifies those uses it will protect. We'll also
22 be bringing rules to discuss mixing zones, the
23 implementation on how it will work within permits.
24 Then also we'll be bringing rules to describe how
25 to use it with nondeg regulations. So again,

1 implementation tools.

2 So in large, that's the package that
3 you'll be seeing this fall. It's one that we've
4 been working on for several years now, and it is a
5 concern or a natural issue that's been present,
6 well, forever really in Montana; and this is our
7 well, long planned out attempt at satisfying the
8 conditions for no purer than natural in our
9 surface water quality standards.

10 So I guess with that, I'll turn it to
11 the Board for questions on arsenic before I get to
12 the next topic.

13 CHAIR DEVENY: Questions from any Board
14 members?

15 MR. BUSBY: The only question I have is
16 is this salable to the EPA?

17 MR. URBAN: Madam Chair, Mr. Busby,
18 we've worked closely with the EPA all along as we,
19 too, had that concern from the very beginning.
20 Nationally, I'm not aware of any other large scale
21 water bodies that have arsenic at these
22 concentrations.

23 The EPA's requirement is to have a
24 criteria that protects the use. So in this case,
25 we'll be developing criteria to protect natural,

1 and as such, we do not anticipate concerns with
2 EPA. And they have been a close partner all
3 along.

4 CHAIR DEVENY: I had a question in
5 regards to the arsenic work. These standards
6 apply to surface water, but I'm assuming that your
7 scientific research included groundwater and the
8 relationship between surface water. Is that
9 accurate? And along that line, are you
10 anticipating changing any groundwater standards
11 with arsenic?

12 MR. URBAN: Madam Chair, members of the
13 Board, that's a very astute question. So this
14 rulemaking effort will speak specifically to
15 segments of the Yellowstone River, and it will be
16 not only limited to surface water, but it will be
17 limited to those segments very targeted to our
18 understanding.

19 Groundwater standards are a little bit
20 different beast. One thing that we will be
21 looking at in the near future is rewriting some of
22 our groundwater standards. I'll go into that at
23 some other point. But largely this effort will
24 not be speaking to arsenic in groundwater.

25 We did look at it as part of those

1 interactions in this effort. We have learned a
2 considerable amount, and that has been one of the
3 big benefits of this project is our knowledge of
4 arsenic.

5 And I can tell you with all of our
6 outreach we speak to the standards we're talking
7 about, but then while it is not specific to our
8 work, we're bringing in the groundwater mapping,
9 because there is a lack of public awareness of the
10 arsenic concentrations in Montana. And that
11 speaks directly to private well owners.

12 For example, the entire Madison Valley
13 is largely higher than the MCL, and they're at a
14 higher risk of cancer for consuming that
15 groundwater. So it has been part of all of our
16 stakeholder outreach. Even though it is a little
17 bit outside of our direct authority, we feel very
18 important to continue that outreach.

19 CHAIR DEVENY: All right. Thank you.

20 MR. URBAN: So the next item I'll talk
21 about is frequency and duration for human health
22 criteria.

23 So when we hear the word "standard," we
24 think of it as a number. That number really is
25 required to have three pieces to it. One is the

1 number itself, and then we talked to is
2 magnitude. The other pieces are frequency, so how
3 often does it occur, or can it occur; and then
4 duration, how long can it occur when it does. So
5 water quality criteria really has those three
6 parts -- magnitude, frequency, and duration.

7 Our current regulations within DEQ7
8 Footnote 16 have this phrase included in them,
9 specific to human health criteria. It says,
10 "Surface or groundwater concentrations may not
11 exceed these values." That's been interpreted
12 that no sample, no single sample may exceed the
13 human health magnitude.

14 So what that has done is it creates a
15 very high level of conservatism with not only our
16 monitoring and assessment work, but also with our
17 permitting programs. So when we look at it from a
18 technicals perspective, human health, what is a
19 human need with respect to arsenic for protection
20 or respect to any of the human health parameters,
21 all those are calculated on much longer exposure
22 periods.

23 So our criteria to protect humans with
24 drinking water use a 70 kilogram human drinking
25 two liters of water per day every day, plus 17 and

1 a half grams of fish consumption on average, plus
2 a 70 year exposure. So it is a very long
3 exposure. It is very constant and consistent with
4 those numbers.

5 When we apply a "no single sample shall
6 exceed" type approach, we're quite, quite,
7 conservative, and much more stringent than any of
8 the Federal regulations or guidance on this topic.

9 So we've done the technical side of it
10 now. We fully understand what a human needs with
11 respect to human health protection, frequency, and
12 duration. What we'll be proposing now will be in
13 direct line with Federal guidance, and the
14 scientific nature of all of those pollutants.

15 So rule package pieces that we'll be
16 bringing to the Board will include a revised
17 Footnote 16, and it will speak to largely
18 carcinogens separate, then toxic parameters --
19 that will be evident in our rule package -- with
20 different frequency and duration for either, one
21 that's technically appropriate for that topic.

22 We'll also be revising our low flow
23 designs for mixing zones and permit development in
24 order to accurately again implement those criteria
25 as needed.

1 So I guess there is a lot of jargon in
2 that. I would open it to the Board if there is
3 any technical questions.

4 MR. DEARMENT: Madam Chair, Mr. Urban.
5 I understand there is a great deal of conservatism
6 rolled into that, but it seems like your process
7 for a long time --

8 I'm just curious what's motivating this,
9 given that the system you have now I assume is
10 working reasonably well, that that conservatism
11 that's rolled into it is actually a good thing
12 when you're talking about human health and
13 carcinogens.

14 MR. URBAN: Madam Chair, Mr. Dearment.
15 What's working now, so when you have a level of
16 "no sample shall exceed," there is several layers
17 of conservatism that happen. One of those
18 unintended consequences has been the listing of
19 impaired water bodies.

20 So as written, we look back for the past
21 ten years of data, so we look at a ten year data
22 set. We may have, for example, 100 samples in
23 that data set of that receiving water.

24 As current, a single sample in the past
25 ten years considers that water body impaired

1 creates another process -- developing restoration
2 plans, or TMDL's -- when in fact we really have no
3 technical driver for that to occur that we, one,
4 largely there isn't a problem in that water body;
5 and two, it is not a problem for human health
6 consumption at that point.

7 So what's happened is we've created a
8 paperwork end loop that's really unnecessary for
9 the water body, and it is a resource drain on the
10 Department, and a bit of a distraction from real
11 human health concerns. And we have those coming
12 up this fall, too.

13 So if that answers your question.

14 MR. DEARMENT: Yes, thank you.

15 CHAIR DEVENY: Any other questions from
16 Board members?

17 (No response)

18 CHAIR DEVENY: Have you put together a
19 stakeholders group for this? Do you have plans
20 to?

21 MR. URBAN: Madam Chair, members of the
22 Board, one of the reasons you're not seeing a
23 proposal to initiate rules at this point is for
24 that exact reason. We feel there is more
25 stakeholders outreach on this topic to occur over

1 the summer. And I guess that's part of the
2 reason.

3 CHAIR DEVENY: All right. Any other
4 questions?

5 (No response)

6 CHAIR DEVENY: All right. Thank you
7 very much.

8 MR. TWEETEN: Madam Chair. So does that
9 mean you will be putting together a group?

10 MR. URBAN: Madam Chair, Mr. Tweeten. I
11 think I wouldn't recommend us to put a group
12 together, but we'll certainly be doing a road show
13 and traveling and reaching out to multiple
14 stakeholders and individuals throughout the state.
15 I do not anticipate a work group.

16 MR. TWEETEN: Okay. Thank you.

17 CHAIR DEVENY: Okay. Let's move into
18 Board action items then, and let's refer to Page
19 11 of our packet, and where DEQ is going to talk
20 to us about initiating rulemaking on air quality
21 operation fees.

22 MS. ULRICH: Good morning, Madam Chair,
23 members of the Board. My name is Liz Ulrich, and
24 I'm the supervisor of the Analysis and Planning
25 Services Section for the Department's Air Quality

1 Bureau.

2 So as promised at the last Board
3 meeting, today the Department is asking the Board
4 to initiate rulemaking to amend air quality
5 operation fees as established in Section 17.8.505
6 of the Administrative Rules of Montana.

7 I'm going to keep this initiation
8 testimony at a higher level, but the Department
9 will certainly provide additional details at the
10 public hearing should the Board approve our
11 request to initiate rulemaking. And of course I'm
12 available to answer any questions that you have
13 throughout this meeting.

14 Under Section 75-2-220 of the Montana
15 Code Annotated, the Department assesses fees that
16 are sufficient to cover the reasonable costs,
17 direct and indirect, of developing and
18 administering the permitting or registration
19 requirements of the Clean Air Act of Montana.

20 Montana's existing air quality
21 permitting and registration programs are primarily
22 supported by fees paid by businesses regulated
23 under this program.

24 There are two main types of air permit
25 and registration fees. The first are permit

1 application or registration fees paid by those
2 businesses that are either obtaining a new permit
3 or registration, or modifying an existing air
4 quality permit; and the second being annual
5 operation fees paid by all companies that are
6 required to hold an air quality permit or
7 registration.

8 The Board approved an increase in the
9 application fees in 2014, but the operation fees
10 haven't been increased since 2009.

11 In this action, the Department is asking
12 the Board to consider revising those annual air
13 quality operation fees which are required for all
14 facilities that hold an air quality permit, either
15 those that have been issued a Montana air quality
16 permit, an air quality operating permit, or those
17 that have registered in lieu of obtaining a
18 Montana air quality permit, such as oil and gas
19 well facilities.

20 The air quality operation fee for
21 facilities other than portable facilities and
22 registered oil and gas well facilities consists of
23 a flat administrative fee, plus a fee based on the
24 actual or estimated actual tonnage of air
25 pollutants emitted by the facility during the

1 previous calendar year.

2 This per ton fee is assessed for the
3 amounts of PM-10, sulphur dioxide, lead, oxides of
4 nitrogen, and volatile organic compounds emitted.
5 Portable facilities and oil and gas well
6 facilities are assessed a flat fee only.

7 So more specifically, the Department is
8 asking the Board to initiate rulemaking that will
9 propose to increase the operation fee for
10 facilities that registered in lieu of a permit
11 from \$800 to \$900. For certain facilities that
12 require air quality permits, the request is to
13 increase the administrative fee from \$800 to \$900,
14 and the per ton fee from \$38.24 per ton up to an
15 amount not to exceed \$45.37 per ton of emissions.

16 As I mentioned earlier, the last time
17 the Board raised air quality operating fees was in
18 2009. For that year, the reported emissions were
19 more than 90,000 tons. In 2017, roughly 49,000
20 tons of pollutants were emitted.

21 The proposed fee increase would allow
22 the Department's Air Quality Bureau to collect
23 sufficient revenue to support the appropriate
24 implementation of the air quality program.

25 In anticipation of this rulemaking, Air

1 Quality Bureau staff have been engaged in
2 discussions with the Clean Air Act Advisory
3 Council or CAAAC over the last several months.
4 CAAAC is made up of members of the regulated
5 community, trade groups, and environmental groups.

6 We have discussed why we are requesting
7 a fee increase, how we are improving our internal
8 processes to ensure we are spending their fee
9 money wisely, and how our current fee structure is
10 set up, and how it might look in the future.

11 We understand fee increases aren't easy,
12 but through these conversations, the Department
13 anticipates minimal opposition regarding this
14 proposed rulemaking. At the public hearing, the
15 Department intends to request a specific per ton
16 amount that will not exceed \$45.37 per ton. In
17 the meantime, the Department will continue
18 engaging stakeholders.

19 So this is the tricky part. If adopted,
20 these amended fees will be billed in November of
21 2018 to fund the Department's activities in fiscal
22 year 2019, based on emissions reported for
23 calendar year 2017.

24 So to reiterate, Madam Chair, the
25 Department recommends that the Board initiate

1 rulemaking to reflect an increase from \$800 to
2 \$900 for the operation fee for oil and gas well
3 facilities that register in lieu of obtaining a
4 permit; increase the administrative fee from \$800
5 to \$900 for facilities other than portable
6 facilities or registered oil and gas well
7 facilities that require permits; and increase the
8 per ton fee from \$38.24 up to an amount not to
9 exceed \$45.37 per ton of emissions for facilities
10 other than portable facilities or registered oil
11 and gas well facilities that require a permit.

12 We also request that the Board issue a
13 Notice of Public Hearing on the proposed
14 amendment, appoint a Hearings Examiner, and
15 schedule a hearing as described in the draft
16 notice. So are there any questions?

17 CHAIR DEVENY: Hillary.

18 MS. HANSON: I'm confused by the "not to
19 exceed \$45."

20 MS. ULRICH: Right. So that was
21 something we talked with the stakeholders about,
22 and we just wanted to give ourselves enough time
23 to make sure that we knew everything that we
24 needed to know to set that amount. There are some
25 things, such as possibly Federal budget, that are

1 question marks for us, so we're unsure about, and
2 we want to give ourselves enough time, look at all
3 of our options, talk to stakeholders some more,
4 before we actually set that definite amount, and
5 put it into rule.

6 MS. HANSON: So at the time the rule is
7 adopted, do you anticipate that amount would be
8 specifically stated?

9 MS. ULRICH: Yes. That final adoption
10 notice will have a definite amount in there.

11 CHAIR DEVENY: Would you need to have
12 that specific amount ready for the hearings to
13 take place?

14 MS. ULRICH: So Madam Chair, I am not
15 sure. I think the goal is that we will have that
16 -- I think the public hearing is the place where
17 we would listen to public comment, to be engaging
18 with our stakeholders still, and then have it at
19 the adoption how that final amount prepared. And
20 I will look back to my Bureau Chief Dave Klempe
21 just to make sure that's correct.

22 MR. MULLEN: Madam Chair, members of the
23 Board, I am not Dave Klempe. I'm Norm Mullen. I'm
24 the attorney for the Air Program also.

25 The idea is, as I understand it, that

1 the amount not to exceed the \$45 plus is a
2 presumptive amount under Federal law for a
3 reasonable amount for operating permit fees.

4 MR. KLEMP: Madam Chair, members of the
5 Board. I am Dave Klemp, and I would like to
6 clarify. There is a Federal presumptive amount.
7 It is not \$45.37 per ton, it is \$49.85 per ton,
8 and that is the amount the Federal government
9 presumes that it takes to run an effective air
10 quality program.

11 The reason we have asked for up to
12 \$45.37 per ton not to exceed is that we do --
13 there are constantly changes to not only the State
14 General Fund, the Federal grant. Budgets have
15 been finalized at the Federal level. Money has
16 not yet been sent completely to all of the states.

17 We want to make sure that if we adjust
18 that number down that we didn't run into a scope
19 of notice issue.

20 So we wanted to be very clear, and we've
21 been very clear with stakeholders. We do not
22 intend to go above the \$45.37 per ton, but it may
23 come down at the hearing. We do expect to come in
24 with a specific dollar amount, but we also
25 understand that nothing is final until the Board

1 adopts it, which will hopefully be in October, so
2 that bills can go out in November. Thank you.

3 MR. TWEETEN: Mr. Klemp, before you
4 leave. So you're anticipating final adoption in
5 October, and the fiscal year for which you'll be
6 collecting these increased fees begins July 1st,
7 correct?

8 MR. KLEMP: (Nods head)

9 MR. TWEETEN: So will you be billing the
10 new rate for tons that were emitted prior to the
11 effective date of the rule?

12 MR. KLEMP: Madam Chair, Mr. Tweeten.
13 The short answer is yes. As Liz described -- and
14 let me back up for a second.

15 The Air Quality Bureau used to come
16 annually in front of the Board of Environmental
17 Review. We have not been in front of the Board
18 since 2009, so this is fairly new. Some folks are
19 more familiar with it, sitting on the Board, than
20 others. The time frames are pretty short. It
21 takes three Board meetings, if you will, for us to
22 finalize a fee. There's initiation, there's a
23 hearing, and there's final action.

24 We completed our emission inventories in
25 March of 2018 for this year. That is for calendar

1 year 2017 emissions. That is the tonnage that we
2 will use to collect the fees and fund our
3 appropriation, our State air quality fee
4 appropriations.

5 So yes, we will be billing folks three
6 months into the fiscal year to cover the remaining
7 nine months of that fiscal year, and on emissions
8 that are based on a year. So there is a year lag
9 in there.

10 MR. TWEETEN: Okay. Thank you.

11 MR. KLEMP: If that makes sense. Thank
12 you.

13 CHAIR DEVENY: I had a question on how
14 the emissions are reported or collected to DEQ.
15 Could somebody describe how that occurs?

16 MR. RASH: Madam Chair, members of the
17 Board, my name is Hoby Rash, and once again, I'm
18 the supervisor of our Field Services Section in
19 Air Quality.

20 So the process -- in response to your
21 question -- that we entertain to collect this
22 information is, first of all, we send out a notice
23 towards the end of the year that, "Hey, this is
24 coming up. Please prepare your emission inventory
25 information. Be ready for that."

1 And then based on typically requirements
2 in the permits for each of these individual
3 facilities, then facilities can then respond to us
4 and supply their collected information for that
5 previous year.

6 Typically that happens through an
7 electronic online system. So we offer that.
8 There is a grid there for people that list each of
9 their emitting units, and then they can say, "For
10 this emitting unit --" maybe it's a particular
11 boiler or particular heater or something of that
12 nature -- "we operated it this amount for this
13 year, for the past calendar year, and that then
14 resulted in an emission of 'X' many pounds, tons
15 of each individual pollutant."

16 So at a very high level, that's how that
17 comes about. We then take all the collected
18 information from the various facilities, we add
19 that up and say, "Here is what the total emissions
20 were --" as Liz communicated to you earlier --
21 "for that calendar year for the entire state of
22 Montana."

23 So we can go deeper if you want to.
24 That's kind of a high level --

25 CHAIR DEVENY: I just wanted to know if

1 it was self-reported or if DEQ collects the
2 information.

3 MR. RASH: Self-reported. Yes.

4 CHAIR DEVENY: And just a followup
5 question. I don't know if you're the one to
6 answer it.

7 But the significant reduction in
8 emissions since 2009, is that because of some
9 facilities that were shut down, or improvements in
10 technology, or do you track that? Do you know why
11 the emissions have dropped?

12 MR. RASH: Madam Chair, I'm going to
13 defer that to our Bureau Chief. I think your
14 question is very perceptive. Once again, I think
15 both of those are true, but I'll defer that to
16 Dave Klemp.

17 MR. KLEMP: Yes, Madam Chair, members of
18 the Board. Once again I'm David Klemp.

19 And the question is all of the above.
20 There are facilities in this last year certainly
21 that are no longer with us today. There have been
22 facilities in the last ten years that are no
23 longer with us today. There is also new
24 facilities that come in. There's also been
25 reduction in emissions. There is new Federal and

1 sometimes State regulations that apply that reduce
2 emissions.

3 So it is a variety of factors. The
4 economy is also a factor. It is based on how much
5 somebody actually emits. And generally their
6 production is tied to emissions in some loose
7 sense. So combination of a bunch.

8 CHAIR DEVENY: Thank you. Do other
9 Board members have questions for DEQ?

10 (No response)

11 CHAIR DEVENY: There is a request before
12 us -- Actually maybe we'll have some public
13 comment first. Would that be appropriate?

14 MS. CLERGET: Yes.

15 CHAIR DEVENY: Is there anybody here
16 from the public that would like to speak on this
17 issue before the Board?

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

22 And I'm going to start off by
23 complimenting Liz Ulrich and Dave Klemp for the
24 time that they've taken to come to Billings on a
25 couple of occasions, and explain this fee increase

1 to our members. And I just can't tell you how
2 much we appreciate their professionalism.

3 We do have issues. You know, anything
4 that's going to get into our hip pocket kind of
5 gives us a little concern. And when we're looking
6 at the oil and gas program, and I'm going to --
7 this particular piece is the production side --
8 we've got some people that are going to take a hit
9 of \$25,000, \$30,000. That's a big hit.

10 We've got concerns, and I've brought
11 this up with Mr. Klemp on numerous occasions. And
12 the people in this program are good people. But
13 why do we run the oil and gas regulatory program
14 out of Butte, 400 miles away from the action?
15 That costs money. That costs money that our
16 people have to pay.

17 Some of the other producers that I've
18 talked to, they're going to go in and take a look
19 at all of their facilities, and there are a number
20 of facilities that will be coming off line. So at
21 the end of the day, the way we're kind of looking
22 at it is the last man standing is going to pick up
23 the tab.

24 It is a good program. We appreciate the
25 program. We have problems with the cost. We

1 would much rather DEQ run this program than the
2 EPA. Their response time is fantastic. But there
3 again, it is the cost. Any cost savings that I
4 think the Department can come up with would be
5 greatly appreciated and greatly supported.

6 So I think that's some of the things
7 that I hope the Board keeps in mind, and the
8 Department keeps in mind. So with that, Madam
9 Chair, thank you.

10 CHAIR DEVENY: Thank you, Mr. Olson.
11 Are there any other members of the public that
12 would like to comment? I appreciate you keeping
13 your comments fairly brief.

14 MS. TRENK: Madam Chair, members of the
15 Board, my name is Peggy Trenk, and I'm here on
16 behalf of the Treasure State Resources
17 Association. And I kind of echo what Mr. Olson
18 said about how much we appreciate the Department's
19 outreach. They participated with our members in
20 Billings not once, but twice. I'm sure they
21 didn't come just for the doughnuts. I actually
22 think that they wanted to get some input and they
23 did.

24 They've done a great job of floating
25 this out early, and coming back with the CAAAC

1 members. So we can't acknowledge that enough.

2 So just looking at the list of folks who
3 are emitters, if you want to say that, and of the
4 top 17, 14 of those are our members.

5 So we certainly are interested and
6 concerned when you look at fee increases, but we
7 do understand that it's important to run a robust
8 program. And we appreciate the fact that the
9 Department has kind of laid out where they're
10 spending money, and what they're doing about
11 trying to run an efficient program, and I'm sure
12 that conversation is going to continue. We
13 appreciate that.

14 So at this point, we support having this
15 rulemaking effort go forward. I'm sure there will
16 be continued conversations. But we do appreciate
17 all of the work that's been done to date. Thank
18 you.

19 CHAIR DEVENY: Thank you. Any other
20 members of the public that wish to comment?

21 (No response)

22 CHAIR DEVENY: Board members, we have a
23 request before us. Chris.

24 MR. TWEETEN: Madam Chair, just a
25 comment I guess first. And I appreciate the

1 perspectives of the two members of the public who
2 just spoke.

3 It is really important that to the
4 extent those perspectives affect the wording of
5 the regulation that's being proposed, that all of
6 those concerns be laid on the record either in
7 written form or as part of the testimony at the
8 rulemaking hearing, because in the forming of the
9 final rule, if the information isn't in the
10 rulemaking record, it is very difficult for the
11 agency to take it into consideration.

12 So I urge you to continue your level of
13 participation in the process, and again, to the
14 extent that they affect the content of the rule
15 itself as opposed to decisions that the Department
16 or the Legislature might have to make, that those
17 matters be spread on the record.

18 So with that, Madam Chair, I'll move
19 initiation of rulemaking.

20 CHAIR DEVENY: It has been moved. Is
21 there a second?

22 MR. DEARMENT: I'll second.

23 CHAIR DEVENY: It's been moved and
24 seconded. Further Board discussion. Dexter.

25 MR. BUSBY: Yes. I just want to make a

1 quick comment really to the Department. I think
2 they've done a very admirable job of keeping their
3 costs under control. I was actually involved in
4 this process for quite a large number of years,
5 from the beginning of the collection actually, and
6 they've done a very good job of keeping their
7 costs under control. I don't know if it had to do
8 with the permit, or all the noise we made every
9 time they raised the fees.

10 But I want to just compliment the
11 Department on that. They've done an excellent
12 job. I think they have challenges that they need
13 to look at in the future. One of them is that you
14 ratchet down your emissions. And they are going
15 down. People go away, and technology improves.
16 They may have to look at a different format, and
17 that would call -- be required under legislation
18 because this is a legislated thing.

19 So I think they need to look at not
20 either a new funding source, but a different
21 method of calculating their fees. So anyway, I
22 think they've done a good job, and I would suggest
23 we move forward.

24 CHAIR DEVENY: Any other Board comments?

25 MR. FELTON: Madam Chair, just a quick

1 comment. The DEQ recommendation also includes
2 appointing a Hearing Officer, so I think that
3 should be probably be part of the motion if we
4 can.

5 CHAIR DEVENY: Yes, you're right. Let's
6 include that. Chris, are you willing to include
7 that in your motion?

8 MR. TWEETEN: Certainly. I accept the
9 appointment of the Board's attorney as our Hearing
10 Officer for purposes of conducting a rulemaking
11 hearing as a friendly amendment.

12 CHAIR DEVENY: Is there a second to the
13 friendly amendment?

14 MR. DEARMENT: I'll second that.

15 CHAIR DEVENY: So it's been moved and
16 seconded that we have DEQ initiate rulemaking on
17 the air quality fees, and that Sarah Clerget, our
18 Board attorney, be assigned as the Hearings
19 Examiner on this for this case. Any further
20 discussion?

21 (No response)

22 CHAIR DEVENY: If not, all those in
23 favor of the motion, signify by saying aye.

24 (Response)

25 CHAIR DEVENY: Those opposed.

1 (No response)

2 CHAIR DEVENY: Motion carries. Thank
3 you. Why don't we take a ten minute break. We'll
4 come back at ten after ten.

5 (Recess taken)

6 CHAIR DEVENY: Lindsay, do you want to
7 check in with Board members.

8 MS. FORD: Chris Deveny.

9 CHAIR DEVENY: Here.

10 MS. FORD: John Felton.

11 MR. FELTON: Here.

12 MS. FORD: Dexter Busby.

13 MR. BUSBY: Here.

14 MS. FORD: Hillary Hanson.

15 MS. HANSON: Here.

16 MS. FORD: John Dearment.

17 MR. DEARMENT: Here.

18 MS. FORD: Chris Tweeten.

19 MR. TWEETEN: Here.

20 MS. FORD: Tim Warner.

21 (No response)

22 MS. FORD: We still have a quorum.

23 CHAIR DEVENY: So our next action item
24 is the petition for rulemaking that was made by
25 the Cottonwood Environmental Law Center and the

1 Gallatin Wildlife Association. And we had the
2 request last meeting, and we postponed making a
3 decision making, and asked DEQ to put together
4 some information, and for Sarah to do some
5 research.

6 So I'll turn it over to Sarah right now
7 and she can kind of fill us in, and we'll decide
8 what's next. And just for purposes, if you look
9 at her flow sheet, it is on Page 16 of our Board
10 packet.

11 MS. CLERGET: And I don't want to
12 reiterate too much what I said in the memo and in
13 the flow chart. I'm a visual learner, and so
14 that's why you're going to see flow charts from me
15 a lot. It's Page 20.

16 So the initial question for you today I
17 think is just in those top four things on the flow
18 chart, and No. 1 on the memo, which is the
19 question of sufficient credible information. So
20 if anybody has any questions about that, the memo
21 or the flow chart, to answer, I'm happy to answer
22 those.

23 CHAIR DEVENY: Why don't you go ahead
24 and just describe the memo in case people haven't
25 read it.

1 MS. CLERGET: Sure. Essentially there
2 is three -- there's one big statute on this, and
3 so my memo goes through and kind of tracks the
4 different sections of the statute. Essentially
5 there is three steps to this process: An initial
6 review to determine whether the petition contains
7 sufficient information; and then if it does, you
8 go forward to step two. If it doesn't, you issue
9 a written finding.

10 The second step is a decision to adopt
11 or reject the petition, and there is a number of
12 steps if you decide to adopt it, sort of you
13 indicate that you're going to adopt it, and then
14 go through a bunch of steps, and then actually
15 adopt it.

16 And then the step three is the MAPA
17 rulemaking process, which you guys are all
18 familiar with.

19 So step two is kind of the complicated
20 one, and that's a little bit different than the
21 normal process; but I don't think you need to
22 worry about that yet until you make the decision
23 about whether or not there is sufficient credible
24 information contained in the petition.

25 CHAIR DEVENY: Then at our last meeting,

1 I think we felt that the proposal, the petition
2 proposers were maybe not aware that the EIS was
3 required to be paid for by them, and so we asked
4 DEQ to just give an estimate of what that might
5 be. And Tim, do you want to talk to that?

6 MR. DAVIS: Sure. Madam Chair, members
7 of the Board, Tim Davis, Water Quality Division
8 Administrator.

9 So we consulted, at the Board's request,
10 we consulted with the MEPA program within the
11 Department, and they gave us an estimate based on
12 comparable EIS's as to what they thought it would
13 cost. The estimated cost is \$250,000 to complete
14 the EIS.

15 And I'll put that a little bit in
16 perspective. A recent coal EIS cost \$1.8 million.
17 So when you think of that as a high estimate, that
18 was taking into account using some of the work
19 that was already done, but is over eleven years
20 old. So they gave us that estimate.

21 You also directed us to attempt to meet
22 with the petitioners prior to this meeting to
23 discuss it with them. They were unable to meet
24 prior to this meeting. We tried to meet with them
25 this week, and they indicated were not going be

1 able to be here today.

2 But that's the estimate. And if you
3 remember, in the statute, they are responsible for
4 paying the estimated amount. If the amount
5 exceeds, the actual amount exceeds the amount of
6 the estimate, they're responsible for paying that.
7 However if the actual amount is less than the
8 estimate, then we would refund that.

9 So that's what we came up with. We did
10 provide this to the petitioners as well.

11 CHAIR DEVENY: Okay. Thank you. And I
12 understand the petitioners are not here today.

13 MR. TWEETEN: Madam Chair, I have a
14 question for Mr. Davis, please. Can you take us
15 through a little bit what happened with the 2007
16 petition. I know it was accepted by the Board and
17 went through the EIS process. And the EIS
18 process, I have to confess I didn't read it word
19 for word, but I did look at the executive summary,
20 and scanned it, and it looked like the preferred
21 alternative from the EIS was for a designation.
22 And I'm not aware of what happened after that.

23 Can you fill me in a little bit on what
24 happened?

25 MR. DAVIS: Madam Chair, Mr. Tweeten.

1 essentially the Board postponed any adoption over
2 time, and it was really at the request -- it is my
3 understanding. I wasn't here at the time -- but
4 at the request of the petitioners themselves to
5 give them and other stakeholders the opportunity
6 to work together to come with up with alternatives
7 to the adoption of the ORW, which they have done.

8 And eventually the Board rescinded and
9 got rid of the petition itself. But the
10 stakeholders worked pretty hard since the original
11 petition to come up with proposals, and they just
12 this last year came out with the report and
13 suggestions for how to deal with wastewater in the
14 system up in Big Sky.

15 MR. TWEETEN: Okay. Thanks.

16 CHAIR DEVENY: Hillary has a question.

17 MS. HANSON: I guess I'm a little
18 unclear on the adoption or non-adoption of the
19 petition. Is that a separate issue from whether
20 or not they can pay for the EIS?

21 MS. CLERGET: I think the way that we
22 talked about it at last meeting when Cottonwood
23 was here was if they're not going to be able to
24 fund this, would they like to withdraw their
25 petition, because practically it would seem like

1 it would not make sense for the Board to adopt a
2 petition if they can't carry through. And it is
3 certainly their burden.

4 So without them here, I don't know if
5 they are willing to do that, or if their lack of
6 presence indicates anything about that. But I
7 would say the Board might be able to consider it.

8 Given what they heard last time, what
9 the Board heard last time about the ability to
10 pay, and the cost that you've heard now, it might
11 be that there isn't sufficient information in the
12 petition to make the Board believe that it is in
13 fact possible to take the petition forward, so you
14 might be able to consider it in that context.

15 But statutorily the decision that the
16 Board has to make is whether or not there is
17 sufficient information in the petition.

18 MS. HANSON: Do we have to make the
19 decision at this meeting, or could we also say we
20 would like to have the petitioners present before
21 making that to get an answer from them on whether
22 or not they would like to withdraw the petition?

23 MS. CLERGET: I think that's within your
24 purview to decide.

25 MR. DEARMENT: I was thinking the same

1 thing.

2 MR. TWEETEN: So there is no time limit
3 between the filing of the petition and the time at
4 which the Board decides to go forward.

5 MS. CLERGET: No. And we discussed this
6 a little bit at the last meeting, or it might have
7 been the meeting before. In MAPA generally there
8 is a timeline, but this statute has such a
9 different process that I think it takes it out of
10 the normal MAPA rulemaking process, and there
11 isn't the timeline in the statute. So I think
12 we're okay.

13 CHAIR DEVENY: John, did you have a
14 comment?

15 MR. DEARMENT: Yes, Madam Chair. I was
16 just going to second what Hillary said, and I'm
17 kind of interested in giving Cottonwood some more
18 time to see if they would like to give us their
19 thoughts on their ability to pay for the EIS, and
20 if they'd like to continue or withdraw the
21 petition.

22 CHAIR DEVENY: I think that seems kind
23 of reasonable, but at the same time, I just want
24 to caution the Board that that cannot be a reason
25 for us to deny the petition, I don't believe, once

1 we decide to proceed or not proceed with that.

2 MR. TWEETEN: Madam Chair, may I?

3 CHAIR DEVENY: Chris.

4 MR. TWEETEN: I think that's correct.

5 And I would say that having read the petition, I
6 think it marshals strong arguments in favor of the
7 Gallatin River.

8 But I think there is this question as to
9 whether we'll just be spinning our wheels and
10 wasting time if we go forward with it
11 substantively, and the decision is ultimately made
12 that they cannot pay for the EIS. We don't have
13 authority to waive that provision in the statute.
14 The Legislature has said that has to be done, and
15 if they can't do it, then the EIS can't proceed
16 and the statute is stymied at that point.

17 So I'm prepared to move that we carry
18 this agenda item over to the next meeting, and
19 that we ask DEQ to continue to seek dialogue with
20 the petitioners to find out whether, in light of
21 the estimate for the EIS, they intend to proceed
22 with this petition or not.

23 CHAIR DEVENY: I would second that
24 motion. I think that's a good one. And I would
25 like to ask DEQ if they would agree to make a very

1 concerted effort to get in contact with them, and
2 get information from the petitioners, and then ask
3 them to appear at the next meeting if it is
4 possible.

5 MR. DAVIS: Madam Chair, we will do so.

6 CHAIR DEVENY: Is there any other
7 discussion, Board members, on the motion?

8 (No response)

9 CHAIR DEVENY: I guess before we vote,
10 are there any public comments on this particular
11 issue?

12 (No response)

13 CHAIR DEVENY: Hearing none, there is a
14 motion before the Board, and it has been seconded.
15 All those in favor, signify by saying aye.

16 (Response)

17 CHAIR DEVENY: Any opposed?

18 (No response)

19 CHAIR DEVENY: None. Okay. Motion
20 carries. We'll delay this until the next meeting.
21 Moving right along, Board Counsel
22 update. Sarah.

23 MS. CLERGET: I don't have anything.

24 CHAIR DEVENY: Surely you jest.

25 MS. CLERGET: Questions I can answer,

1 but other than that, I don't have anything.

2 CHAIR DEVENY: Does anybody have any
3 questions of Board Counsel?

4 (No response)

5 CHAIR DEVENY: Hearing none, we'll move
6 on. We will now open this meeting up to any
7 members of the public who might wish to comment on
8 any issue that hasn't been before us today. No
9 contested cases comment is allowed. Any
10 interested people from the public that want to
11 comment?

12 (No response)

13 CHAIR DEVENY: Hearing none, are there
14 any other issues that the Board would like to
15 discuss at this time? Hillary.

16 MS. HANSON: It is not really another
17 issue. I was just going to request Lindsay, for
18 the Board packet next month, if we're having this
19 petition back on, do you mind re-including the
20 petition in this? I did not save it, and so
21 haven't read it since over a month ago.

22 MS. FORD: Yes, I can do that.

23 CHAIR DEVENY: Anything else?

24 (No response)

25 CHAIR DEVENY: I will entertain a motion

1 to adjourn if anybody is interested in that.

2 MR. TWEETEN: So moved.

3 MS. HANSON: Second.

4 CHAIR DEVENY: It's been moved and
5 seconded. All those in favor, say aye.

6 (Response)

7 CHAIR DEVENY: Any opposed?

8 (No response)

9 CHAIR DEVENY: Thank you very much for a
10 very good meeting.

11 (The proceedings were concluded

12 at 10:20 a.m.)

13 * * * * *

14

15

16

17

18

19

20

21

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 - 58 - 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.

<p style="text-align: center;"><u> </u> \$ <u> </u></p> <p>\$1.8 - 50:16 \$25,000 - 41:9 \$250,000 - 50:13 \$30,000 - 41:9 \$38.24 [2] 31:14, 33:8 \$45 [2] 33:19, 35:1 \$45.37 [6] 31:15, 32:16, 33:9, 35:7, 35:12, 35:22 \$49.85 - 35:7 \$800 [4] 31:11, 31:13, 33:1, 33:4 \$900 [4] 31:11, 31:13, 33:2, 33:5</p> <p style="text-align: center;"><u> </u> 0 <u> </u></p> <p>0376 - 14:14</p> <p style="text-align: center;"><u> </u> 1 <u> </u></p> <p>1 [2] 14:14, 48:18 100 - 26:22 10:20 - 58:12 11 - 28:19 111 - 1:10 13th - 15:21 14 - 43:4 150 - 19:19 1520 - 1:11 16 [3] 24:8, 25:17, 48:9 17 [2] 24:25, 43:4 17.8.505 - 29:5 1st [2] 14:24, 36:6</p> <p style="text-align: center;"><u> </u> 2 <u> </u></p> <p>2 [3] 6:17, 18:22, 18:22 2(a - 6:18 2(c - 13:7 20 - 48:15 2007 - 51:15 2009 [4] 30:10, 31:18,</p>	<p>36:18, 39:8 2014 - 30:9 2017 [3] 31:19, 32:23, 37:1 2018 [5] 1:6, 1:13, 32:21, 36:25, 59:17 2019 - 32:22 2020 - 59:22 20th - 13:25 24th - 14:6</p> <p style="text-align: center;"><u> </u> 3 <u> </u></p> <p>3 - 15:9 30 [3] 14:9, 17:23, 19:6 30s - 19:8</p> <p style="text-align: center;"><u> </u> 4 <u> </u></p> <p>4 - 16:5 40 [2] 17:23, 19:9 400 - 41:14 49,000 - 31:19</p> <p style="text-align: center;"><u> </u> 5 <u> </u></p> <p>50 - 17:24 58 - 59:12</p> <p style="text-align: center;"><u> </u> 6 <u> </u></p> <p>60 - 14:10</p> <p style="text-align: center;"><u> </u> 7 <u> </u></p> <p>70 [2] 24:24, 25:2 75-2-220 - 29:14</p> <p style="text-align: center;"><u> </u> 8 <u> </u></p> <p>8 [2] 1:6, 1:13</p> <p style="text-align: center;"><u> </u> 9 <u> </u></p> <p>9 - 59:22 90,000 - 31:19 95 - 18:20 9:00 - 1:14 9th - 13:22</p>	<p style="text-align: center;"><u> </u> A <u> </u></p> <p>a.m [2] 1:14, 58:12 ability [3] 53:9, 54:19, 59:14 able [4] 51:1, 52:23, 53:7, 53:14 accept - 46:8 accepted - 51:16 according - 6:15 account - 50:18 accurate - 22:9 accurately - 25:24 acknowledge - 43:1 Act [2] 29:19, 32:2 acting - 15:16 action [11] 7:10, 8:18, 8:20, 8:22, 12:2, 12:4, 28:18, 30:11, 36:23, 41:14, 47:23 activities - 32:21 actual [4] 30:24, 30:24, 51:5, 51:7 add - 38:18 addition [2] 12:3, 18:10 additional [2] 18:6, 29:9 additions [2] 4:18, 4:24 adjourn - 58:1 adjust - 35:17 administering - 29:18 administrative [5] 4:16, 29:6, 30:23, 31:13, 33:4 Administrator [2] 4:2, 50:8 admirable - 45:2 adopt [5] 49:10, 49:12,</p>	<p>49:13, 49:15, 53:1 adopted [2] 32:19, 34:7 adoption [8] 5:2, 5:4, 34:9, 34:19, 36:4, 52:1, 52:7, 52:18 adopts - 36:1 advice - 15:2 Advisory - 32:2 affect [2] 44:4, 44:14 affixed - 59:16 agency - 44:11 agenda [5] 5:17, 6:5, 9:11, 15:19, 55:18 agree [3] 8:10, 11:7, 55:25 ahead [2] 2:7, 48:23 Alan [2] 3:20, 40:19 allow [2] 6:3, 31:21 allowed - 57:9 already - 50:19 alternative - 51:21 alternatives - 52:6 amend - 29:4 amended - 32:20 amendment [8] 10:11, 10:12, 11:15, 11:16, 11:18, 33:14, 46:11, 46:13 amount [22] 23:2, 31:15, 32:16, 33:8, 33:24, 34:4, 34:7, 34:10, 34:12, 34:19, 35:1, 35:2, 35:3, 35:6, 35:8, 35:24, 38:12, 51:4, 51:4, 51:5, 51:5, 51:7</p>	<p>amounts - 31:3 Analysis [2] 3:18, 28:24 Annotated - 29:15 annual [2] 30:4, 30:12 annually [2] 20:2, 36:16 answers - 27:13 anticipate [3] 22:1, 28:15, 34:7 anticipates - 32:13 anticipating [2] 22:10, 36:4 anticipation - 31:25 anyway [2] 11:11, 45:21 apologize [2] 5:21, 14:15 appeal [2] 15:20, 15:23 appealed [2] 16:7, 16:8 appear [5] 12:5, 14:17, 14:19, 14:21, 56:3 appearance [2] 7:20, 9:3 appeared - 12:4 appearing [3] 11:6, 11:22, 14:19 application [2] 30:1, 30:9 apply [3] 22:6, 25:5, 40:1 applying - 19:14 appoint - 33:14 appointing - 46:2 appointment - 46:9 appreciate [8] 41:2, 41:24, 42:12, 42:18, 43:8, 43:13, 43:16, 43:25 appreciated -</p>	<p>42:5 approach [2] 20:12, 25:6 appropriate [3] 25:21, 31:23, 40:13 appropriation - 37:3 appropriations - 37:4 approve - 29:10 approved - 30:8 aquatic [2] 19:17, 19:20 aren't - 32:11 argument [4] 7:8, 9:1, 13:21, 13:22 arguments [2] 11:6, 55:6 arsenic [21] 17:5, 17:11, 17:22, 18:18, 18:23, 19:3, 19:5, 19:9, 19:11, 19:18, 19:23, 20:13, 20:14, 21:11, 21:21, 22:5, 22:11, 22:24, 23:4, 23:10, 24:19 asking [3] 29:3, 30:11, 31:8 assessed [2] 31:2, 31:6 assesses - 29:15 assessment - 24:16 assign - 7:18 assigned [2] 15:9, 46:18 association [6] 3:21, 3:23, 11:18, 40:21, 42:17, 48:1 assume - 26:9 assuming - 22:6 astute - 22:13 attempt [4] 18:8, 18:12, 21:7, 50:21 attorney [9] 3:6, 3:14, 5:15, 8:23,</p>
--	--	--	--	--	--

<p>9:2, 15:16, 34:24, 46:9, 46:18 attributed - 18:23 audience - 17:12 August [2] 13:25, 14:6 authority [2] 23:17, 55:13 available - 29:12 Avenue - 1:11 average - 25:1 awareness - 23:9 aye [5] 5:7, 13:2, 46:23, 56:15, 58:5</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>Bear - 6:13 beast - 22:20 beginning [2] 21:19, 45:5 begins - 36:6 behalf [2] 14:19, 42:16 benefit - 11:5 benefits - 23:3 BER [2] 7:14, 7:16 best - 59:13 billed - 32:20 billing [2] 36:9, 37:5 Billings [2] 40:24, 42:20 bills - 36:2 bit [11] 6:21, 7:8, 15:5, 22:19, 23:17, 27:10, 49:20, 50:15, 51:15, 51:23, 54:6 board [77] 1:1, 1:5, 1:17, 2:5, 2:6, 4:18, 5:15, 7:5, 8:23, 9:10, 9:12, 9:23, 9:25, 10:19, 11:5, 12:8, 12:9, 12:18, 15:24, 16:20,</p>	<p>16:23, 20:7, 21:11, 21:13, 22:13, 25:16, 26:2, 27:16, 27:22, 28:18, 28:23, 29:2, 29:3, 29:10, 30:8, 30:12, 31:8, 31:17, 32:25, 33:12, 34:23, 35:5, 35:25, 36:16, 36:17, 36:19, 36:21, 37:17, 39:18, 40:9, 40:17, 40:19, 42:7, 42:15, 43:22, 44:24, 45:24, 46:18, 47:7, 48:9, 50:7, 51:16, 52:1, 52:8, 53:1, 53:7, 53:9, 53:12, 53:16, 54:4, 54:24, 56:7, 56:14, 56:21, 57:3, 57:14, 57:18 Board's [2] 46:9, 50:9 boards - 10:5 bodies [2] 21:21, 26:19 body [3] 26:25, 27:4, 27:9 boiler - 38:11 bottom - 14:17 branch [2] 7:5, 10:5 break - 47:3 brief - 42:13 briefing [6] 5:13, 5:18, 9:1, 13:9, 16:16, 16:17 briefs [2] 6:4, 15:21 bring - 9:5 bringing [4] 20:22, 20:24, 23:8, 25:16 brought [2] 10:8, 41:10 budget - 33:25 Budgets - 35:14</p>	<p>Building - 1:10 bunch [2] 40:7, 49:14 burden - 53:3 Bureau [11] 3:8, 3:19, 4:4, 16:24, 16:25, 29:1, 31:22, 32:1, 34:20, 36:15, 39:13 Busby [10] 1:18, 2:12, 2:13, 5:5, 12:22, 21:15, 21:17, 44:25, 47:12, 47:13 businesses [2] 29:22, 30:2 Butte - 41:14</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>CAAAC [3] 32:3, 32:4, 42:25 calculated - 24:21 calculating - 45:21 calendar [5] 31:1, 32:23, 36:25, 38:13, 38:21 calling [2] 20:11, 20:18 can't [12] 7:6, 10:11, 10:12, 13:15, 14:10, 14:21, 15:7, 41:1, 43:1, 53:2, 55:15, 55:15 cancer - 23:14 cannot [2] 54:24, 55:12 carcinogens [2] 25:18, 26:13 careful - 15:25 Carla - 3:15 carries [3] 13:6, 47:2, 56:20 carry [2] 53:2, 55:17</p>	<p>case [17] 5:24, 6:3, 6:24, 7:21, 8:1, 8:4, 10:4, 10:10, 11:2, 12:19, 13:20, 15:7, 16:1, 16:14, 21:24, 46:19, 48:24 cases [4] 5:14, 6:17, 15:9, 57:9 cause - 14:25 caution - 54:24 Center [2] 7:2, 47:25 certain [2] 9:24, 31:11 certainly [6] 28:12, 29:9, 39:20, 43:5, 46:8, 53:3 certified - 16:9 certify - 59:7 Chair [110] 1:16, 2:4, 2:6, 2:9, 2:25, 4:5, 4:10, 4:14, 4:21, 5:3, 5:6, 5:9, 5:11, 8:17, 9:10, 9:15, 12:12, 12:15, 12:17, 12:23, 13:1, 13:4, 13:6, 15:11, 15:13, 16:3, 16:15, 16:19, 16:22, 21:13, 21:17, 22:4, 22:12, 23:19, 26:4, 26:14, 27:15, 27:18, 27:21, 28:3, 28:6, 28:8, 28:10, 28:17, 28:22, 32:24, 33:17, 34:11, 34:14, 34:22, 35:4, 36:12, 37:13, 37:16, 38:25, 39:4, 39:12, 39:17, 40:8, 40:11, 40:15, 40:18, 42:9, 42:10,</p>	<p>42:14, 43:19, 43:22, 43:24, 44:18, 44:20, 44:23, 45:24, 45:25, 46:5, 46:12, 46:15, 46:22, 46:25, 47:2, 47:6, 47:9, 47:23, 48:23, 49:25, 50:6, 51:11, 51:13, 51:25, 52:16, 54:13, 54:15, 54:22, 55:2, 55:3, 55:23, 56:5, 56:6, 56:9, 56:13, 56:17, 56:19, 56:24, 57:2, 57:5, 57:13, 57:23, 57:25, 58:4, 58:7, 58:9 challenges - 45:12 changes - 35:13 changing [2] 19:20, 22:10 chart [3] 48:13, 48:18, 48:21 Charter - 12:2 charts - 48:14 check - 47:7 Chief [6] 3:8, 4:4, 15:16, 16:24, 34:20, 39:13 chill [2] 11:16, 11:17 choose - 19:25 Chris [12] 1:16, 1:18, 2:6, 2:8, 2:22, 5:3, 12:12, 43:23, 46:6, 47:8, 47:18, 55:3 Civil - 14:8 claims [2] 9:24, 10:22 clarify [2] 11:4, 35:6 Clark [3] 20:9, 59:4, 59:7 Clean [2] 29:19, 32:2 clear [2]</p>	<p>35:20, 35:21 Clerget [21] 5:14, 5:16, 8:19, 9:20, 10:2, 10:24, 11:12, 11:24, 12:9, 13:7, 15:12, 16:5, 40:14, 46:17, 48:11, 49:1, 52:21, 53:23, 54:5, 56:23, 56:25 close - 22:2 closely - 21:18 CMG - 5:18 coal - 50:16 Code - 29:15 collect [3] 31:22, 37:2, 37:21 collected [4] 18:6, 37:14, 38:4, 38:17 collecting - 36:6 collection - 45:5 collects - 39:1 Columbia - 5:21 combination - 40:7 comes [3] 18:19, 19:14, 38:17 comfortable [2] 8:21, 12:13 coming [8] 13:14, 18:20, 19:8, 20:7, 27:11, 37:24, 41:20, 42:25 comment [11] 34:17, 40:13, 42:12, 43:20, 43:25, 45:1, 46:1, 54:14, 57:7, 57:9, 57:11 comments [3] 42:13, 45:24, 56:10 commission - 59:21 communicated - 38:20 community -</p>
--	---	---	---	--	--

32:5 companies - 30:5 comparable - 50:12 Complaint [2] 8:7, 9:17 complete - 50:13 completed - 36:24 completely - 35:16 complicated - 49:19 compliment - 45:10 complimenting - 40:23 compounds - 31:4 computer-aided - 59:11 concentration [2] 17:25, 19:4 concentrations [6] 18:2, 18:8, 18:17, 21:22, 23:10, 24:10 concern [3] 21:5, 21:19, 41:5 concerned [2] 8:9, 43:6 concerns [4] 22:1, 27:11, 41:10, 44:6 concerted - 56:1 concluded - 58:11 concludes - 16:13 conclusions - 13:13 conditions - 21:8 conducting - 46:10 conference [2] 6:15, 13:23 confess - 51:18 confident [3] 18:16, 19:3, 19:23 confused - 33:18 consequences	- 26:18 conservatism [4] 24:15, 26:5, 26:10, 26:17 conservative - 25:7 consider [3] 30:12, 53:7, 53:14 considerable - 23:2 consideration - 44:11 considers - 26:25 consistent [2] 20:4, 25:3 consistently - 19:25 consists - 30:22 constant - 25:3 constantly [3] 19:15, 20:1, 35:13 constitutional [5] 7:4, 7:6, 9:24, 10:6, 11:13 constitutionalit [2] 10:20, 11:10 Construction - 5:19 consulted [2] 50:9, 50:10 consuming - 23:14 consumption [2] 25:1, 27:6 contact - 56:1 contain - 59:12 contained - 49:24 contains - 49:6 content - 44:14 contested [5] 5:13, 15:9, 16:1, 16:13, 57:9 context - 53:14 continue [7] 12:18, 23:18, 32:17, 43:12,	44:12, 54:20, 55:19 continued - 43:16 continuing - 14:11 control [2] 45:3, 45:7 conundrum - 19:13 conversation - 43:12 conversations [2] 32:12, 43:16 Copper - 5:25 corporation [3] 14:20, 14:20, 14:22 correct [5] 4:13, 9:19, 34:21, 36:7, 55:4 corrections [2] 4:18, 4:24 cost [7] 41:25, 42:3, 42:3, 50:13, 50:13, 50:16, 53:10 costs [5] 29:16, 41:15, 41:15, 45:3, 45:7 Cottonwood [3] 47:25, 52:22, 54:17 couldn't [3] 7:19, 11:2, 13:21 Council - 32:3 Counsel [8] 12:3, 14:18, 15:7, 15:8, 15:16, 16:2, 56:21, 57:3 County [2] 59:4, 59:6 couple - 40:25 course [2] 18:15, 29:11 Court [18] 1:23, 6:19, 7:7, 7:10, 7:12, 7:15, 7:23, 8:2, 8:4, 8:22, 10:4, 10:16, 10:17, 12:20, 15:20, 16:9,	59:5, 59:20 cover [3] 15:14, 29:16, 37:6 created - 27:7 creates [2] 24:14, 27:1 credible [2] 48:19, 49:23 Criswell [2] 3:24, 3:24 criteria [15] 17:5, 17:7, 17:18, 18:13, 19:2, 19:10, 19:17, 19:20, 21:24, 21:25, 23:22, 24:5, 24:9, 24:23, 25:24 CRUTCHER [3] 1:22, 59:5, 59:19 curious - 26:8 current [4] 19:11, 24:7, 26:24, 32:9 cutting - 17:17	7:12, 8:21, 48:7, 49:12, 53:24, 55:1 decided [2] 7:9, 10:16 decides - 54:4 deciding - 11:9 decision [13] 5:22, 6:5, 6:19, 13:14, 13:17, 14:1, 16:7, 48:3, 49:10, 49:22, 53:15, 53:19, 55:11 decisions - 44:15 declaration - 9:22 declaratory - 9:18 deeper - 38:23 defer [2] 39:13, 39:15 definite [2] 34:4, 34:10 delay - 56:20 demand - 9:21 demands - 9:18 deny - 54:25 Department [22] 11:22, 11:24, 15:15, 16:25, 17:13, 27:10, 29:3, 29:8, 29:15, 30:11, 31:7, 32:12, 32:15, 32:17, 32:25, 42:4, 42:8, 43:9, 44:15, 45:1, 45:11, 50:11 Department's [4] 28:25, 31:22, 32:21, 42:18 depending - 14:2 depose - 11:1 DEQ [18] 3:4, 3:5, 3:13, 3:18, 4:21, 15:11, 16:16, 28:19, 37:14, 39:1, 40:9, 42:1, 46:1,	46:16, 48:3, 50:4, 55:19, 55:25 DEQ7 - 24:7 describe [3] 20:24, 37:15, 48:24 described [2] 33:15, 36:13 designation - 51:21 designs - 25:23 details - 29:9 determine - 49:6 developing [3] 21:25, 27:1, 29:17 development [2] 6:7, 25:23 Deveny [80] 1:16, 2:4, 2:6, 2:8, 2:9, 2:25, 4:5, 4:10, 4:14, 4:21, 5:3, 5:6, 5:9, 5:11, 8:17, 9:10, 12:12, 12:17, 12:23, 13:1, 13:4, 13:6, 15:11, 15:13, 16:3, 16:15, 21:13, 22:4, 23:19, 27:15, 27:18, 28:3, 28:6, 28:17, 33:17, 34:11, 37:13, 38:25, 39:4, 40:8, 40:11, 40:15, 42:10, 43:19, 43:22, 44:20, 44:23, 45:24, 46:5, 46:12, 46:15, 46:22, 46:25, 47:2, 47:6, 47:8, 47:9, 47:23, 48:23, 49:25, 51:11, 52:16, 54:13, 54:22, 55:3, 55:23, 56:6, 56:9, 56:13, 56:17, 56:19, 56:24, 57:2, 57:5, 57:13, 57:23, 57:25,
---	--	--	---	--	---

D

58:4, 58:7, 58:9 Dexter [5] 1:18, 2:12, 5:6, 44:24, 47:12 dialogue - 55:19 difficult - 44:10 dioxide - 31:3 direct [3] 23:17, 25:13, 29:17 directed - 50:21 directly - 23:11 Director - 40:20 discuss [3] 20:22, 50:23, 57:15 discussed [2] 32:6, 54:5 discussion [6] 7:9, 9:11, 12:24, 44:24, 46:20, 56:7 discussions - 32:2 distraction - 27:10 District [11] 7:10, 7:11, 7:15, 8:2, 8:4, 8:22, 10:16, 10:17, 12:19, 15:20, 16:9 Division [4] 3:6, 3:17, 4:2, 50:7 documentation - 20:4 dollar - 35:24 doughnuts - 42:21 draft - 33:15 drain - 27:9 drinking [2] 24:24, 24:24 driven - 20:15 driver - 27:3 dropped - 39:11 due [2] 14:11, 15:21 duration [6] 17:7, 23:21,	24:4, 24:6, 25:12, 25:20 <hr/> E <hr/> earlier [2] 31:16, 38:20 East - 1:11 easy - 32:11 echo - 42:17 economy - 40:4 edge - 17:17 effective [2] 35:9, 36:11 efficient - 43:11 effort [6] 19:19, 22:14, 22:23, 23:1, 43:15, 56:1 EIS [11] 50:2, 50:14, 50:16, 51:17, 51:17, 51:21, 52:20, 54:19, 55:12, 55:15, 55:21 EIS's - 50:12 either [6] 18:24, 25:20, 30:2, 30:14, 44:6, 45:20 electronic - 38:7 eleven - 50:19 emailed - 8:15 emission [3] 36:24, 37:24, 38:14 emissions [14] 31:15, 31:18, 32:22, 33:9, 37:1, 37:7, 37:14, 38:19, 39:8, 39:11, 39:25, 40:2, 40:6, 45:14 emits - 40:5 emitted [4] 30:25, 31:4, 31:20, 36:10 emitters - 43:3 emitting [2] 38:9, 38:10 encourage - 9:1 Energy [4] 3:6, 3:16,	13:8, 15:10 engaged - 32:1 engaging [2] 32:18, 34:17 ensure - 32:8 entertain [2] 37:21, 57:25 entire [2] 23:12, 38:21 environmental [6] 1:1, 2:5, 7:2, 32:5, 36:16, 47:25 EPA [4] 21:16, 21:18, 22:2, 42:2 EPA's - 21:23 Eric [3] 4:3, 16:20, 16:23 essentially [6] 7:22, 9:3, 11:15, 49:1, 49:4, 52:1 established - 29:5 estimate [8] 50:4, 50:11, 50:17, 50:20, 51:2, 51:6, 51:8, 55:21 estimated [3] 30:24, 50:13, 51:4 etc - 20:2 eventually - 52:8 everybody [2] 2:4, 5:16 everything - 33:23 evident - 25:19 exact - 27:24 Examiner [5] 8:23, 9:23, 15:10, 33:14, 46:19 example [2] 23:12, 26:22 exceed [10] 24:11, 24:12, 25:6, 26:16, 31:15, 32:16, 33:9, 33:19, 35:1, 35:12 exceeded - 19:15 exceeds [2] 51:5, 51:5	excellent - 45:11 exceptions - 6:4 excuse - 8:14 executive [4] 7:5, 10:5, 40:20, 51:19 existing [2] 29:20, 30:3 exists - 20:12 expect - 35:23 expectation - 11:25 expert - 17:15 expertise - 20:3 expires - 59:21 explain - 40:25 exposure [3] 24:21, 25:2, 25:3 extension - 13:11 extent [2] 44:4, 44:14 <hr/> F <hr/> facilities [25] 30:14, 30:19, 30:21, 30:21, 30:22, 31:5, 31:6, 31:10, 31:11, 33:3, 33:5, 33:6, 33:7, 33:9, 33:10, 33:11, 38:3, 38:3, 38:18, 39:9, 39:20, 39:22, 39:24, 41:19, 41:20 facility [2] 14:13, 30:25 factor - 40:4 factors - 40:3 fairly [2] 36:18, 42:13 fall [3] 20:6, 21:3, 27:12 Falls - 5:21 familiar [2] 36:19, 49:18 Family - 6:10 fantastic - 42:2 favor [6] 5:7,	13:1, 46:23, 55:6, 56:15, 58:5 Federal [9] 25:8, 25:13, 33:25, 35:2, 35:6, 35:8, 35:14, 35:15, 39:25 fee [20] 30:20, 30:23, 30:23, 31:2, 31:6, 31:9, 31:13, 31:14, 31:21, 32:7, 32:8, 32:9, 32:11, 33:2, 33:4, 33:8, 36:22, 37:3, 40:25, 43:6 feel [4] 9:12, 18:15, 23:17, 27:24 fees [18] 28:21, 29:5, 29:15, 29:22, 29:25, 30:1, 30:5, 30:9, 30:9, 30:13, 31:17, 32:20, 35:3, 36:6, 37:2, 45:9, 45:21, 46:17 felt - 50:1 Felton [8] 2:10, 2:11, 4:11, 8:14, 8:15, 45:25, 47:10, 47:11 FENTON - 1:20 Field [2] 3:11, 37:18 file [2] 7:20, 7:22 filed [4] 7:10, 7:21, 10:9, 16:9 filing [4] 9:3, 11:6, 14:8, 54:3 fill [2] 48:7, 51:23 final [6] 34:9, 34:19, 35:25, 36:4, 36:23, 44:9 finalize - 36:22 finalized -	35:15 Financial - 3:16 finding - 49:9 findings - 13:12 fiscal [4] 32:21, 36:5, 37:6, 37:7 Fischer - 6:7 fish - 25:1 flat [2] 30:23, 31:6 floating - 42:24 flow [7] 20:2, 25:22, 48:9, 48:13, 48:14, 48:17, 48:21 folks [3] 36:18, 37:5, 43:2 follow - 9:9 followup - 39:4 Footnote [2] 24:8, 25:17 FORD [20] 2:8, 2:10, 2:12, 2:14, 2:16, 2:18, 2:20, 2:22, 2:24, 4:13, 8:16, 47:8, 47:10, 47:12, 47:14, 47:16, 47:18, 47:20, 47:22, 57:22 foregoing - 59:12 forever - 21:6 Fork - 20:9 formal - 16:1 format - 45:16 formations - 18:3 forming - 44:8 forward [11] 10:3, 10:7, 15:8, 16:11, 20:14, 43:15, 45:23, 49:8, 53:13, 54:4, 55:10 frames - 36:20 frequency [6] 17:6, 23:21, 24:2, 24:6, 25:11, 25:20
--	---	--	---	---	---

<p>frequently - 19:15</p> <p>friendly [2] 46:11, 46:13</p> <p>front [3] 10:19, 36:16, 36:17</p> <p>fully - 25:10</p> <p>fund [4] 32:21, 35:14, 37:2, 52:24</p> <p>funding - 45:20</p> <p>future [3] 22:21, 32:10, 45:13</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>Gallatin [2] 48:1, 55:7</p> <p>gas [8] 30:18, 30:22, 31:5, 33:2, 33:6, 33:11, 41:6, 41:13</p> <p>gave [3] 13:16, 50:11, 50:20</p> <p>General - 35:14</p> <p>generally [2] 40:5, 54:7</p> <p>geologic - 18:3</p> <p>George [3] 4:22, 4:23, 16:16</p> <p>given [2] 26:9, 53:8</p> <p>gives [2] 19:4, 41:5</p> <p>giving - 54:17</p> <p>goal - 34:15</p> <p>goes - 49:3</p> <p>Gordon - 3:24</p> <p>gotten - 15:7</p> <p>government - 35:8</p> <p>grams - 25:1</p> <p>grant - 35:14</p> <p>granted - 13:11</p> <p>greatly [2] 42:5, 42:5</p> <p>grid - 38:8</p> <p>ground - 10:14</p> <p>grounds [4] 7:4, 10:11,</p>	<p>10:13, 11:13</p> <p>groundwater [9] 18:1, 22:7, 22:10, 22:19, 22:22, 22:24, 23:8, 23:15, 24:10</p> <p>group [4] 27:19, 28:9, 28:11, 28:15</p> <p>groups [3] 18:11, 32:5, 32:5</p> <p>guess [12] 9:16, 11:4, 12:5, 17:11, 17:16, 19:16, 21:10, 26:1, 28:1, 43:25, 52:17, 56:9</p> <p>guidance [2] 25:8, 25:13</p> <p>guys [5] 6:6, 7:16, 9:5, 16:6, 49:17</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>half - 25:1</p> <p>handle - 9:5</p> <p>Hanson [12] 1:19, 2:14, 2:15, 12:21, 33:18, 34:6, 47:14, 47:15, 52:17, 53:18, 57:16, 58:3</p> <p>happen - 26:17</p> <p>happened [7] 14:16, 15:1, 15:3, 27:7, 51:15, 51:22, 51:24</p> <p>happens [2] 14:3, 38:6</p> <p>happy - 48:21</p> <p>Harbage [2] 3:9, 3:9</p> <p>hasn't [3] 12:9, 14:25, 57:8</p> <p>haven't [6] 13:9, 14:15, 14:16, 30:10, 48:24, 57:21</p> <p>having [6] 5:22, 9:5, 15:8, 43:14, 55:5, 57:18</p>	<p>he's [5] 14:18, 14:19, 15:1, 15:4, 15:7</p> <p>health [14] 17:7, 19:10, 19:18, 20:14, 20:16, 23:21, 24:9, 24:13, 24:18, 24:20, 25:11, 26:12, 27:5, 27:11</p> <p>hear - 23:23</p> <p>heard [5] 1:10, 14:15, 53:8, 53:9, 53:10</p> <p>hearing [20] 8:23, 9:23, 13:9, 13:12, 13:24, 15:10, 29:10, 32:14, 33:13, 33:15, 34:16, 35:23, 36:23, 44:8, 46:2, 46:9, 46:11, 56:13, 57:5, 57:13</p> <p>hearings [3] 33:14, 34:12, 46:18</p> <p>heater - 38:11</p> <p>Helena - 1:12</p> <p>hereby - 59:7</p> <p>herein - 59:9</p> <p>hereunto - 59:15</p> <p>Hey - 37:23</p> <p>higher [5] 19:18, 20:15, 23:13, 23:14, 29:8</p> <p>highest - 18:2</p> <p>Hillary [7] 1:19, 2:14, 33:17, 47:14, 52:16, 54:16, 57:15</p> <p>hip - 41:4</p> <p>hit [2] 41:8, 41:9</p> <p>Hoby [2] 3:11, 37:17</p> <p>hold [2] 30:6, 30:14</p> <p>hope [2] 5:23, 42:7</p> <p>hopefully [3] 14:6, 16:12, 36:1</p>	<p>hoping - 6:1</p> <p>However - 51:7</p> <p>human [17] 17:7, 19:10, 19:18, 20:13, 20:16, 23:21, 24:9, 24:13, 24:18, 24:19, 24:20, 24:24, 25:10, 25:11, 26:12, 27:5, 27:11</p> <p>humans [2] 18:23, 24:23</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea - 34:25</p> <p>identify [2] 3:1, 4:8</p> <p>II(A)(1)(a - 5:18</p> <p>impaired [2] 26:19, 26:25</p> <p>implement - 25:24</p> <p>implementation [3] 20:23, 21:1, 31:24</p> <p>improvements - 39:9</p> <p>improves - 45:15</p> <p>improving - 32:7</p> <p>include [3] 25:16, 46:6, 46:6</p> <p>included [2] 22:7, 24:8</p> <p>includes - 46:1</p> <p>increase [9] 30:8, 31:9, 31:13, 31:21, 32:7, 33:1, 33:4, 33:7, 40:25</p> <p>increased [2] 30:10, 36:6</p> <p>increases [2] 32:11, 43:6</p> <p>indicate - 49:13</p> <p>indicated - 50:25</p> <p>indicates - 53:6</p> <p>indirect -</p>	<p>29:17</p> <p>individual [2] 38:2, 38:15</p> <p>individuals - 28:14</p> <p>information [14] 7:21, 37:22, 37:25, 38:4, 38:18, 39:2, 44:9, 48:4, 48:19, 49:7, 49:24, 53:11, 53:17, 56:2</p> <p>initial [2] 48:16, 49:5</p> <p>initiate [6] 27:23, 29:4, 29:11, 31:8, 32:25, 46:16</p> <p>initiating - 28:20</p> <p>initiation [3] 29:7, 36:22, 44:19</p> <p>injunctive - 9:19</p> <p>input - 42:22</p> <p>integral - 17:13</p> <p>intend [2] 35:22, 55:21</p> <p>intends - 32:15</p> <p>intention [2] 7:17, 7:19</p> <p>interactions - 23:1</p> <p>interested [4] 43:5, 54:17, 57:10, 58:1</p> <p>internal - 32:7</p> <p>interpreted - 24:11</p> <p>inventories - 36:24</p> <p>inventory - 37:24</p> <p>involved - 45:3</p> <p>isn't [5] 19:1, 27:4, 44:9, 53:11, 54:11</p> <p>issuance - 11:16</p> <p>issue [16] 7:5, 7:9, 9:14, 9:25, 11:7, 11:13, 15:5, 21:5, 33:12,</p>	<p>35:19, 40:17, 49:8, 52:19, 56:11, 57:8, 57:17</p> <p>issued [4] 6:13, 7:1, 14:23, 30:15</p> <p>issues [5] 7:6, 10:6, 10:19, 41:3, 57:14</p> <p>issuing - 13:17</p> <p>item [9] 6:7, 6:10, 6:13, 6:21, 9:12, 15:19, 23:20, 47:23, 55:18</p> <p>items [6] 4:16, 5:13, 5:18, 5:25, 16:17, 28:18</p> <p>itself [3] 24:1, 44:15, 52:9</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>jargon - 26:1</p> <p>jargony - 17:8</p> <p>Jarussi [2] 10:3, 10:12</p> <p>jest - 56:24</p> <p>job [5] 42:24, 45:2, 45:6, 45:12, 45:22</p> <p>John [10] 1:17, 1:20, 2:10, 2:20, 4:11, 4:15, 8:15, 47:10, 47:16, 54:13</p> <p>joint - 14:9</p> <p>JR - 14:8</p> <p>judgment [3] 13:19, 14:1, 14:3</p> <p>judicial - 10:23</p> <p>July [2] 13:22, 36:6</p> <p>June [5] 1:6, 1:13, 14:14, 14:24, 15:21</p> <p>jurisdiction [3] 9:22, 10:5, 11:14</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keeping [3] 42:12, 45:2,</p>
--	--	---	---	---	---

<p>45:6 keeps [2] 42:7, 42:8 Kelly - 17:19 kilogram - 24:24 kinds - 10:18 Klemp [15] 3:7, 3:7, 34:20, 34:23, 35:4, 35:5, 36:3, 36:8, 36:12, 37:11, 39:16, 39:17, 39:18, 40:23, 41:11 knowledge [2] 19:3, 23:3 known [2] 17:23, 17:24 Kurt - 3:13</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lack [2] 23:9, 53:5 lag - 37:8 laid [2] 43:9, 44:6 largely [6] 17:3, 18:9, 22:23, 23:13, 25:17, 27:4 Laurel [2] 14:5, 20:10 LAURIE [3] 1:22, 59:5, 59:19 law [4] 11:7, 13:13, 35:2, 47:25 lawyer [2] 14:23, 14:25 layers - 26:16 lead [2] 17:15, 31:3 learned - 23:1 learner - 48:13 least - 17:23 leave - 36:4 legal [2] 3:3, 15:2 legislated - 45:18 legislation - 45:17 Legislature [2] 44:16, 55:14</p>	<p>less [3] 17:8, 18:22, 51:7 let's [7] 2:25, 4:15, 5:12, 9:10, 28:17, 28:18, 46:5 level [7] 24:15, 26:15, 29:8, 35:15, 38:16, 38:24, 44:12 levels [2] 18:18, 19:23 Lewis [2] 59:4, 59:6 lieu [3] 30:17, 31:10, 33:3 limit - 54:2 limited [2] 22:16, 22:17 Lindsay [7] 2:7, 4:10, 6:22, 8:6, 16:9, 47:6, 57:17 listen - 34:17 listing - 26:18 liter [2] 19:7, 19:9 liters - 24:25 Liz [5] 3:18, 28:23, 36:13, 38:20, 40:23 Logging - 14:20 longer [3] 24:21, 39:21, 39:23 looking [5] 9:17, 22:21, 41:5, 41:21, 43:2 looks - 9:18 loop - 27:8 loose - 40:6 low - 25:22 Lucas [2] 3:5, 3:5</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>Madam [32] 9:15, 12:15, 16:19, 16:22, 21:17, 22:12, 26:4, 26:14, 27:21, 28:8, 28:10, 28:22, 32:24, 34:14, 34:22, 35:4,</p>	<p>36:12, 37:16, 39:12, 39:17, 40:18, 42:8, 42:14, 43:24, 44:18, 45:25, 50:6, 51:13, 51:25, 54:15, 55:2, 56:5 Madison [2] 18:6, 23:12 magnitude [3] 24:2, 24:6, 24:13 main - 29:24 majority - 18:19 makes - 37:11 making [3] 48:2, 48:3, 53:21 managing - 19:2 MAPA [3] 49:16, 54:7, 54:10 mapping - 23:8 March [2] 36:25, 59:22 Mark - 3:5 marks - 34:1 marshals - 55:6 MATHIEUS [2] 5:1, 16:19 matter - 15:23 matters [2] 15:25, 44:17 maybe [3] 38:10, 40:12, 50:2 MCL [2] 19:11, 23:13 meaningful [2] 8:13, 8:24 meant - 20:17 meantime - 32:17 meet [3] 50:21, 50:23, 50:24 meeting [21] 1:5, 3:2, 5:22, 5:23, 6:5, 16:8, 29:3, 29:13, 48:2, 49:25, 50:22, 50:24, 52:22, 53:19, 54:6, 54:7,</p>	<p>55:18, 56:3, 56:20, 57:6, 58:10 meetings - 36:21 MEIC [2] 12:1, 12:3 MEIC's - 12:7 Melissa - 17:14 members [32] 1:17, 4:6, 4:18, 4:23, 9:12, 12:18, 16:22, 21:14, 22:12, 27:16, 27:21, 28:23, 32:4, 34:22, 35:4, 37:16, 39:17, 40:9, 40:18, 41:1, 42:11, 42:14, 42:19, 43:1, 43:4, 43:20, 43:22, 44:1, 47:7, 50:6, 56:7, 57:7 memo [5] 48:12, 48:18, 48:20, 48:24, 49:3 mentioned - 31:16 MEPA - 50:10 Metcalf - 1:10 method - 45:21 micrograms [3] 19:6, 19:9, 19:19 miles - 41:14 million - 50:16 mind [4] 11:4, 42:7, 42:8, 57:19 mine - 7:1 Minerals - 13:18 minimal - 32:13 Mining [2] 3:6, 3:16 minute - 47:3 minutes [4] 4:17, 4:19, 4:24, 5:4 mixing [2] 20:22, 25:23 modifying - 30:3</p>	<p>money [5] 32:9, 35:15, 41:15, 41:15, 43:10 monitoring - 24:16 Montana [20] 1:2, 1:12, 3:20, 3:25, 6:19, 7:1, 17:22, 18:1, 19:5, 21:6, 23:10, 29:6, 29:14, 29:19, 30:15, 30:18, 38:22, 40:20, 59:2, 59:7 Montana's - 29:20 month [2] 57:18, 57:21 monthly - 20:1 months [3] 32:3, 37:6, 37:7 Montinore - 13:18 morning [3] 2:4, 5:16, 28:22 Moser [2] 3:13, 3:13 motion [15] 9:8, 10:9, 10:14, 10:25, 12:17, 13:6, 46:3, 46:7, 46:23, 47:2, 55:24, 56:7, 56:14, 56:19, 57:25 motivating - 26:8 Motor - 14:13 mouth - 20:9 move [10] 4:16, 5:2, 5:12, 15:8, 16:16, 28:17, 44:18, 45:23, 55:17, 57:5 moved [10] 5:3, 7:2, 7:3, 12:21, 12:23, 44:20, 44:23, 46:15, 58:2, 58:4 moving [2] 13:7, 56:21 Mullen [5]</p>	<p>15:15, 15:15, 16:4, 34:22, 34:23 multiple [2] 20:8, 28:13 Myla - 17:19</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>named [4] 7:14, 7:17, 11:25, 59:9 National - 18:3 nationally [2] 17:17, 21:20 natural [10] 17:18, 18:9, 18:13, 18:14, 18:16, 18:21, 20:15, 21:5, 21:8, 21:25 naturally - 19:14 nature [2] 25:14, 38:12 necessarily - 9:16 necessary - 14:2 needed [2] 25:25, 33:24 needs - 25:10 news - 6:24 nine - 37:7 nitrogen - 31:4 Nods - 36:8 noise - 45:8 non-adoption - 52:18 non-enforcement - 6:17 non-participatio [2] 7:23, 9:4 nondeg - 20:25 none [4] 56:13, 56:19, 57:5, 57:13 nonpoint - 18:24 Norm [3] 15:13, 15:15, 34:23 normal [2] 49:21, 54:10 notarial - 59:16 Notary [3]</p>
---	---	--	---	---	--

<p>1:23, 59:6, 59:20 nothing [3] 8:9, 8:10, 35:25 notice [10] 7:20, 7:22, 8:7, 9:3, 9:4, 33:13, 33:16, 34:10, 35:19, 37:22 November [2] 32:20, 36:2 numbers [3] 20:8, 20:16, 25:4 numerous - 41:11</p> <hr/> <p style="text-align: center;">O</p> <p>obtaining [3] 30:2, 30:17, 33:3 obviously - 15:2 occasions [2] 40:25, 41:11 occur [5] 24:3, 24:3, 24:4, 27:3, 27:25 occurs - 37:15 October [2] 36:1, 36:5 offer - 38:7 Officer [2] 46:2, 46:10 oil [8] 30:18, 30:22, 31:5, 33:2, 33:6, 33:10, 41:6, 41:13 Oilfield - 16:5 Olson [6] 3:20, 3:20, 40:18, 40:19, 42:10, 42:17 online - 38:7 open [2] 26:2, 57:6 opening - 15:21 operated - 38:12 operating [3] 30:16, 31:17, 35:3 operation [8] 28:21, 29:5,</p>	<p>30:5, 30:9, 30:13, 30:20, 31:9, 33:2 opportunity - 52:5 opposed [6] 5:9, 13:4, 44:15, 46:25, 56:17, 58:7 opposing - 11:22 opposition - 32:13 options - 34:3 oral [3] 7:8, 13:20, 13:22 order [9] 5:12, 5:20, 6:8, 6:11, 6:14, 6:25, 14:23, 15:6, 25:24 organic - 31:4 original - 52:10 originate - 18:2 ORW - 52:7 others [3] 3:1, 17:12, 36:20 ourselves [2] 33:22, 34:2 outreach [5] 23:6, 23:16, 23:18, 27:25, 42:19 outside [2] 16:1, 23:17 overseeing - 17:1 owners - 23:11 oxides - 31:3</p> <hr/> <p style="text-align: center;">P</p> <p>package [5] 20:7, 20:20, 21:2, 25:15, 25:19 packet [3] 28:19, 48:10, 57:18 pages - 59:12 paid [4] 29:22, 30:1, 30:5, 50:3 paperwork - 27:8 parallel - 12:8 parameters</p>	<p>[2] 24:20, 25:18 Park - 18:3 participate [2] 8:11, 8:12 participated - 42:19 participation - 44:13 particular [4] 38:10, 38:11, 41:7, 56:10 particularly - 11:18 parties [8] 6:1, 6:25, 7:9, 7:15, 9:24, 10:9, 13:8, 13:20 partner - 22:2 pass [2] 6:23, 8:6 past [4] 18:5, 26:20, 26:24, 38:13 pay [5] 41:16, 52:20, 53:10, 54:19, 55:12 paying [2] 51:4, 51:6 Payne [2] 14:17, 14:20 Peggy [2] 3:22, 42:15 penalty - 6:11 pending [2] 6:19, 13:19 per [15] 19:6, 19:9, 24:25, 31:2, 31:14, 31:14, 31:15, 32:15, 32:16, 33:8, 33:9, 35:7, 35:7, 35:12, 35:22 percent [3] 18:20, 18:22, 18:22 perceptive - 39:14 periods - 24:22 permit [15] 25:23, 29:24, 29:25, 30:2, 30:4, 30:6, 30:14, 30:16, 30:16, 30:18, 31:10, 33:4, 33:11, 35:3,</p>	<p>45:8 permits [4] 20:23, 31:12, 33:7, 38:2 permitting [3] 24:17, 29:18, 29:21 perspective [2] 24:18, 50:16 perspectives [2] 44:1, 44:4 petition [22] 47:24, 49:6, 49:11, 49:24, 50:1, 51:16, 52:9, 52:11, 52:19, 52:25, 53:2, 53:12, 53:13, 53:17, 53:22, 54:3, 54:21, 54:25, 55:5, 55:22, 57:19, 57:20 petitioners [7] 50:22, 51:10, 51:12, 52:4, 53:20, 55:20, 56:2 Petroleum [2] 3:21, 40:21 Pfister - 12:2 phase - 6:11 phrase - 24:8 pick [2] 19:24, 41:22 piece - 41:7 pieces [3] 23:25, 24:2, 25:15 planned - 21:7 planner - 3:10 Planning [4] 3:19, 4:4, 16:24, 28:24 plans [2] 27:2, 27:19 please [5] 2:7, 5:7, 8:15, 37:24, 51:14 plus [4] 24:25, 25:1, 30:23, 35:1 PM-10 - 31:3 pocket - 41:4 point [9] 10:4, 17:12, 18:24, 19:17, 22:23, 27:6, 27:23,</p>	<p>43:14, 55:16 pointed - 17:21 pollutant - 38:15 pollutants [3] 25:14, 30:25, 31:20 portable [4] 30:21, 31:5, 33:5, 33:10 position [5] 7:24, 8:12, 10:1, 12:7, 12:10 possible [2] 53:13, 56:4 possibly - 33:25 post - 13:9 postponed [2] 48:2, 52:1 pounds - 38:14 powers - 7:5 practical - 10:25 practically - 52:25 preferred - 51:20 prepare - 37:24 prepared [3] 1:22, 34:19, 55:17 presence - 53:6 present [5] 2:9, 2:11, 16:2, 21:5, 53:20 presenting [2] 16:20, 20:7 presumes - 35:9 presumption [2] 10:20, 10:21 presumptive [2] 35:2, 35:6 previous [2] 31:1, 38:5 primarily - 29:21 prior [3] 36:10, 50:22, 50:24 private - 23:11</p>	<p>probably [6] 12:1, 12:5, 13:14, 15:5, 15:12, 46:3 problem [2] 27:4, 27:5 problems - 41:25 proceed [6] 8:5, 10:15, 55:1, 55:1, 55:15, 55:21 proceeding [6] 5:19, 6:9, 6:15, 6:24, 16:1, 16:10 proceedings [6] 1:8, 2:1, 58:11, 59:8, 59:10, 59:13 process [13] 7:14, 26:6, 27:1, 37:20, 44:13, 45:4, 49:5, 49:17, 49:21, 51:17, 51:18, 54:9, 54:10 processes - 32:8 producers - 41:17 production [2] 40:6, 41:7 professionalism - 41:2 program [14] 17:2, 29:23, 31:24, 34:24, 35:10, 41:6, 41:12, 41:13, 41:24, 41:25, 42:1, 43:8, 43:11, 50:10 programs [2] 24:17, 29:21 project - 23:3 promised - 29:2 proposal [2] 27:23, 50:1 proposals - 52:11 propose - 31:9 proposed [5] 13:12, 31:21, 32:14, 33:13, 44:5 proposers -</p>
---	---	---	---	--	---

<p>50:2 proposing - 25:12 protect [7] 18:13, 20:13, 20:15, 20:18, 20:21, 21:25, 24:23 protection [2] 24:19, 25:11 protects - 21:24 provide [2] 29:9, 51:10 provided [2] 20:3, 20:4 provision - 55:13 public [18] 1:23, 4:6, 23:9, 29:10, 32:14, 33:13, 34:16, 34:17, 40:12, 40:16, 42:11, 43:20, 44:1, 56:10, 57:7, 57:10, 59:6, 59:20 purer - 21:8 purposes [3] 19:1, 46:10, 48:8 purview [2] 7:7, 53:24 pushing - 19:8 putting - 28:9</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quality [35] 3:7, 3:10, 3:12, 3:14, 3:19, 4:1, 4:3, 16:18, 16:24, 17:2, 21:9, 24:5, 28:20, 28:25, 29:4, 29:20, 30:4, 30:6, 30:13, 30:14, 30:15, 30:16, 30:18, 30:20, 31:12, 31:17, 31:22, 31:24, 32:1, 35:10, 36:15, 37:3, 37:19, 46:17, 50:7 quash [5] 7:2, 7:3, 10:9,</p>	<p>10:15, 10:25 quashed - 7:13 quick [2] 45:1, 45:25 quickly - 9:18 quite [3] 25:6, 25:6, 45:4 quorum [2] 2:24, 47:22</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raise - 10:22 raised [4] 9:24, 10:19, 31:17, 45:9 range [2] 19:16, 19:25 ranges [2] 19:5, 19:6 Rash [6] 3:11, 3:11, 37:16, 37:17, 39:3, 39:12 ratchet - 45:14 rate - 36:10 rather - 42:1 re-including - 57:19 reaching - 28:13 reaction - 8:25 ready [2] 34:12, 37:25 real - 27:10 really [11] 8:8, 9:17, 21:6, 23:24, 24:5, 27:2, 27:8, 44:3, 45:1, 52:2, 57:16 reason [5] 7:19, 27:24, 28:2, 35:11, 54:24 reasonable [3] 29:16, 35:3, 54:23 reasonably - 26:10 reasons - 27:22 Rebecca - 3:9 receiving - 26:23 recent - 50:16</p>	<p>Recess - 47:5 recommend - 28:11 recommendation [2] 12:13, 46:1 recommends - 32:25 record [7] 16:10, 16:23, 40:19, 44:6, 44:10, 44:17, 59:13 reduce - 40:1 reduction [2] 39:7, 39:25 refer - 28:18 Refinery - 14:5 reflect - 33:1 refund - 51:8 regarding [2] 7:11, 32:13 regards - 22:5 register - 33:3 registered [5] 30:17, 30:22, 31:10, 33:6, 33:10 registration [6] 29:18, 29:21, 29:25, 30:1, 30:3, 30:7 regularity - 10:21 regulated [2] 29:22, 32:4 regulation - 44:5 regulations [4] 20:25, 24:7, 25:8, 40:1 regulatory - 41:13 reiterate [2] 32:24, 48:12 reject [2] 10:22, 49:11 relationship - 22:8 relatively - 13:15 relief - 9:19 rely - 10:19 remaining - 37:6 rendered - 16:7</p>	<p>report [2] 14:9, 52:12 reported [4] 31:18, 32:22, 37:14, 59:10 Reporter [3] 1:23, 59:5, 59:20 represent [4] 9:8, 12:3, 12:5, 12:19 representing - 8:22 request [11] 29:11, 31:12, 32:15, 33:12, 40:11, 43:23, 48:2, 50:9, 52:2, 52:4, 57:17 requesting - 32:6 require [3] 31:12, 33:7, 33:11 required [5] 23:25, 30:6, 30:13, 45:17, 50:3 requirement - 21:23 requirements [2] 29:19, 38:1 rescinded - 52:8 research [2] 22:7, 48:5 resolve - 9:23 resource - 27:9 Resources [2] 3:23, 42:16 respect [4] 9:22, 24:19, 24:20, 25:11 respond - 38:3 response [28] 2:17, 2:19, 4:9, 4:20, 5:8, 5:10, 12:25, 13:3, 13:5, 27:17, 28:5, 37:20, 40:10, 42:2, 43:21, 46:21, 46:24, 47:1, 47:21, 56:8, 56:12, 56:16,</p>	<p>56:18, 57:4, 57:12, 57:24, 58:6, 58:8 responsibility - 17:1 responsible [2] 51:3, 51:6 restoration - 27:1 resulted - 38:14 revenue - 31:23 review [5] 1:1, 2:5, 10:23, 36:17, 49:6 revised [2] 16:18, 25:16 revising [2] 25:22, 30:12 rewriting - 22:21 rid - 52:9 Ridge - 5:25 rights [2] 11:16, 11:18 risk - 23:14 River [9] 17:6, 18:7, 18:7, 18:17, 19:12, 19:21, 20:9, 22:15, 55:7 road - 28:12 robust - 43:7 roles - 17:1 roll - 2:7 rolled [2] 26:6, 26:11 room [2] 1:10, 3:1 roughly - 31:19 RPR [3] 1:22, 59:5, 59:19 rule [12] 7:6, 10:11, 10:12, 20:7, 20:20, 25:15, 25:19, 34:5, 34:6, 36:11, 44:9, 44:14 rulemaking [18] 20:11, 22:14, 28:20, 29:4, 29:11, 31:8, 31:25, 32:14, 33:1, 43:15, 44:8, 44:10, 44:19, 46:10, 46:16,</p>	<p>47:24, 49:17, 54:10 rules [4] 20:22, 20:24, 27:23, 29:6 ruling - 11:20 run [6] 35:9, 35:18, 41:13, 42:1, 43:7, 43:11 running - 12:7</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>salable - 21:16 sample [5] 24:12, 24:12, 25:5, 26:16, 26:24 samples - 26:22 Sandy - 3:3 Sarah [9] 5:14, 8:14, 9:13, 12:18, 16:15, 46:17, 48:4, 48:6, 56:22 Sarah's - 12:13 satisfying - 21:7 save - 57:20 savings - 42:3 saying [2] 46:23, 56:15 says [2] 10:4, 24:9 scale [2] 19:10, 21:20 scanned - 51:20 Schaar [2] 17:14, 20:3 schedule [4] 6:2, 14:2, 14:4, 33:15 scheduled - 13:22 scheduling [7] 5:20, 6:8, 6:11, 6:14, 6:14, 6:25, 13:23 Scherer [2] 3:3, 3:3 science [2] 18:10, 19:22 scientific [2]</p>
---	---	--	---	---	--

22:7, 25:14 scope - 35:18 seal - 59:16 seconded [7] 5:6, 9:7, 12:24, 44:24, 46:16, 56:14, 58:5 secretary - 3:4 Section [7] 3:12, 3:19, 17:20, 28:25, 29:5, 29:14, 37:18 sections - 49:4 seeing [2] 21:3, 27:22 seek - 55:19 seem [3] 11:8, 15:6, 52:25 seems [2] 26:6, 54:22 segments [2] 22:15, 22:17 self-reported [2] 39:1, 39:3 send - 37:22 sense [3] 37:11, 40:7, 53:1 sent - 35:16 separate [2] 25:18, 52:19 separation - 7:4 Services [3] 3:11, 28:25, 37:18 setting [3] 17:4, 17:17, 19:2 settle - 14:7 settlement - 14:12 several [8] 15:1, 15:1, 17:16, 18:5, 18:12, 21:4, 26:16, 32:3 Shakes - 5:1 shall [2] 25:5, 26:16 sharp - 19:1 sheet - 48:9 short [2] 36:13, 36:20 shorthand -	59:10 shortly - 15:6 shows - 20:8 shut - 39:9 sides - 16:2 significant - 39:7 signify [2] 46:23, 56:15 single [3] 24:12, 25:5, 26:24 site - 17:4 sitting - 36:19 situation - 15:18 situations - 19:7 Sixth - 1:11 Sky - 52:14 somebody [3] 9:6, 37:15, 40:5 somewhere - 20:10 sort [3] 7:25, 8:2, 49:12 source [3] 18:24, 18:24, 45:20 sources - 18:21 speak [6] 4:8, 17:3, 22:14, 23:6, 25:17, 40:16 speaking [2] 17:6, 22:24 speaks - 23:11 Specialist - 3:16 specific [6] 17:5, 23:7, 24:9, 32:15, 34:12, 35:24 specifically [3] 22:14, 31:7, 34:8 specifies - 20:21 spending [2] 32:8, 43:10 spinning - 55:9 spoke - 44:2 spread - 44:17 SS - 59:3 staff [5] 3:5,	4:21, 4:23, 15:16, 32:1 stakeholder - 23:16 stakeholders [11] 18:11, 27:19, 27:25, 28:14, 32:18, 33:21, 34:3, 34:18, 35:21, 52:5, 52:10 standard [2] 19:12, 23:23 standards [11] 16:18, 17:2, 17:20, 18:13, 19:14, 21:9, 22:5, 22:10, 22:19, 22:22, 23:6 standing - 41:22 start [3] 3:2, 5:13, 40:22 starting - 17:10 state [10] 1:2, 3:23, 28:14, 35:13, 37:3, 38:21, 40:1, 42:16, 59:2, 59:7 stated [2] 15:19, 34:8 states - 35:16 status [3] 5:24, 14:9, 16:12 statute [7] 49:2, 49:4, 51:3, 54:8, 54:11, 55:13, 55:16 statutes [2] 10:21, 11:10 statutorily - 53:15 stay - 6:18 stayed [4] 8:2, 14:5, 14:8, 14:14 step [4] 49:8, 49:10, 49:16, 49:19 steps [3] 49:5, 49:12, 49:14 stipulate - 6:2 straight [2] 10:3, 10:7	stringent - 25:7 strong - 55:6 structure - 32:9 struggling - 15:4 stymied - 55:16 Subdivision - 5:25 submitted - 13:10 subpoena - 11:17 subpoenas [3] 7:1, 7:11, 7:12 substantively - 55:11 sued - 8:8 sufficient [7] 29:16, 31:23, 48:19, 49:7, 49:23, 53:11, 53:17 suggest - 45:22 suggestions - 52:13 suit [2] 7:15, 7:17 sulphur - 31:3 summary [4] 13:19, 14:1, 14:3, 51:19 summer - 28:1 supervisor [4] 3:12, 17:20, 28:24, 37:18 supply - 38:4 support [2] 31:23, 43:14 supported [2] 29:22, 42:5 Supreme [2] 6:19, 10:4 Surely - 56:24 surface [7] 17:25, 19:2, 21:9, 22:6, 22:8, 22:16, 24:10 system [3] 26:9, 38:7, 52:14 <hr/> T <hr/>	table - 20:20 taken [5] 2:2, 12:10, 40:24, 47:5, 59:8 takes [4] 9:7, 35:9, 36:21, 54:9 taking - 50:18 Talen - 3:24 targeted - 22:17 technical [5] 17:15, 20:3, 25:9, 26:3, 27:3 technically - 25:21 technicals - 24:18 technique - 19:1 technology [2] 39:10, 45:15 telephone - 1:20 telling - 14:24 ten [8] 19:11, 26:21, 26:21, 26:25, 39:22, 47:3, 47:4, 47:4 testimony [3] 2:2, 29:8, 44:7 thank [22] 2:25, 4:5, 4:14, 12:11, 16:3, 16:4, 16:15, 23:19, 27:14, 28:6, 28:16, 36:2, 37:10, 37:11, 40:8, 42:9, 42:10, 43:17, 43:19, 47:2, 51:11, 58:9 Thanks - 52:15 themselves [3] 4:8, 13:21, 52:4 there's [6] 6:18, 36:22, 36:22, 36:23, 39:24, 49:2 therein - 18:4 they'd - 54:20 they're [13] 6:8, 11:14, 13:25, 14:6,	14:8, 14:11, 19:15, 23:13, 41:18, 43:9, 43:10, 51:6, 52:23 they've [7] 12:4, 40:24, 42:24, 45:2, 45:6, 45:11, 45:22 thing [5] 8:19, 22:20, 26:11, 45:18, 54:1 thinking - 53:25 though - 23:16 thoughts - 54:19 throughout [3] 18:1, 28:14, 29:13 tied - 40:6 Tim [6] 2:16, 2:18, 4:1, 47:20, 50:5, 50:7 timeline [2] 54:8, 54:11 TMDL's - 27:2 to-wit - 2:2 today [13] 4:7, 4:23, 15:17, 17:3, 20:12, 20:13, 29:3, 39:21, 39:23, 48:16, 51:1, 51:12, 57:8 ton [12] 31:2, 31:14, 31:14, 31:15, 32:15, 32:16, 33:8, 33:9, 35:7, 35:7, 35:12, 35:22 tonnage [2] 30:24, 37:1 tons [4] 31:19, 31:20, 36:10, 38:14 tools - 21:1 top [2] 43:4, 48:17 topic [7] 17:14, 17:15, 17:22, 21:12, 25:8, 25:21, 27:25 topics - 17:4
--	---	--	--	---	--

<p>total - 38:19 towards - 37:23 toxic - 25:18 track - 39:10 tracks - 49:3 trade - 32:5 transcribed - 59:11 TRANSCRIPT - 1:8 transcription - 59:11 transparent - 20:17 traveling - 28:13 Treasure [2] 3:22, 42:16 Trenk [4] 3:22, 3:22, 42:14, 42:15 tricky - 32:19 tried [2] 14:17, 50:24 true [2] 39:15, 59:12 Trueblood [2] 3:15, 3:15 truly - 18:9 turn [3] 5:14, 21:10, 48:6 Tweeten [31] 1:18, 2:22, 2:23, 5:2, 5:3, 9:15, 9:21, 10:18, 11:3, 11:21, 12:7, 12:11, 12:15, 28:8, 28:10, 28:16, 36:3, 36:9, 36:12, 37:10, 43:24, 46:8, 47:18, 47:19, 51:13, 51:25, 52:15, 54:2, 55:2, 55:4, 58:2 twice - 42:20 type [2] 17:17, 25:6 types - 29:24 typically [2] 38:1, 38:6</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>Ulrich [8] 3:18, 3:18,</p>	<p>28:22, 28:23, 33:20, 34:9, 34:14, 40:23 ultimately - 55:11 unable - 50:23 uncertainty - 18:25 unclear [2] 11:8, 52:18 underlying [5] 8:1, 8:4, 10:10, 12:1, 12:4 understand [11] 11:3, 15:18, 18:8, 18:12, 25:10, 26:5, 32:11, 34:25, 35:25, 43:7, 51:12 understanding [2] 22:18, 52:3 unintended - 26:18 unit - 38:10 units - 38:9 unnecessary - 27:8 unsure - 34:1 update [3] 6:20, 16:14, 56:22 updated [2] 14:16, 16:11 updates - 5:20 Urban [12] 4:3, 4:3, 16:20, 16:22, 16:23, 21:17, 22:12, 23:20, 26:4, 26:14, 27:21, 28:10 urge - 44:12 uses - 20:21 using [2] 50:18, 59:11</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vacated - 13:24 Valley - 23:12 values - 24:11 variable - 20:1 variety - 40:3 various -</p>	<p>38:18 Vehicle - 14:13 visual - 48:13 volatile - 31:4 vote - 56:9</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>Wagoner - 6:10 wait [2] 6:22, 13:25 waive - 55:13 wanted [11] 6:3, 7:16, 8:6, 9:8, 10:17, 16:6, 17:20, 33:22, 35:20, 38:25, 42:22 Warner [3] 2:16, 2:18, 47:20 wastewater - 52:13 wasting - 55:10 waters [2] 17:25, 19:2 we'll [18] 2:6, 5:13, 16:15, 20:6, 20:18, 20:21, 20:24, 21:25, 25:12, 25:15, 25:22, 28:12, 40:12, 47:3, 48:7, 55:9, 56:20, 57:5 we're [15] 6:10, 7:24, 8:11, 9:11, 19:3, 19:13, 19:23, 23:6, 23:8, 25:6, 34:1, 41:5, 41:21, 54:12, 57:18 we've [13] 14:23, 17:24, 18:5, 18:11, 19:16, 19:22, 21:3, 21:18, 25:9, 27:7, 35:20, 41:8, 41:10 week [3] 14:11, 15:22, 50:25</p>	<p>welcome [2] 2:5, 4:15 Western [2] 13:8, 15:10 Westmoreland - 6:18 what's [5] 7:22, 26:8, 26:15, 27:7, 48:8 wheels - 55:9 WHEREOF - 59:15 WHEREUPON - 2:1 whether [12] 7:12, 8:21, 11:1, 11:5, 11:15, 49:6, 49:23, 52:19, 53:16, 53:21, 55:9, 55:20 Wildlife - 48:1 willing [2] 46:6, 53:5 wisely - 32:9 wish [2] 43:20, 57:7 withdraw [4] 10:14, 52:24, 53:22, 54:20 withdrawn - 14:18 within [4] 20:23, 24:7, 50:10, 53:23 WITNESS - 59:15 witnesses - 11:1 wording - 44:4 works - 10:23 worry - 49:22 wouldn't - 28:11 Wrecking - 14:13 written [3] 26:20, 44:7, 49:9</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>Yellowstone [11] 17:5, 17:10, 18:3, 18:7, 18:17, 19:6, 19:8, 19:12, 19:20, 20:8, 22:15</p>	<p>yesterday [2] 13:19, 13:24 yet [3] 13:10, 35:16, 49:22 you'll [2] 21:3, 36:5</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero - 19:7 zones [2] 20:22, 25:23</p>
---	--	--	--	---