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STATE OF NEW MEXICO  
SANTA FE COUNTY

TRANSCRIPT OF RECORDING

PUBLIC MEETING OF STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION  
April 11, 2024  
9:00 a.m.  
1220 S. Saint Francis Drive  
Santa Fe, New Mexico 87505

This PUBLIC MEETING was:

TAKEN BY: OIL CONSERVATION COMMISSION

TRANSCRIBED BY: RENEE M. SNYDER  
Kendra Tellez Court Reporting, Inc.  
A Veritext Company  
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Albuquerque, New Mexico 87102

1 CHAIR FUGE: All right. We're going  
2 to go ahead and get started. Good morning everyone.  
3 Just confirming that the meeting is recording.

4 Good morning. It is the April 11, 2024,  
5 meeting of the Oil -- New Mexico Oil Conservation  
6 Commission. Commissioner Bloom is participating  
7 remotely, and after conferring with Commission  
8 counsel, confirmed that that's appropriate,  
9 consistent with the requirements of the Open  
10 Meetings Act, as he is unavailable to participate in  
11 person. So I'm going to do a roll call.

12 Commissioner Bloom.

13 COMMISSIONER BLOOM: Present.

14 CHAIR FUGE: Dr. Ampomah.

15 COMMISSIONER AMPOMAH: Present.

16 CHAIR FUGE: Let the record reflect  
17 all commissioners of the New Mexico Oil  
18 Conservation -- Conservation Commission are present.

19 The agenda was distributed on advance of  
20 the meeting. Do my fellow commissioners have any  
21 edits or changes to the agenda?

22 COMMISSIONER BLOOM: No, Mr. Chair.

23 CHAIR FUGE: Can I get a motion?

24 COMMISSIONER BLOOM: I so move.

25 COMMISSIONER AMPOMAH: I second.

1 CHAIR FUGE: Let the record reflect  
2 the April 11, 2024, agenda was approved unanimously.

3 Moving on to the next item of the agenda,  
4 we have minutes from the March 14, 2024, meeting.  
5 My fellow commissioners, have -- have they had a  
6 chance to review? And do they have any edits?

7 COMMISSIONER BLOOM: Yes, Mr. Chair,  
8 the minutes look good to me. No edits.

9 CHAIR FUGE: Dr. Ampomah?

10 COMMISSIONER AMPOMAH: Yeah, looks  
11 good to me. No recommended edits from my side.

12 CHAIR FUGE: Can I get a motion,  
13 please.

14 COMMISSIONER BLOOM: I so move.

15 COMMISSIONER AMPOMAH: I second.

16 CHAIR FUGE: Let the record reflect  
17 that the minutes from the March 14, 2024, meeting  
18 were unanimously approved.

19 Now moving on to the pending cases. We  
20 have a number of items that were simply carried over  
21 from the March 14th meeting. The first couple of  
22 items were coming in with scheduling and planning  
23 for actual adjudications on the record. And the  
24 last item was sort of a follow-up till we can  
25 finalize a commissional order.

1           So I'm going to start with case number  
2   23580, Application to Amend Commission Rules to  
3   address perfluoroalkyl and polyfluoroalkyl  
4   substances and their use in oil and gas extraction,  
5   19.15.2, 19.15.16, 19.15.31, and 19.15.32 NMAC. Are  
6   the parties in that matter present?

7           MR. TREMAINE: This is Jesse Tremaine  
8   for the Oil Conservation Division.

9           MR. FELDEWERT: Good morning, Mr.  
10   Chair, members of the Commission. Michael Feldewert  
11   with Sante Fe office of Holland & Hart for the New  
12   Mexico Oil & Gas Association.

13           UNIDENTIFIED SPEAKER: Good morning,  
14   commissioners. (Inaudible).

15           CHAIR FUGE: Oh.

16           MS. BENNETT: Good morning, Mr.  
17   Chair. This is Deana Bennett appearing virtually on  
18   behalf of EOG Resources.

19           MS. SHAHEEN: And good morning,  
20   everyone. Sharon Shaheen appearing on behalf of  
21   Strata Productions.

22           CHAIR FUGE: Good morning, everyone.  
23   I think when we met last, as everyone recalls, this  
24   matter was set for a rule making hearing the end of  
25   February, beginning of March. That was pulled down

1 at the request of the parties. And so we're here  
2 today to discuss an updated schedule for the hearing  
3 and presentation of an updated scheduling order.

4 Can someone for either the -- well, I  
5 suppose I'll look to the petitioners or any of the  
6 other parties speak to where we are in terms of  
7 coming to a consensus on scheduling.

8 UNIDENTIFIED SPEAKER: -- chair, this  
9 is (inaudible) commissioners (inaudible) as  
10 Guardians. We haven't spoken (inaudible) and we  
11 (inaudible) Guardians (inaudible) spoken with Mr.  
12 Tremaine (inaudible). Really, the reason that we  
13 have those four weeks is we wanted to get this done  
14 before the holidays and then, of course, the  
15 additional (inaudible) separately (inaudible). This  
16 is the best way (inaudible).

17 We would ask the Commission to consider  
18 those four weeks and then schedule (inaudible).

19 CHAIR FUGE: And do any of the  
20 parties have comments on the schedule?

21 MR. TREMAINE: Mr. Chair, this is  
22 Jesse Tremaine.

23 Mr. Chair, Commissioners, the Division is  
24 available any of those four weeks. We've been in  
25 discussion with all of the parties, and while the

1 Division's available -- well, I'll defer to Mr.  
2 Feldewert on their availability, but our staff and  
3 witnesses are available. And it looks, at this  
4 point, like the November dates are probably better  
5 for all of the parties. But we can accommodate any  
6 of those four weeks.

7 CHAIR FUGE: Okay.

8 MR. FELDEWERT: Mr. Chair, Michael  
9 Feldewert for NMOGA.

10 I -- the November weeks work for NMOGA.  
11 The October weeks -- oh, I'm sorry. The week of  
12 September 30th and then the week of October 7th each  
13 have issues with them, so the November -- either one  
14 of those November weeks, though, we're available.

15 CHAIR FUGE: And the first November  
16 week was just looking at calendars (inaudible)  
17 because I know one -- one got emailed around -- was  
18 it the 11th?

19 COMMISSIONER BLOOM: Correct, Mr.  
20 Chair. We looked at November 11th through the 15th  
21 and November 18th through the 22nd.

22 UNIDENTIFIED SPEAKER: And I would  
23 add, Mr. Chair, that the -- when I looked at the  
24 schedule, I think that Thursday, the 14th, is a  
25 regular Commission hearing.

1 CHAIR FUGE: Looking at my --  
2 reaching out to my fellow commissioners -- because I  
3 think there was some concerns about the week of the  
4 18th, from at least Commissioner Bloom, but could  
5 folks do the week of November 11th?

6 COMMISSIONER AMPOMAH: Yeah, the week  
7 of November 11th works pretty well for me.  
8 (Inaudible).

9 CHAIR FUGE: Mr. Bloom?  
10 You're muted.

11 UNIDENTIFIED SPEAKER: (Inaudible).

12 CHAIR FUGE: It would start the 12th.

13 COMMISSIONER BLOOM: I'm sorry, I was  
14 muted.

15 Yeah, the week of the 11th works, but I  
16 just would flag that the 11th is Veterans Day,  
17 so . . .

18 CHAIR FUGE: Are the parties -- how  
19 do the parties feel if we went the 12th, 13th, 14th,  
20 and 15th? Do we think we could present the case in  
21 four days?

22 MR. FELDEWERT: Mr. Chair, I don't  
23 want to be overly optimistic, but I think, based on  
24 what I'm seeing, right now I would be hopeful that  
25 we could, particularly with the structure that we

1 have previously agreed upon, which the filing  
2 have -- prefiled written testimony, adopting of  
3 that, cross-examination. Again, maybe too,  
4 hopefully, optimistic, but I think there may be  
5 opportunity for at least areas of consensus and then  
6 the parties to present any alternative proposals  
7 that they want.

8 So four days seems adequate at this point  
9 in time.

10 CHAIR FUGE: Would the other parties  
11 concur?

12 UNIDENTIFIED SPEAKER: (Inaudible)  
13 Guardians. I do (inaudible) since it's just based  
14 (inaudible). So maybe (inaudible).

15 CHAIR FUGE: Mr. Feldewert.

16 MR. FELDEWERT: Put me in the  
17 optimistic category.

18 CHAIR FUGE: Let the record relect  
19 Michael Feldewert's optimistic.

20 Ms. -- Ms. Bennett.

21 MS. BENNETT: Thank you. We defer to  
22 the other parties in terms of how long it will take.  
23 But the proposed November 12th through 15th works  
24 for EOG.

25 CHAIR FUGE: Ms. Shaheen. Shaheen.



1 I'm sorry.

2 MS. SHAHEEN: I apologize. I entered  
3 an appearance in the wrong case. I withdraw my  
4 appearance.

5 CHAIR FUGE: Okay.

6 I'm going to go ahead and lets -- let it  
7 go -- based on the discussion here, I say we set for  
8 schedule -- I'm proposing that we set for --  
9 schedule the hearing in case number 23580 for --  
10 beginning -- so let me get it up -- November 12th --  
11 Tuesday, November 12th and running through Friday,  
12 November 15th. This will supplant the normally  
13 scheduled meeting of the Oil Conservation currently  
14 set for -- this would supplant the one currently set  
15 for November 14th.

16 Can I get a motion to approve that  
17 scheduling?

18 COMMISSIONER BLOOM: I so move.

19 COMMISSIONER AMPOMAH: I second.

20 CHAIR FUGE: Let the record reflect  
21 we've set case 23580 for hearing the week of  
22 November 11th, with the hearing beginning on  
23 November 12th. We'll work with the Commission --  
24 current Commission counsel to simply send around an  
25 updated scheduling order that reflects those new

1 dates unless the parties are requesting -- I'll open  
2 up --

3 Are the parties requesting changes to the  
4 otherwise approved scheduling order for the hearing  
5 that was supposed to be earlier this year?

6 MR. TREMAINE: Mr. Chair, this is  
7 Jesse Tremaine. I would recommend that we adopt a  
8 deadline for the submission of any revised petitions  
9 because that's what's expected in this case. And  
10 that's not included in the previous scheduling  
11 order. So I'm happy to work with the parties to --  
12 to try to reach a consensus on the appropriate dates  
13 there.

14 We also moved the prefiling deadlines out  
15 to a longer period of time in advance of the hearing  
16 as would normally be scheduled. So I think it could  
17 be beneficial for the parties to discuss the exact  
18 timing of that and make a recommendation to the  
19 Commission, unless the other parties disagree.

20 MR. FELDEWERT: This is Michael  
21 Feldewert with NMOGA. I agree. It's been a while  
22 since I looked at that schedule, and with the new  
23 hearing dates and how that relates to the prior  
24 weeks, I'd like to have an opportunity to take a  
25 look at it.

1 UNIDENTIFIED SPEAKER: Mr. Chair?

2 CHAIR FUGE: Yeah.

3 UNIDENTIFIED SPEAKER: (Inaudible).

4 Also my recollection is that (inaudible) schedule  
5 (inaudible). That may be (inaudible) comment  
6 (inaudible) testimony.

7 CHAIR FUGE: So based on -- based on  
8 the discussion, we will wait for the parties to  
9 submit an updated proposed order based on the one  
10 that was previously approved with changes here.

11 So I'll continue case number 23580 to the  
12 next meeting of the Oil Conservation Division on May  
13 9th. I would very much, in the interest of just  
14 transparencies in this rule making and other  
15 components, have it resolved at that hearing so  
16 folks know the schedule and understand the  
17 participation.

18 On the public comment point during our  
19 rule making proceedings, there should be provisions  
20 of a comment each and every day that we hold a  
21 hearing.

22 Any other discussion on case number 23580?

23 Okay. Hearing none, we'll move on to case  
24 number 24277 and a whole bunch of others. Or, I'm  
25 sorry, actually, 24277, 24278, and 23755 (sic),

Page 11

1 which are the Commission case numbers and turn it  
2 over to the parties to, again, discuss scheduling,  
3 planning, timing needs for this otherwise complex  
4 matter.

5 MR. RANKIN: Good morning, Mr. Chair.  
6 Good morning, commissioners. Adam Rankin appearing  
7 in these cases on behalf of Goodnight Midstream  
8 Permian, LLC.

9 CHAIR FUGE: Who else is here?

10 MS. HARDY: Good morning, Mr. Chair  
11 and commissioners. Dana Hardy with Hinkle Shanor on  
12 behalf of Empire New Mexico. And I believe Ms.  
13 Shaheen is also appearing.

14 MR. MOANDER: And then Chris Moander  
15 on behalf of the Oil Conservation Division.

16 CHAIR FUGE: Ms. Shaheen.

17 MS. SHAHEEN: Sharon Shaheen on  
18 behalf of Empire.

19 UNIDENTIFIED SPEAKER: (Inaudible) on  
20 behalf of Empire New Mexico.

21 MR. RANKIN: Mr. Chair, thank you.  
22 Good morning. Parties have been in discussions on a  
23 range of issues involving the scheduling of these  
24 matters, including potential hearing dates,  
25 sequencing, and other details around a proposed

1 (inaudible) order. Late yesterday Ms. Hardy  
2 circulated a proposed scheduling order to the  
3 Division and myself incorporating some of the  
4 concepts that we had discussed. There was some  
5 additional things in there that we hadn't, you know,  
6 initially discussed. So at this point, I need to  
7 and haven't yet even had a chance to circulate it to  
8 the client on our end here.

9 But there are a few things we still need  
10 to discuss. I think in concept, we have a  
11 framework, and we're looking at dates at the very  
12 end of August and September. I haven't yet got  
13 feedback from the Division or Empire yet on those  
14 dates, so I don't know what works for them.

15 But we're conceptually looking at a  
16 one-week hearing. And in terms of scheduling, we  
17 are proposing -- and I think we have agreement on  
18 this -- but essentially four weeks in advance to the  
19 hearing, we would submit written direct testimony.  
20 And then two weeks in advance of the hearing, we  
21 would be submitting written rebuttal testimony.

22 And that's -- sort of in terms of  
23 framework, that's -- that's the most I can say in  
24 terms of agreement. We have some discussions around  
25 an end of discovery, discovery deadlines. Mr.

1 Tremaine and I discussed including some provisions  
2 around deposition dates -- or at least the -- a  
3 motion for requesting a deposition. So we have that  
4 in the schedule built in.

5 We have discussed conceptually a timeframe  
6 for end of discovery. We've talked about 45 days to  
7 60 days in advance of the hearing date to -- to end  
8 discovery. So we need to have some discussions with  
9 the client and I think the Division to confirm  
10 whether what we think is appropriate in terms of  
11 timeframes to have a close of discovery to make sure  
12 everybody has enough time to incorporate any  
13 additional information into their direct testimony.

14 All that to say, Mr. Chair, we don't yet  
15 have a form of a proposed scheduling order, but I  
16 think that, in large part, we should be able to -- I  
17 expect that we should be able to reach agreement on  
18 any scheduling order. It may be that we, you know,  
19 have to leave some things out in order to reach  
20 agreement, but I think the parties will, with  
21 your -- with the Commission's approval, have a --  
22 take some effort over the next few days to try to  
23 wrap up a proposed scheduling order.

24 With that, I'll turn it over to Empire and  
25 Division counsel.

1 MS. HARDY: Mr. Chair, I think it  
2 would be helpful -- I agree generally with what Mr.  
3 Rankin stated. We do need to agree on a hearing  
4 date, and I think to do that, it would help us to  
5 know when the Commission would be able to hold this  
6 hearing. We have circulated dates -- or Mr. Rankin  
7 circulated dates. There are a number of experts in  
8 this case for both sides, I expect, and the dates  
9 that are being discussed actually don't work for all  
10 of our witnesses.

11 So would really prefer an earlier date  
12 than dates at the end of August. And so I think it  
13 will be helpful for us to know when the Commission  
14 is available to hold this hearing. And if there are  
15 dates earlier in August, that would be acceptable.

16 MR. MOANDER: Mr. Chair and  
17 commissioners. So one of the issues that I think  
18 I'm seeing from this is, it looks like there's  
19 probably going to be some -- I'm not going to  
20 necessarily call it aggressive, but there will be  
21 some probably thorough discovery that's going to go  
22 on. I appreciate Ms. Hardy's desire to get this  
23 done sooner because usually, I'm all about getting  
24 it done.

25 One of the issues that the Division is

1 facing here is, the fiscal year end for the Federal  
2 government is -- I believe it's the end of  
3 September. I'm not -- somewhere in the September  
4 month. And the problem we're going to have with  
5 that is, I've got technical staff that will need to  
6 testify, but these are also technical folks who work  
7 on our Federal programs. And the big issue with the  
8 end of the year is there tends to be a big rush of  
9 filings, reporting, et cetera, that ultimately you  
10 have to collect the data right up till the end. So  
11 the reports can't necessarily be finalized in a  
12 timely way.

13           The dates that were kind of -- that were  
14 bandied about amongst counsel were August 26th  
15 through the 30th, September 16th through the 20th,  
16 which would encompass the OCC regularly scheduled  
17 meeting on the 19th, and September 23rd through the  
18 27th. Because of that, of those options, the best  
19 day or the best window is actually the 23rd through  
20 the 27th of September for the Division. Otherwise,  
21 I will be in a position where I'm going to be  
22 tapdancing witnesses quite a bit.

23           I recognize that's kicked out a bit  
24 further than some of the other parties may desire.  
25 But I also recognize, having litigated my share of



1 cases, that with the discovery requests that I  
2 expect to see, there will be motion practice on  
3 this, and I have a feeling that the Commission will  
4 have a fair stack of those.

5 Additionally, given what I'm expecting to  
6 see for experts, I also would not be surprised to  
7 see motions to strike experts or motion -- motions  
8 in limine, things like that, that aren't necessarily  
9 the normal part of what I'll call a traditional OCC  
10 case.

11 So I would make the request to have this  
12 matter set at the end of September, the 23rd through  
13 the 27th, so I can preserve my witnesses and have  
14 them fully ready to go.

15 Oh, and, pardon me, I do agree, though,  
16 that there some -- these deadlines are going to be  
17 based on the hearing date, and that's the way that  
18 it looks like this order is going develop.

19 If -- what we're going to do, I think, is  
20 meet next week potentially. I haven't secured  
21 confirmation from all counsel on that, but it looks  
22 like we probably need to have a gathering to just  
23 hammer these out, if at all possible. So I think we  
24 should be able to get this stuff turned around  
25 fairly expeditiously, at least insofar as agreement.

1 CHAIR FUGE: And is it a consensus  
2 amongst the parties that this matter will likely  
3 take a full week?

4 MR. RANKIN: Mr. Chair, this is Adam  
5 Rankin. I believe the duration of the hearing may  
6 depend in part on the scope. We had discussed at  
7 the last status conference whether the hearing would  
8 include all of the cases currently referred to  
9 Commission, and there's an -- 18 of them in total.  
10 Or whether we would carve only those cases within  
11 the unit, Eunice Monument South Unit and hear those  
12 initially and then stay those cases relating to  
13 (inaudible) outside the unit boundary.

14 My view is that hearing the issues on the  
15 cases inside the unit boundary are complex enough  
16 that I'm hopeful we can get that done in week. But  
17 if we were to include the cases outside the unit  
18 boundary, I don't think we would get it done in a  
19 week.

20 And on that point, Mr. Chair, I'll just  
21 say, you know, one thing I neglected to mention at  
22 the -- in the opening was, I do think we were not  
23 going to reach agreement on that issue. We  
24 discussed it, and it's just not a point that we can  
25 agree on.

1           So one thing I think that we can do while  
2 we work through this scheduling is potentially set  
3 up a briefing schedule on that one issue. There are  
4 issues out there that we're going to start briefing  
5 on the legal side in the next few weeks to month.  
6 But that one in particular is something that we  
7 start dealing with while we were to hammer out a  
8 hearing schedule.

9           On the August date, you know, I had -- I  
10 had proposed that -- we have issues with August.  
11 Our experts are not available in that month. They  
12 have other commitments. So the last week of August  
13 could potentially work. It's not great for me. I  
14 do think, you know, the August timeframe is going to  
15 be very tight, just in terms of getting everything  
16 done.

17           So my preference would be to have a  
18 timeframe in later September. Our client, however,  
19 is eager to proceed. You know, having this drag out  
20 does not benefit them either.

21           So nevertheless, I think, you know, if  
22 that August -- rather, September timeframe is  
23 available with the Commission, that would be our  
24 preference.

25                           CHAIR FUGE: Listening to the

1 discussion, and I'll turn it over to my fellow  
2 commissioners to -- it sounds like this is a matter  
3 that will have some need for a motions hearing prior  
4 to it some date in advance and then a date for the  
5 hearing. I think to move things along, it would be  
6 good for us today in this discussion to set both of  
7 those dates so that we can put the parties on a  
8 pathway to resolving it.

9 In terms of my own availability -- and I  
10 will turn it over to my fellow commissioners, I  
11 heard we -- potential discussions are swirling  
12 around the week of the 16th and the week of the  
13 23rd. Personally, the week of the 16th would be  
14 better for my schedule, although I could make the  
15 week of the 23rd work. And I wanted to float just  
16 because I know there are a lot of complex issues,  
17 some questions about scopes, and other things like  
18 that, potentially setting a motions hearing in this.  
19 Would like to get parties' reaction at the currently  
20 scheduled OCC meeting on July 11th. And before the  
21 parties respond, wanted to just get my fellow  
22 commissioners' reactions to that.

23 Commissioner Bloom.

24 COMMISSIONER BLOOM: Yes, thank you,  
25 Mr. Chair.

1           Looking at my schedule here, the week of  
2 the 16th, not great. I could make it work, cancel  
3 about eight meetings. The week of the 23rd, much  
4 better. But nothing I can't move around on the week  
5 of the 16th.

6           COMMISSIONER AMPOMAH: Mr. Chair, so  
7 from my side, the week of 23rd would be much better  
8 (inaudible).

9           CHAIR FUGE: It sounds like we can  
10 make the week of the 23rd work for the hearing  
11 itself. What are parties' reactions to having a  
12 motion hearing in -- well, either July or August?

13           MR. RANKIN: Mr. Chair, I'll be in  
14 Denmark on July 11th. I'm sure Mr. Feldewert  
15 (inaudible) have to take over my duties in this  
16 case.

17           So my request would be -- I think a -- I  
18 think a motions hearing is (inaudible) appropriate.  
19 I am not convinced that by August -- there may be  
20 some additional matters that would need to be  
21 addressed in advance to the hearing, prehearing  
22 motions. But I think it may make sense to have at  
23 least -- and hearing on some of the dispositive  
24 issues in August, given the ranging issues that I  
25 think need to be addressed legally.

1           So I think that an August hearing date for  
2 some of these matters would potentially make sense.  
3 I'm just thinking through the timing of it.

4           I may -- I may request, however, that we  
5 look at a September date for a motions hearing.  
6 That would just allow the parties to have a better  
7 understanding of all the issues. I think there's  
8 still things that are -- that surface over time and  
9 I don't want to -- I don't want to limit ourselves  
10 to a single dispositive hearing date. And if there  
11 are additional issues that come up, I would like to  
12 be able to have those briefed at a later time as  
13 well. And (inaudible) --

14                   MS. HARDY: Mr. Chair? Oh, sorry.  
15 May I --

16                   CHAIR FUGE: Ms. Hardy, yeah.

17                   MS. HARDY: Thank you.

18           I think it's fine to have a motions  
19 hearing set in September, but I think that we are  
20 going to need a decision on the scope of the hearing  
21 much earlier than that because we are talking about  
22 submitting our testimony and exhibits four weeks  
23 before the hearing date.

24           So we're going to need to know what those  
25 should include. And I think that issue should be

1 able -- should be possible to address fairly  
2 expeditiously. I think the earlier we can have a  
3 hearing on that regarding the scope, the better.  
4 And I would think that Goodnight would be able to  
5 submit motions on that, I would think, within the  
6 next couple of weeks.

7 Mr. Rankin and I have discussed that issue  
8 and their position. I don't think they need a lot  
9 of discovery for that. I think their position is  
10 going to be that the cases outside the unit should  
11 be heard separately, and we disagree.

12 So I think that should be heard and  
13 decided much sooner. I think the earlier, the  
14 better, really. I would request it -- a hearing on  
15 that issue possibly in May or June.

16 CHAIR FUGE: So that's where I was  
17 getting with my question about a July date was, it  
18 seems to me there are both, potentially in this  
19 case, looking at the record, procedural questions  
20 and discovery questions that can probably be  
21 resolved a little closer to, and may be  
22 appropriately addressed closer to, but there are  
23 fundamental questions in terms of hearing scope,  
24 prep, other things like that that should be  
25 addressed sooner.

1           And teeing off Ms. Hardy's suggestion,  
2           what about setting it, at least on that discreet  
3           issue, for the June Oil Conservation Commission  
4           hearing?

5                       MR. RANKIN: I think that's  
6           appropriate, Mr. Chair. I think getting that issue  
7           resolved as early as possible makes a lot of sense.  
8           And I think if we -- with counsel, I propose that we  
9           come up with a briefing schedule so that it will be,  
10          you know, prepared for argument at that June regular  
11          scheduled Commission meeting.

12                      MR. MOANDER: Mr. Chair and  
13          commissioners, just to clarify, we're talking --  
14          because we're -- this case has so many moving parts  
15          here. But just to clarify, is this going to be for  
16          just dispositive motions or are we -- is the  
17          Commission considering motions to compel, motions to  
18          strike? Because I -- with all the potential motions  
19          filed here, I just want some clarity as to what  
20          exactly would be heard on this -- on this setting in  
21          the June -- at the June OCC meeting.

22                      CHAIR FUGE: So the proposal, if I'm  
23          recapping the discussion and -- and it's open for  
24          further discussion here, is that the -- at the June  
25          Oil Conservation Commission hearing, we will hear



1 motions dealing with the scope of the case. As  
2 either Mr. Rankin or Ms. Hardy mentioned, there are  
3 some 18 cases, if you count the Division cases and  
4 cases filed originally with the Commission, at issue  
5 here.

6 So in June the purpose of that briefing  
7 and hearing would be to either say the whole suit's  
8 moving forward or whatever -- you know, we'll hear  
9 arguments from the parties about what universe of  
10 cases should be moved so we can define the scope of  
11 the hearing that we're going to set for September --  
12 for the week of -- so the week -- for the week of  
13 September 23rd.

14 I believe, Mr. Moander, there will be also  
15 a subsequent motions hearing closer to, that will  
16 deal with some of the issues you discussed about,  
17 you know, kind of more specific procedural  
18 evidentiary type hearings closer to. But the  
19 purpose of the June hearing is to hear arguments  
20 from the party on the proper scope of the case.

21 MR. MOANDER: Thank you, Mr. Chair.

22 One other thing I would like address since  
23 we're on the topic of motions and the -- I do not  
24 want this construed as me throwing anybody under the  
25 bus or anything, but it appears that there have

1       been, at least in -- there's at least one motion  
2       hanging out there that was filed in March. It was  
3       from Empire.

4               OCD wasn't served. I examined that, and  
5       so I'm going to just ask the parties to remember  
6       that we are in the case. And I would ask Empire if  
7       they would go ahead and serve that on us so we could  
8       evaluate and potentially respond.

9               MS. HARDY: Of course, we will do  
10       that.

11              MR. MOANDER: Thank you, Ms. Hardy.

12              MS. HARDY: Apologies, Mr. Moander.

13              MR. MOANDER: Oh, it's quite -- Ms.  
14       Hardy, that's why I was -- I haven't had a chance to  
15       talk to you directly. So I had to bring it up  
16       today, but thank you.

17              CHAIR FUGE: Other parties' thoughts  
18       on that sort of rough outline of the proposed  
19       schedule?

20              MR. RANKIN: Mr. Chair, I think  
21       the -- a June hearing addressing the scope of the  
22       cases -- in other words, which cases should be  
23       included in the September hearing date is  
24       appropriate. And I think based on that hearing  
25       date, I would propose that I confer with Empire

1 counsel, Division counsel on a scheduling that would  
2 allow for the Commission to have at least -- would  
3 you like a week or -- two weeks or a week in advance  
4 to review the briefing to -- let us know what  
5 timeframe you would like, we'll work backwards from  
6 that date to coordinate a briefing schedule.

7 CHAIR FUGE: I think it would be most  
8 helpful to have the materials a week in advance of  
9 the hearing.

10 All right. So seeing no further  
11 discussion either online or here, I'm going to move  
12 that we set cases 23580, 24277, and 23775, those are  
13 the Commission case numbers, not the Division case  
14 numbers that are also implicated, for hearing as  
15 followed at a minimum:

16 At the June -- and my phone just locked.  
17 At the June 13th -- currently scheduled June 13th  
18 meeting of the Oil Conservation Commission, there  
19 will be a hearing on motions concerning the scope of  
20 this proceeding to help focus the cases and issues  
21 to be set for hearing and that the ultimate hearing  
22 in these cases will be held the week of September  
23 23rd at a special Commission meeting from Monday,  
24 September 23rd through Friday, September 27th. And  
25 we will update the OCC calendar accordingly.

1 Can I get a second?

2 COMMISSIONER BLOOM: Mr. Chair, real  
3 quickly, one more time, what was the date for the  
4 motions hearing?

5 CHAIR FUGE: The current -- June  
6 13th, that's the currently scheduled Oil  
7 Conservation Commission hearing date.

8 COMMISSIONER BLOOM: Okay. I had  
9 that meeting on the 20th. I don't know what  
10 happened there.

11 CHAIR FUGE: Oh, we may have -- hold  
12 on. Did we move it the 20th? We may have moved it  
13 to the 20th. Let me pull it up. Because I know we  
14 set the schedule at the end of last year.

15 Sorry, yes, you are correct, Commissioner  
16 Bloom, because I think we moved it.

17 Sorry, it will be set for the June 20th  
18 Oil -- the regularly scheduled June 20th meeting of  
19 the Oil Conservation Commission.

20 COMMISSIONER BLOOM: Then I would  
21 second that.

22 CHAIR FUGE: I'm going to do a roll  
23 call.

24 Commissioner Ampomah.

25 COMMISSIONER AMPOMAH: Approved.

1 CHAIR FUGE: Commissioner Bloom.

2 COMMISSIONER BLOOM: Approve.

3 CHAIR FUGE: Let the record reflect  
4 the motion was unanimously approved. And with those  
5 dates in mind, I would ask by the next meeting, the  
6 parties endeavor in the -- I'll continue these cases  
7 to the next meeting and ask that the parties work to  
8 get a more flushed out procedural order for this  
9 matter in light of those dates.

10 UNIDENTIFIED SPEAKER: (Inaudible)  
11 Chair (inaudible) we will get that done and we'll  
12 confer amongst ourselves and get a proposed  
13 scheduling order to the Commission.

14 CHAIR FUGE: Perfect.

15 MS. HARDY: Thank you.

16 MR. MOANDER: Thank you.

17 CHAIR FUGE: The last item up is case  
18 number 23655. We had evidentiary presentations,  
19 witnesses, testimony at the prior Commission  
20 hearing, and we heard evidence. And basically, the  
21 Commission staff circulated a draft order based on  
22 proposed findings submitted by the parties. I know  
23 we got some comments back from the petitioner, JITC,  
24 on those targeted comments, but did -- suggested  
25 some edits. Wanted to give other parties in the

1 case an opportunity to discuss.

2 MR. TREMAINE: Mr. Chair,  
3 commissioners, this is Jesse Tremaine for the Oil  
4 Conservation Division. The Division has reviewed  
5 the circulated proposal, and we anticipate providing  
6 predominately minimal technical and language edits  
7 for clarity.

8 There are a couple items that we  
9 highlighted that require internal discussion. And  
10 unfortunately, due to the timing of the circulation  
11 this week, the Division's deputy director has been  
12 unavailable as he's out on personal business. And  
13 so I need a couple days in order to provide the, you  
14 know, final version of those comments, so by the  
15 middle of next week. I don't anticipate anything  
16 substantial, and I don't want to unnecessarily ask  
17 this to move to another -- another meeting, but I  
18 did (inaudible) client approval before we submit  
19 those.

20 CHAIR FUGE: Does -- do either of my  
21 fellow commissioners have any big picture comments  
22 on the draft orders or the comments we received to  
23 date?

24 COMMISSIONER BLOOM: I do not, Mr.  
25 Chair.

1 COMMISSIONER AMPOMAH: I do not.

2 CHAIR FUGE: I would propose, then,  
3 if the parties can come to a consensus on final  
4 revisions to it and they can submit it to us as sort  
5 of consensus, redlines, and finalized, that the  
6 Commission can circulate it for signature without  
7 further action, but I'm looking at commissioner  
8 counsel, if we should take it up at the May meeting.

9 UNIDENTIFIED SPEAKER: Mr. Chair,  
10 members of the Commission, you have the option to do  
11 either. You can delegate to the Chair -- the  
12 Commission can delegate to the Chair authority to  
13 sign a consensus order that does not depart  
14 significantly from what was presented previously.  
15 Or you could bring it up at the meeting.

16 CHAIR FUGE: Commissioners, but I  
17 leave it to you because I don't think it's an  
18 appropriate motion for me to make. If you're  
19 comfortable delegating signing a consensus order to  
20 the -- to them, assuming we get it from the parties.

21 COMMISSIONER BLOOM: Mr. Chair, I'd  
22 be more comfortable reviewing everything after we  
23 see what OCD is going to present and then -- and  
24 then, I guess, voting at the next meeting and  
25 signing after that.

1 CHAIR FUGE: There we have it. We'll  
2 push the case to the May 9th hearing and ask the  
3 parties to circulate a consensus order, if they can  
4 get to that point, with all the changes in it.

5 And I believe the clerk for the Commission  
6 circulated it Word document so the parties have the  
7 Word version that can be returned to the Commission.

8 MR. FELDEWERT: So -- Mr. Chair,  
9 Michael Feldewert with the JITC. You'd like to see  
10 a consensus, I guess, redline (inaudible)?

11 CHAIR FUGE: Mr. Feldewert, I, for  
12 one -- and I'll defer to -- let my other  
13 commissioners speak -- I did not have any comments  
14 or concerns with the edits that you proposed on  
15 behalf of the JITC, but understand from Mr. Tremaine  
16 that there may be some minor refinements from OCD.  
17 So if we could get one sort of set of redlines back,  
18 we can have it presented as a final order for the  
19 Commission final action on at the next hearing.

20 UNIDENTIFIED SPEAKER: Okay. Yeah.

21 MR. FELDEWERT: We'll get that done.

22 CHAIR FUGE: Perfect.

23 Any other comments or questions on that  
24 matter?

25 There is no other business on the -- well,



1 I'm going to make a call. Is there any other  
2 business before the Commission today?

3 UNIDENTIFIED SPEAKER: Mr. Chair,  
4 members of the Commission, just as an FYI, there is  
5 oral argument tomorrow morning in the Atencio case,  
6 so if any of the commissioners -- or did anyone  
7 here -- wants the link to that oral argument, it  
8 will be held in a hybrid format in front of Judge  
9 Matthew Wilson here on the 1st. It begins at 9:00.  
10 So if anyone wants the link, I'm happy to send it.

11 Thanks.

12 CHAIR FUGE: And is that just a  
13 hearing on the State's Motion to Dismiss?

14 UNIDENTIFIED SPEAKER: Mr. Chair,  
15 members of the Commission, it is the hearing on all  
16 dispositive motions. That would include the  
17 motions -- there's two motions that are dispositive;  
18 one for a Motion for Judgment on the Pleadings by  
19 the legislature --

20 CHAIR FUGE: Okay.

21 UNIDENTIFIED SPEAKER: -- and a  
22 Motion to Dismiss by the executive defendants, which  
23 would include our clients, the OCC, EIB, and the  
24 State as a whole.

25 CHAIR FUGE: Perfect.

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Seeing no other business, our next meeting is May 9, 2024. And April 11, 2024, meeting of the Oil Conservation Commission is otherwise adjourned. Have a good day, everyone.

COMMISSIONER BLOOM: Thank you-all.

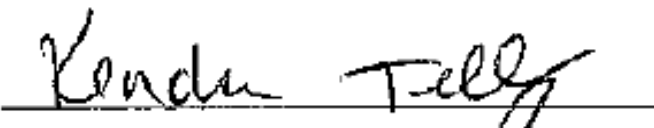
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STATE OF NEW MEXICO  
COUNTY OF BERNALILLO

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[& - ahead]

<b>&amp;</b>	<b>2</b>	<b>5</b>	21:20 22:11
<b>&amp;</b> 4:11,12	<b>2024</b> 1:8 2:4	<b>500</b> 1:16	<b>additionally</b>
<b>1</b>	3:2,4,17 34:2,2 35:21	<b>6</b>	17:5
<b>105</b> 1:16	<b>205</b> 35:4,20	<b>60</b> 14:7	<b>address</b> 4:3 23:1 25:22
<b>11</b> 1:8 2:4 3:2 34:2	<b>20th</b> 16:15 28:9 28:12,13,17,18	<b>7</b>	<b>addressed</b>
<b>11th</b> 6:18,20 7:5,7,15,16 9:22 20:20 21:14	<b>22nd</b> 6:21	<b>7th</b> 6:12	21:21,25 23:22 23:25
<b>12/31/2024</b>	<b>23580</b> 4:2 9:9 9:21 11:11,22 27:12	<b>8</b>	<b>addressing</b>
35:20	<b>23655</b> 29:18	<b>87102</b> 1:16	26:21
<b>1220</b> 1:9	<b>23755</b> 11:25	<b>87505</b> 1:9	<b>adequate</b> 8:8
<b>12th</b> 7:12,19 8:23 9:10,11 9:23	<b>23775</b> 27:12	<b>9</b>	<b>adjourned</b> 34:3
<b>13th</b> 7:19 27:17 27:17 28:6	<b>23rd</b> 16:17,19 17:12 20:13,15 21:3,7,10 25:13 27:23,24	<b>9</b> 34:2	<b>adjudications</b>
<b>14</b> 3:4,17	<b>24277</b> 11:24,25 27:12	<b>9:00</b> 1:8 33:9	3:23
<b>14th</b> 3:21 6:24 7:19 9:15	<b>24278</b> 11:25	<b>9th</b> 11:13 32:2	<b>adopt</b> 10:7
<b>15th</b> 6:20 7:20 8:23 9:12	<b>26th</b> 16:14	<b>a</b>	<b>adopting</b> 8:2
<b>16th</b> 16:15 20:12,13 21:2 21:5	<b>27th</b> 16:18,20 17:13 27:24	<b>a.m.</b> 1:8	<b>advance</b> 2:19 10:15 13:18,20 14:7 20:4 21:21 27:3,8
<b>18</b> 18:9 25:3	<b>29</b> 35:21	<b>ability</b> 35:13	<b>agenda</b> 2:19,21 3:2,3
<b>18th</b> 6:21 7:4	<b>3</b>	<b>able</b> 14:16,17 15:5 17:24 22:12 23:1,4	<b>aggressive</b>
<b>19.15.16</b> 4:5	<b>30523</b> 35:19	<b>acceptable</b>	15:20
<b>19.15.2</b> 4:5	<b>30th</b> 6:12 16:15	<b>accommodate</b>	<b>agree</b> 10:21 15:2,3 17:15 18:25
<b>19.15.31</b> 4:5	<b>4</b>	<b>act</b> 2:10	<b>agreed</b> 8:1
<b>19.15.32</b> 4:5	<b>45</b> 14:6	<b>action</b> 31:7 32:19	<b>agreement</b>
<b>19th</b> 16:17	<b>4th</b> 1:16	<b>actual</b> 3:23	13:17,24 14:17 14:20 17:25 18:23
<b>1st</b> 33:9		<b>actually</b> 11:25 15:9 16:19	<b>ahead</b> 2:2 9:6 26:7
		<b>adam</b> 12:6 18:4	
		<b>add</b> 6:23	
		<b>additional</b> 5:15 13:5 14:13	

[albuquerque - case]

<p><b>albuquerque</b> 1:16</p> <p><b>allow</b> 22:6 27:2</p> <p><b>alternative</b> 8:6</p> <p><b>amend</b> 4:2</p> <p><b>ampomah</b> 2:14 2:15,25 3:9,10 3:15 7:6 9:19 21:6 28:24,25 31:1</p> <p><b>anticipate</b> 30:5 30:15</p> <p><b>anybody</b> 25:24</p> <p><b>apologies</b> 26:12</p> <p><b>apologize</b> 9:2</p> <p><b>appearance</b> 9:3 9:4</p> <p><b>appearing</b> 4:17 4:20 12:6,13</p> <p><b>appears</b> 25:25</p> <p><b>application</b> 4:2</p> <p><b>appreciate</b> 15:22</p> <p><b>appropriate</b> 2:8 10:12 14:10 21:18 24:6 26:24 31:18</p> <p><b>appropriately</b> 23:22</p> <p><b>approval</b> 14:21 30:18</p> <p><b>approve</b> 9:16 29:2</p>	<p><b>approved</b> 3:2 3:18 10:4 11:10 28:25 29:4</p> <p><b>april</b> 1:8 2:4 3:2 34:2 35:21</p> <p><b>areas</b> 8:5</p> <p><b>argument</b> 24:10 33:5,7</p> <p><b>arguments</b> 25:9,19</p> <p><b>association</b> 4:12</p> <p><b>assuming</b> 31:20</p> <p><b>atencio</b> 33:5</p> <p><b>attorneys</b> 35:16</p> <p><b>audio</b> 35:6,7,8 35:13</p> <p><b>august</b> 13:12 15:12,15 16:14 19:9,10,12,14 19:22 21:12,19 21:24 22:1</p> <p><b>authority</b> 31:12</p> <p><b>availability</b> 6:2 20:9</p> <p><b>available</b> 5:24 6:1,3,14 15:14 19:11,23</p>	<p><b>bandied</b> 16:14</p> <p><b>based</b> 7:23 8:13 9:7 11:7,7,9 17:17 26:24 29:21</p> <p><b>basically</b> 29:20</p> <p><b>beginning</b> 4:25 9:10,22</p> <p><b>begins</b> 33:9</p> <p><b>behalf</b> 4:18,20 12:7,12,15,18 12:20 32:15</p> <p><b>believe</b> 12:12 16:2 18:5 25:14 32:5</p> <p><b>beneficial</b> 10:17</p> <p><b>benefit</b> 19:20</p> <p><b>bennett</b> 4:16,17 8:20,21</p> <p><b>bernalillo</b> 35:2</p> <p><b>best</b> 5:16 16:18 16:19 35:12</p> <p><b>better</b> 6:4 20:14 21:4,7 22:6 23:3,14</p> <p><b>big</b> 16:7,8 30:21</p> <p><b>bit</b> 16:22,23</p> <p><b>bloom</b> 2:6,12 2:13,22,24 3:7 3:14 6:19 7:4,9 7:13 9:18 20:23,24 28:2 28:8,16,20</p>	<p>29:1,2 30:24 31:21 34:5</p> <p><b>boundary</b> 18:13,15,18</p> <p><b>briefed</b> 22:12</p> <p><b>briefing</b> 19:3,4 24:9 25:6 27:4 27:6</p> <p><b>bring</b> 26:15 31:15</p> <p><b>built</b> 14:4</p> <p><b>bunch</b> 11:24</p> <p><b>bus</b> 25:25</p> <p><b>business</b> 30:12 32:25 33:2 34:1</p>
			<b>c</b>
			<p><b>c</b> 35:3,3</p> <p><b>calendar</b> 27:25</p> <p><b>calendars</b> 6:16</p> <p><b>call</b> 2:11 15:20 17:9 28:23 33:1</p> <p><b>cancel</b> 21:2</p> <p><b>carried</b> 3:20</p> <p><b>carve</b> 18:10</p> <p><b>case</b> 4:1 7:20 9:3,9,21 10:9 11:11,22,23 12:1 15:8 17:10 21:16 23:19 24:14 25:1,20 26:6 27:13,13 29:17 30:1 32:2 33:5</p>

[cases - confirming]

<p><b>cases</b> 3:19 12:7 17:1 18:8,10 18:12,15,17 23:10 25:3,3,4 25:10 26:22,22 27:12,20,22 29:6</p> <p><b>category</b> 8:17</p> <p><b>ccr</b> 35:20</p> <p><b>certify</b> 35:6,14</p> <p><b>cetera</b> 16:9</p> <p><b>chair</b> 2:1,14,16 2:22,23 3:1,7,9 3:12,16 4:10 4:15,17,22 5:8 5:19,21,23 6:7 6:8,15,20,23 7:1,9,12,18,22 8:10,15,18,25 9:5,20 10:6 11:1,2,7 12:5,9 12:10,16,21 14:14 15:1,16 18:1,4,20 19:25 20:25 21:6,9,13 22:14,16 23:16 24:6,12,22 25:21 26:17,20 27:7 28:2,5,11 28:22 29:1,3 29:11,14,17 30:2,20,25 31:2,9,11,12,16 31:21 32:1,8</p>	<p>32:11,22 33:3 33:12,14,20,25</p> <p><b>chance</b> 3:6 13:7 26:14</p> <p><b>changes</b> 2:21 10:3 11:10 32:4</p> <p><b>chris</b> 12:14</p> <p><b>circulate</b> 13:7 31:6 32:3</p> <p><b>circulated</b> 13:2 15:6,7 29:21 30:5 32:6</p> <p><b>circulation</b> 30:10</p> <p><b>clarify</b> 24:13,15</p> <p><b>clarity</b> 24:19 30:7</p> <p><b>clerk</b> 32:5</p> <p><b>client</b> 13:8 14:9 19:18 30:18</p> <p><b>clients</b> 33:23</p> <p><b>close</b> 14:11</p> <p><b>closer</b> 23:21,22 25:15,18</p> <p><b>collect</b> 16:10</p> <p><b>come</b> 22:11 24:9 31:3</p> <p><b>comfortable</b> 31:19,22</p> <p><b>coming</b> 3:22 5:7</p> <p><b>comment</b> 11:5 11:18,20</p>	<p><b>comments</b> 5:20 29:23,24 30:14 30:21,22 32:13 32:23</p> <p><b>commission</b> 1:7 1:13 2:6,7,18 4:2,10 5:17 6:25 9:23,24 10:19 12:1 15:5,13 17:3 18:9 19:23 24:3,11,17,25 25:4 27:2,13 27:18,23 28:7 28:19 29:13,19 29:21 31:6,10 31:12 32:5,7 32:19 33:2,4 33:15 34:3</p> <p><b>commission's</b> 14:21</p> <p><b>commissional</b> 3:25</p> <p><b>commissioner</b> 2:6,12,13,15,22 2:24,25 3:7,10 3:14,15 6:19 7:4,6,13 9:18 9:19 20:23,24 21:6 28:2,8,15 28:20,24,25 29:1,2 30:24 31:1,7,21 34:5</p> <p><b>commissioners</b> 2:17,20 3:5</p>	<p>4:14 5:9,23 7:2 12:6,11 15:17 20:2,10,22 24:13 30:3,21 31:16 32:13 33:6</p> <p><b>commitments</b> 19:12</p> <p><b>company</b> 1:15 35:10</p> <p><b>compel</b> 24:17</p> <p><b>complex</b> 12:3 18:15 20:16</p> <p><b>components</b> 11:15</p> <p><b>concept</b> 13:10</p> <p><b>concepts</b> 13:4</p> <p><b>conceptually</b> 13:15 14:5</p> <p><b>concerning</b> 27:19</p> <p><b>concerns</b> 7:3 32:14</p> <p><b>concur</b> 8:11</p> <p><b>confer</b> 26:25 29:12</p> <p><b>conference</b> 18:7</p> <p><b>conferring</b> 2:7</p> <p><b>confirm</b> 14:9</p> <p><b>confirmation</b> 17:21</p> <p><b>confirmed</b> 2:8</p> <p><b>confirming</b> 2:3</p>
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[consensus - division]

<p><b>consensus</b> 5:7 8:5 10:12 18:1 31:3,5,13,19 32:3,10</p> <p><b>conservation</b> 1:7,13 2:5,18 2:18 4:8 9:13 11:12 12:15 24:3,25 27:18 28:7,19 30:4 34:3</p> <p><b>consider</b> 5:17</p> <p><b>considering</b> 24:17</p> <p><b>consistent</b> 2:9</p> <p><b>construed</b> 25:24</p> <p><b>contained</b> 35:10</p> <p><b>continue</b> 11:11 29:6</p> <p><b>convinced</b> 21:19</p> <p><b>coordinate</b> 27:6</p> <p><b>correct</b> 6:19 28:15 35:11</p> <p><b>counsel</b> 2:8 9:24 14:25 16:14 17:21 24:8 27:1,1 31:8</p> <p><b>count</b> 25:3</p> <p><b>county</b> 1:3 35:2</p>	<p><b>couple</b> 3:21 23:6 30:8,13</p> <p><b>course</b> 5:14 26:9</p> <p><b>court</b> 1:15 35:9</p> <p><b>cross</b> 8:3</p> <p><b>crr</b> 35:5</p> <p><b>csr</b> 35:4</p> <p><b>current</b> 9:24 28:5</p> <p><b>currently</b> 9:13 9:14 18:8 20:19 27:17 28:6</p> <hr/> <p style="text-align: center;"><b>d</b></p> <hr/> <p><b>d</b> 35:4,20</p> <p><b>dana</b> 12:11</p> <p><b>data</b> 16:10</p> <p><b>date</b> 14:7 15:4 15:11 17:17 19:9 20:4,4 22:1,5,10,23 23:17 26:23,25 27:6 28:3,7 30:23</p> <p><b>dated</b> 35:21</p> <p><b>dates</b> 6:4 10:1 10:12,23 12:24 13:11,14 14:2 15:6,7,8,12,15 16:13 20:7 29:5,9</p> <p><b>day</b> 7:16 11:20 16:19 34:4</p>	<p><b>days</b> 7:21 8:8 14:6,7,22 30:13</p> <p><b>deadline</b> 10:8</p> <p><b>deadlines</b> 10:14 13:25 17:16</p> <p><b>deal</b> 25:16</p> <p><b>dealing</b> 19:7 25:1</p> <p><b>deana</b> 4:17</p> <p><b>decided</b> 23:13</p> <p><b>decision</b> 22:20</p> <p><b>defendants</b> 33:22</p> <p><b>defer</b> 6:1 8:21 32:12</p> <p><b>define</b> 25:10</p> <p><b>delegate</b> 31:11 31:12</p> <p><b>delegating</b> 31:19</p> <p><b>denmark</b> 21:14</p> <p><b>depart</b> 31:13</p> <p><b>depend</b> 18:6</p> <p><b>deposition</b> 14:2 14:3</p> <p><b>deputy</b> 30:11</p> <p><b>desire</b> 15:22 16:24</p> <p><b>details</b> 12:25</p> <p><b>develop</b> 17:18</p> <p><b>direct</b> 13:19 14:13</p> <p><b>directly</b> 26:15</p>	<p><b>director</b> 30:11</p> <p><b>disagree</b> 10:19 23:11</p> <p><b>discovery</b> 13:25,25 14:6 14:8,11 15:21 17:1 23:9,20</p> <p><b>discreet</b> 24:2</p> <p><b>discuss</b> 5:2 10:17 12:2 13:10 30:1</p> <p><b>discussed</b> 13:4 13:6 14:1,5 15:9 18:6,24 23:7 25:16</p> <p><b>discussion</b> 5:25 9:7 11:8,22 20:1,6 24:23 24:24 27:11 30:9</p> <p><b>discussions</b> 12:22 13:24 14:8 20:11</p> <p><b>dismiss</b> 33:13 33:22</p> <p><b>dispositive</b> 21:23 22:10 24:16 33:16,17</p> <p><b>distributed</b> 2:19</p> <p><b>division</b> 4:8 5:23 11:12 12:15 13:3,13 14:9,25 15:25 16:20 25:3</p>
---	---	---	---

[division - fuge]

<p>27:1,13 30:4,4  <b>division's</b> 6:1  30:11  <b>document</b> 32:6  <b>dr</b> 2:14 3:9  <b>draft</b> 29:21  30:22  <b>drag</b> 19:19  <b>drive</b> 1:9  <b>due</b> 30:10  <b>duration</b> 18:5  <b>duties</b> 21:15</p>	<p><b>employed</b>  35:15  <b>encompass</b>  16:16  <b>endeavor</b> 29:6  <b>entered</b> 9:2  <b>eog</b> 4:18 8:24  <b>essentially</b>  13:18  <b>et</b> 16:9  <b>eunice</b> 18:11  <b>evaluate</b> 26:8  <b>everybody</b>  14:12  <b>evidence</b> 29:20  <b>evidentiary</b>  25:18 29:18  <b>exact</b> 10:17  <b>exactly</b> 24:20  <b>examination</b>  8:3  <b>examined</b> 26:4  <b>executive</b> 33:22  <b>exhibits</b> 22:22  <b>expect</b> 14:17  15:8 17:2  <b>expected</b> 10:9  <b>expecting</b> 17:5  <b>expeditiously</b>  17:25 23:2  <b>experts</b> 15:7  17:6,7 19:11  <b>expires</b> 35:20  <b>extraction</b> 4:4</p>	<p><b>f</b></p> <p><b>f</b> 35:3  <b>facing</b> 16:1  <b>fair</b> 17:4 35:13  <b>fairly</b> 17:25  23:1  <b>fe</b> 1:3,9 4:11  <b>february</b> 4:25  <b>federal</b> 16:1,7  <b>feedback</b> 13:13  <b>feel</b> 7:19  <b>feeling</b> 17:3  <b>feldewert</b> 4:9  4:10 6:2,8,9  7:22 8:15,16  10:20,21 21:14  32:8,9,11,21  <b>feldewert's</b>  8:19  <b>fellow</b> 2:20 3:5  7:2 20:1,10,21  30:21  <b>filed</b> 24:19 25:4  26:2  <b>filing</b> 8:1  <b>filings</b> 16:9  <b>final</b> 30:14 31:3  32:18,19  <b>finalize</b> 3:25  <b>finalized</b> 16:11  31:5  <b>findings</b> 29:22  <b>fine</b> 22:18  <b>first</b> 3:21 6:15</p>	<p><b>fiscal</b> 16:1  <b>flag</b> 7:16  <b>float</b> 20:15  <b>flushed</b> 29:8  <b>focus</b> 27:20  <b>folks</b> 7:5 11:16  16:6  <b>follow</b> 3:24  <b>followed</b> 27:15  <b>foregoing</b> 35:6  <b>form</b> 14:15  <b>format</b> 33:8  <b>forward</b> 25:8  <b>four</b> 5:13,18,24  6:6 7:21 8:8  13:18 22:22  <b>framework</b>  13:11,23  <b>francis</b> 1:9  <b>friday</b> 9:11  27:24  <b>front</b> 33:8  <b>fuge</b> 2:1,14,16  2:23 3:1,9,12  3:16 4:15,22  5:19 6:7,15 7:1  7:9,12,18 8:10  8:15,18,25 9:5  9:20 11:2,7  12:9,16 18:1  19:25 21:9  22:16 23:16  24:22 26:17  27:7 28:5,11  28:22 29:1,3</p>
<p><b>e</b></p>			
<p><b>e</b> 35:3,3  <b>eager</b> 19:19  <b>earlier</b> 10:5  15:11,15 22:21  23:2,13  <b>early</b> 24:7  <b>edits</b> 2:21 3:6,8  3:11 29:25  30:6 32:14  <b>effort</b> 14:22  <b>eib</b> 33:23  <b>eight</b> 21:3  <b>either</b> 5:4 6:13  19:20 21:12  25:2,7 27:11  30:20 31:11  <b>emailed</b> 6:17  <b>empire</b> 12:12  12:18,20 13:13  14:24 26:3,6  26:25</p>			



[fuge - initially]

<p>29:14,17 30:20 31:2,16 32:1 32:11,22 33:12 33:20,25 <b>full</b> 18:3 <b>fully</b> 17:14 <b>fundamental</b> 23:23 <b>further</b> 16:24 24:24 27:10 31:7 35:14 <b>fyi</b> 33:4</p>	<p>28:22 31:23 33:1 <b>good</b> 2:2,4 3:8 3:11 4:9,13,16 4:19,22 12:5,6 12:10,22 20:6 34:4 <b>goodnight</b> 12:7 23:4 <b>government</b> 16:2 <b>great</b> 19:13 21:2 <b>guardians</b> 5:10 5:11 8:13 <b>guess</b> 31:24 32:10</p>	<p><b>heard</b> 20:11 23:11,12 24:20 29:20 <b>hearing</b> 4:24 5:2 6:25 9:9,21 9:22 10:4,15 10:23 11:15,21 11:23 12:24 13:16,19,20 14:7 15:3,6,14 17:17 18:5,7 18:14 19:8 20:3,5,18 21:10,12,18,21 21:23 22:1,5 22:10,19,20,23 23:3,14,23 24:4,25 25:7 25:11,15,19 26:21,23,24 27:9,14,19,21 27:21 28:4,7 29:20 32:2,19 33:13,15 35:12 <b>hearings</b> 25:18 <b>held</b> 27:22 33:8 <b>help</b> 15:4 27:20 <b>helpful</b> 15:2,13 27:8 <b>highlighted</b> 30:9 <b>hinkle</b> 12:11 <b>hold</b> 11:20 15:5 15:14 28:11</p>	<p><b>holidays</b> 5:14 <b>holland</b> 4:11 <b>hopeful</b> 7:24 18:16 <b>hopefully</b> 8:4 <b>hybrid</b> 33:8</p>
<p><b>g</b></p>	<p><b>h</b></p>	<p><b>i</b></p>	<p><b>implicated</b> 27:14 <b>inaudible</b> 4:14 5:9,9,10,11,11 5:12,15,15,16 5:18 6:16 7:8 7:11 8:12,13 8:14,14 11:3,4 11:5,5,6 12:19 13:1 18:13 21:8,15,18 22:13 29:10,11 30:18 32:10 <b>include</b> 18:8,17 22:25 33:16,23 <b>included</b> 10:10 26:23 <b>including</b> 12:24 14:1 <b>incorporate</b> 14:12 <b>incorporating</b> 13:3 <b>information</b> 14:13 <b>initially</b> 13:6 18:12</p>
<p><b>gas</b> 4:4,12 <b>gathering</b> 17:22 <b>generally</b> 15:2 <b>getting</b> 15:23 19:15 23:17 24:6 <b>give</b> 29:25 <b>given</b> 17:5 21:24 <b>go</b> 2:2 9:6,7 15:21 17:14 26:7 <b>going</b> 2:1,11 4:1 9:6 15:19 15:19,21 16:4 16:21 17:16,18 17:19 18:23 19:4,14 22:20 22:24 23:10 24:15 25:11 26:5 27:11</p>	<p><b>hammer</b> 17:23 19:7 <b>hanging</b> 26:2 <b>happened</b> 28:10 <b>happy</b> 10:11 33:10 <b>hardy</b> 12:10,11 13:1 15:1 22:14,16,17 25:2 26:9,11 26:12,14 29:15 <b>hardy's</b> 15:22 24:1 <b>hart</b> 4:11 <b>hear</b> 18:11 24:25 25:8,19</p>	<p><b>heard</b> 20:11 23:11,12 24:20 29:20 <b>hearing</b> 4:24 5:2 6:25 9:9,21 9:22 10:4,15 10:23 11:15,21 11:23 12:24 13:16,19,20 14:7 15:3,6,14 17:17 18:5,7 18:14 19:8 20:3,5,18 21:10,12,18,21 21:23 22:1,5 22:10,19,20,23 23:3,14,23 24:4,25 25:7 25:11,15,19 26:21,23,24 27:9,14,19,21 27:21 28:4,7 29:20 32:2,19 33:13,15 35:12 <b>hearings</b> 25:18 <b>held</b> 27:22 33:8 <b>help</b> 15:4 27:20 <b>helpful</b> 15:2,13 27:8 <b>highlighted</b> 30:9 <b>hinkle</b> 12:11 <b>hold</b> 11:20 15:5 15:14 28:11</p>	<p><b>holidays</b> 5:14 <b>holland</b> 4:11 <b>hopeful</b> 7:24 18:16 <b>hopefully</b> 8:4 <b>hybrid</b> 33:8</p>

[inside - minimum]

<p><b>inside</b> 18:15  <b>insofar</b> 17:25  <b>interest</b> 11:13  35:17  <b>internal</b> 30:9  <b>involving</b> 12:23  <b>issue</b> 16:7  18:23 19:3  22:25 23:7,15  24:3,6 25:4  <b>issues</b> 6:13  12:23 15:17,25  18:14 19:4,10  20:16 21:24,24  22:7,11 25:16  27:20  <b>item</b> 3:3,24  29:17  <b>items</b> 3:20,22  30:8</p>	<p style="text-align: center;"><b>k</b></p> <p><b>kendra</b> 1:15  35:4,9,20  <b>kicked</b> 16:23  <b>kind</b> 16:13  25:17  <b>know</b> 6:17  11:16 13:5,14  14:18 15:5,13  18:21 19:9,14  19:19,21 20:16  22:24 24:10  25:8,17 27:4  28:9,13 29:22  30:14  <b>knowledge</b>  35:12</p>	<p><b>litigated</b> 16:25  <b>little</b> 23:21  <b>llc</b> 12:8  <b>locked</b> 27:16  <b>long</b> 8:22  <b>longer</b> 10:15  <b>look</b> 3:8 5:5  10:25 22:5  <b>looked</b> 6:20,23  10:22  <b>looking</b> 6:16  7:1 13:11,15  21:1 23:19  31:7  <b>looks</b> 3:10 6:3  15:18 17:18,21  <b>lot</b> 20:16 23:8  24:7</p>	<p><b>matters</b> 12:24  21:20 22:2  <b>matthew</b> 33:9  <b>meet</b> 17:20  <b>meeting</b> 1:6,11  2:3,5,20 3:4,17  3:21 9:13  11:12 16:17  20:20 24:11,21  27:18,23 28:9  28:18 29:5,7  30:17 31:8,15  31:24 34:1,2  <b>meetings</b> 2:10  21:3  <b>members</b> 4:10  31:10 33:4,15  <b>mention</b> 18:21  <b>mentioned</b> 25:2  <b>met</b> 4:23  <b>mexico</b> 1:3,6,9  1:16 2:5,17  4:12 12:12,20  35:1,4,5  <b>michael</b> 4:10  6:8 8:19 10:20  32:9  <b>middle</b> 30:15  <b>midstream</b>  12:7  <b>mind</b> 29:5  <b>minimal</b> 30:6  <b>minimum</b>  27:15</p>
<p><b>j</b></p>	<p style="text-align: center;"><b>l</b></p> <p><b>language</b> 30:6  <b>large</b> 14:16  <b>late</b> 13:1  <b>leave</b> 14:19  31:17  <b>legal</b> 19:5  <b>legally</b> 21:25  <b>legislature</b>  33:19  <b>license</b> 35:20  <b>light</b> 29:9  <b>likely</b> 18:2  <b>limine</b> 17:8  <b>limit</b> 22:9  <b>link</b> 33:7,10  <b>listening</b> 19:25</p>	<p style="text-align: center;"><b>m</b></p> <p><b>m</b> 1:14  <b>make</b> 10:18  14:11 17:11  20:14 21:2,10  21:22 22:2  31:18 33:1  <b>makes</b> 24:7  <b>making</b> 4:24  11:14,19  <b>march</b> 3:4,17  3:21 4:25 26:2  <b>materials</b> 27:8  <b>matter</b> 4:6,24  12:4 17:12  18:2 20:2 29:9  32:24 35:16,17</p>	

[minor - particularly]

<p><b>minor</b> 32:16  <b>minutes</b> 3:4,8  3:17  <b>moander</b> 12:14  12:14 15:16  24:12 25:14,21  26:11,12,13  29:16  <b>monday</b> 27:23  <b>month</b> 16:4  19:5,11  <b>monument</b>  18:11  <b>morning</b> 2:2,4  4:9,13,16,19,22  12:5,6,10,22  33:5  <b>motion</b> 2:23  3:12 9:16 14:3  17:2,7 21:12  26:1 29:4  31:18 33:13,18  33:22  <b>motions</b> 17:7,7  20:3,18 21:18  21:22 22:5,18  23:5 24:16,17  24:17,18 25:1  25:15,23 27:19  28:4 33:16,17  33:17  <b>move</b> 2:24 3:14  9:18 11:23  20:5 21:4  27:11 28:12</p>	<p>30:17  <b>moved</b> 10:14  25:10 28:12,16  <b>moving</b> 3:3,19  24:14 25:8  <b>muted</b> 7:10,14</p> <p style="text-align: center;"><b>n</b></p> <p><b>necessarily</b>  15:20 16:11  17:8  <b>need</b> 13:6,9  14:8 15:3 16:5  17:22 20:3  21:20,25 22:20  22:24 23:8  30:13  <b>needs</b> 12:3  <b>neglected</b> 18:21  <b>neither</b> 35:14  <b>nevertheless</b>  19:21  <b>new</b> 1:3,6,9,16  2:5,17 4:11  9:25 10:22  12:12,20 35:1  35:4,5  <b>nmac</b> 4:5  <b>nmoga</b> 6:9,10  10:21  <b>normal</b> 17:9  <b>normally</b> 9:12  10:16  <b>november</b> 6:4  6:10,13,14,15  6:20,21 7:5,7</p>	<p>8:23 9:10,11  9:12,15,22,23  <b>number</b> 3:20  4:1 9:9 11:11  11:22,24 15:7  29:18  <b>numbers</b> 12:1  27:13,14  <b>nw</b> 1:16</p> <p style="text-align: center;"><b>o</b></p> <p><b>occ</b> 16:16 17:9  20:20 24:21  27:25 33:23  <b>ocd</b> 26:4 31:23  32:16  <b>october</b> 6:11,12  <b>office</b> 4:11  <b>oh</b> 4:15 6:11  17:15 22:14  26:13 28:11  <b>oil</b> 1:7,13 2:5,5  2:17 4:4,8,12  9:13 11:12  12:15 24:3,25  27:18 28:6,18  28:19 30:3  34:3  <b>okay</b> 6:7 9:5  11:23 28:8  32:20 33:20  <b>online</b> 27:11  <b>open</b> 2:9 10:1  24:23  <b>opening</b> 18:22</p>	<p><b>opportunity</b>  8:5 10:24 30:1  <b>optimistic</b> 7:23  8:4,17,19  <b>option</b> 31:10  <b>options</b> 16:18  <b>oral</b> 33:5,7  <b>order</b> 3:25 5:3  9:25 10:4,11  11:9 13:1,2  14:15,18,19,23  17:18 29:8,13  29:21 30:13  31:13,19 32:3  32:18  <b>orders</b> 30:22  <b>originally</b> 25:4  <b>outline</b> 26:18  <b>outside</b> 18:13  18:17 23:10  <b>overly</b> 7:23  <b>own</b> 20:9</p> <p style="text-align: center;"><b>p</b></p> <p><b>pardon</b> 17:15  <b>part</b> 14:16 17:9  18:6  <b>participate</b>  2:10  <b>participating</b>  2:6  <b>participation</b>  11:17  <b>particular</b> 19:6  <b>particularly</b>  7:25</p>
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[parties - ranging]

<p><b>parties</b> 4:6 5:1 5:6,20,25 6:5 7:18,19 8:6,10 8:22 10:1,3,11 10:17,19 11:8 12:2,22 14:20 16:24 18:2 20:7,19,21 21:11 22:6 25:9 26:5,17 29:6,7,22,25 31:3,20 32:3,6 35:15</p> <p><b>parts</b> 24:14</p> <p><b>party</b> 25:20</p> <p><b>pathway</b> 20:8</p> <p><b>pending</b> 3:19</p> <p><b>perfect</b> 29:14 32:22 33:25</p> <p><b>perfluoroalkyl</b> 4:3</p> <p><b>period</b> 10:15</p> <p><b>permian</b> 12:8</p> <p><b>person</b> 2:11</p> <p><b>personal</b> 30:12</p> <p><b>personally</b> 20:13</p> <p><b>petitioner</b> 29:23</p> <p><b>petitioners</b> 5:5</p> <p><b>petitions</b> 10:8</p> <p><b>phone</b> 27:16</p> <p><b>picture</b> 30:21</p> <p><b>planning</b> 3:22 12:3</p>	<p><b>pleadings</b> 33:18</p> <p><b>please</b> 3:13</p> <p><b>point</b> 6:4 8:8 11:18 13:6 18:20,24 32:4</p> <p><b>polyfluoroalk...</b> 4:3</p> <p><b>position</b> 16:21 23:8,9</p> <p><b>possible</b> 17:23 23:1 24:7</p> <p><b>possibly</b> 23:15</p> <p><b>potential</b> 12:24 20:11 24:18</p> <p><b>potentially</b> 17:20 19:2,13 20:18 22:2 23:18 26:8</p> <p><b>practice</b> 17:2</p> <p><b>predominately</b> 30:6</p> <p><b>prefer</b> 15:11</p> <p><b>preference</b> 19:17,24</p> <p><b>prefiled</b> 8:2</p> <p><b>prefiling</b> 10:14</p> <p><b>prehearing</b> 21:21</p> <p><b>prep</b> 23:24</p> <p><b>prepared</b> 24:10 35:7</p> <p><b>present</b> 2:13,15 2:18 4:6 7:20 8:6 31:23</p>	<p><b>presentation</b> 5:3</p> <p><b>presentations</b> 29:18</p> <p><b>presented</b> 31:14 32:18</p> <p><b>preserve</b> 17:13</p> <p><b>pretty</b> 7:7</p> <p><b>previous</b> 10:10</p> <p><b>previously</b> 8:1 11:10 31:14</p> <p><b>prior</b> 10:23 20:3 29:19</p> <p><b>probably</b> 6:4 15:19,21 17:22 23:20</p> <p><b>problem</b> 16:4</p> <p><b>procedural</b> 23:19 25:17 29:8</p> <p><b>proceed</b> 19:19</p> <p><b>proceeding</b> 27:20</p> <p><b>proceedings</b> 11:19 35:12</p> <p><b>productions</b> 4:21</p> <p><b>programs</b> 16:7</p> <p><b>proper</b> 25:20</p> <p><b>proposal</b> 24:22 30:5</p> <p><b>proposals</b> 8:6</p> <p><b>propose</b> 24:8 26:25 31:2</p>	<p><b>proposed</b> 8:23 11:9 12:25 13:2 14:15,23 19:10 26:18 29:12,22 32:14</p> <p><b>proposing</b> 9:8 13:17</p> <p><b>provide</b> 30:13</p> <p><b>provided</b> 35:7</p> <p><b>providing</b> 30:5</p> <p><b>provisions</b> 11:19 14:1</p> <p><b>public</b> 1:6,11 11:18</p> <p><b>pull</b> 28:13</p> <p><b>pulled</b> 4:25</p> <p><b>purpose</b> 25:6 25:19</p> <p><b>push</b> 32:2</p> <p><b>put</b> 8:16 20:7</p> <hr/> <p style="text-align: center;"><b>q</b></p> <hr/> <p><b>quality</b> 35:13</p> <p><b>question</b> 23:17</p> <p><b>questions</b> 20:17 23:19,20,23 32:23</p> <p><b>quickly</b> 28:3</p> <p><b>quite</b> 16:22 26:13</p> <hr/> <p style="text-align: center;"><b>r</b></p> <hr/> <p><b>r</b> 35:3</p> <p><b>range</b> 12:23</p> <p><b>ranging</b> 21:24</p>
---	--	---	---

[rankin - separately]

<p><b>rankin</b> 12:5,6 12:21 15:3,6 18:4,5 21:13 23:7 24:5 25:2 26:20 <b>rather</b> 19:22 <b>reach</b> 10:12 14:17,19 18:23 <b>reaching</b> 7:2 <b>reaction</b> 20:19 <b>reactions</b> 20:22 21:11 <b>ready</b> 17:14 <b>real</b> 28:2 <b>really</b> 5:12 15:11 23:14 <b>reason</b> 5:12 <b>rebuttal</b> 13:21 <b>recalls</b> 4:23 <b>recapping</b> 24:23 <b>received</b> 30:22 <b>recognize</b> 16:23,25 <b>recollection</b> 11:4 <b>recommend</b> 10:7 <b>recommendat...</b> 10:18 <b>recommended</b> 3:11 <b>record</b> 2:16 3:1 3:16,23 8:18 9:20 23:19</p>	<p>29:3 <b>recorded</b> 35:11 35:16 <b>recording</b> 1:5 2:3 35:13 <b>redline</b> 32:10 <b>redlines</b> 31:5 32:17 <b>reduced</b> 35:8 <b>referred</b> 18:8 <b>refinements</b> 32:16 <b>reflect</b> 2:16 3:1 3:16 9:20 29:3 <b>reflects</b> 9:25 <b>regarding</b> 23:3 <b>regular</b> 6:25 24:10 <b>regularly</b> 16:16 28:18 <b>related</b> 35:15 <b>relates</b> 10:23 <b>relating</b> 18:12 <b>relect</b> 8:18 <b>remember</b> 26:5 <b>remotely</b> 2:7 <b>renee</b> 1:14 <b>reporting</b> 1:15 16:9 35:9 <b>reports</b> 16:11 <b>request</b> 5:1 17:11 21:17 22:4 23:14 <b>requesting</b> 10:1 10:3 14:3</p>	<p><b>requests</b> 17:1 <b>require</b> 30:9 <b>requirements</b> 2:9 <b>resolved</b> 11:15 23:21 24:7 <b>resolving</b> 20:8 <b>resources</b> 4:18 <b>respond</b> 20:21 26:8 <b>returned</b> 32:7 <b>review</b> 3:6 27:4 <b>reviewed</b> 30:4 <b>reviewing</b> 31:22 <b>revised</b> 10:8 <b>revisions</b> 31:4 <b>right</b> 2:1 7:24 16:10 27:10 <b>rmr</b> 35:5 <b>roll</b> 2:11 28:22 <b>rough</b> 26:18 <b>rule</b> 4:24 11:14 11:19 <b>rules</b> 4:2 <b>running</b> 9:11 <b>rush</b> 16:8</p>	<p>14:4 19:3,8 20:14 21:1 24:9 26:19 27:6 28:14 <b>scheduled</b> 9:13 10:16 16:16 20:20 24:11 27:17 28:6,18 <b>scheduling</b> 3:22 5:3,7 9:17 9:25 10:4,10 12:2,23 13:2 13:16 14:15,18 14:23 19:2 27:1 29:13 <b>scope</b> 18:6 22:20 23:3,23 25:1,10,20 26:21 27:19 <b>scopes</b> 20:17 <b>second</b> 2:25 3:15 9:19 28:1 28:21 <b>secured</b> 17:20 <b>see</b> 17:2,6,7 31:23 32:9 <b>seeing</b> 7:24 15:18 27:10 34:1 <b>seems</b> 8:8 23:18 <b>send</b> 9:24 33:10 <b>sense</b> 21:22 22:2 24:7 <b>separately</b> 5:15 23:11</p>
		<p><b>s</b></p>	
		<p><b>s</b> 1:9 <b>saint</b> 1:9 <b>santa</b> 1:3,9 <b>sante</b> 4:11 <b>schedule</b> 5:2,18 5:20 6:24 9:8,9 10:22 11:4,16</p>	

[september - testimony]

<p><b>september</b> 6:12 13:12 16:3,3 16:15,17,20 17:12 19:18,22 22:5,19 25:11 25:13 26:23 27:22,24,24</p> <p><b>sequencing</b> 12:25</p> <p><b>serve</b> 26:7</p> <p><b>served</b> 26:4</p> <p><b>set</b> 4:24 9:7,8 9:14,14,21 17:12 19:2 20:6 22:19 25:11 27:12,21 28:14,17 32:17</p> <p><b>setting</b> 20:18 24:2,20</p> <p><b>shaheen</b> 4:19 4:20 8:25,25 9:2 12:13,16 12:17,17</p> <p><b>shonor</b> 12:11</p> <p><b>share</b> 16:25</p> <p><b>sharon</b> 4:20 12:17</p> <p><b>sic</b> 11:25</p> <p><b>side</b> 3:11 19:5 21:7</p> <p><b>sides</b> 15:8</p> <p><b>sign</b> 31:13</p> <p><b>signature</b> 31:6 35:19</p>	<p><b>significantly</b> 31:14</p> <p><b>signing</b> 31:19 31:25</p> <p><b>simply</b> 3:20 9:24</p> <p><b>single</b> 22:10</p> <p><b>snyder</b> 1:14</p> <p><b>sooner</b> 15:23 23:13,25</p> <p><b>sorry</b> 6:11 7:13 9:1 11:25 22:14 28:15,17</p> <p><b>sort</b> 3:24 13:22 26:18 31:4 32:17</p> <p><b>sounds</b> 20:2 21:9</p> <p><b>south</b> 18:11</p> <p><b>speak</b> 5:6 32:13</p> <p><b>speaker</b> 4:13 5:8 6:22 7:11 8:12 11:1,3 12:19 29:10 31:9 32:20 33:3,14,21</p> <p><b>special</b> 27:23</p> <p><b>specific</b> 25:17</p> <p><b>spoken</b> 5:10,11</p> <p><b>stack</b> 17:4</p> <p><b>staff</b> 6:2 16:5 29:21</p> <p><b>start</b> 4:1 7:12 19:4,7</p>	<p><b>started</b> 2:2</p> <p><b>state</b> 1:3,6 33:24 35:1,5</p> <p><b>state's</b> 33:13</p> <p><b>stated</b> 15:3</p> <p><b>status</b> 18:7</p> <p><b>stay</b> 18:12</p> <p><b>strata</b> 4:21</p> <p><b>street</b> 1:16</p> <p><b>strike</b> 17:7 24:18</p> <p><b>structure</b> 7:25</p> <p><b>stuff</b> 17:24</p> <p><b>submission</b> 10:8</p> <p><b>submit</b> 11:9 13:19 23:5 30:18 31:4</p> <p><b>submitted</b> 29:22</p> <p><b>submitting</b> 13:21 22:22</p> <p><b>subsequent</b> 25:15</p> <p><b>substances</b> 4:4</p> <p><b>substantial</b> 30:16</p> <p><b>suggested</b> 29:24</p> <p><b>suggestion</b> 24:1</p> <p><b>suit's</b> 25:7</p> <p><b>suite</b> 1:16</p> <p><b>supplant</b> 9:12 9:14</p>	<p><b>suppose</b> 5:5</p> <p><b>supposed</b> 10:5</p> <p><b>sure</b> 14:11 21:14</p> <p><b>surface</b> 22:8</p> <p><b>surprised</b> 17:6</p> <p><b>swirling</b> 20:11</p> <hr/> <p style="text-align: center;"><b>t</b></p> <hr/> <p><b>t</b> 35:3,3</p> <p><b>take</b> 8:22 10:24 14:22 18:3 21:15 31:8</p> <p><b>taken</b> 1:13</p> <p><b>talk</b> 26:15</p> <p><b>talked</b> 14:6</p> <p><b>talking</b> 22:21 24:13</p> <p><b>tapdancing</b> 16:22</p> <p><b>targeted</b> 29:24</p> <p><b>technical</b> 16:5 16:6 30:6</p> <p><b>teeing</b> 24:1</p> <p><b>tellez</b> 1:15 35:4 35:9,20</p> <p><b>tends</b> 16:8</p> <p><b>terms</b> 5:6 8:22 13:16,22,24 14:10 19:15 20:9 23:23</p> <p><b>testify</b> 16:6</p> <p><b>testimony</b> 8:2 11:6 13:19,21 14:13 22:22 29:19 35:10</p>
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[thank - week]

<p><b>thank</b> 8:21 12:21 20:24 22:17 25:21 26:11,16 29:15 29:16 34:5 <b>thanks</b> 33:11 <b>thing</b> 18:21 19:1 25:22 <b>things</b> 13:5,9 14:19 17:8 20:5,17 22:8 23:24 <b>think</b> 4:23 6:24 7:3,20,23 8:4 10:16 13:10,17 14:9,10,16,20 15:1,4,12,17 17:19,23 18:18 18:22 19:1,14 19:21 20:5 21:17,18,22,25 22:1,7,18,19,25 23:2,4,5,8,9,12 23:13 24:5,6,8 26:20,24 27:7 28:16 31:17 <b>thinking</b> 22:3 <b>thorough</b> 15:21 <b>thoughts</b> 26:17 <b>throwing</b> 25:24 <b>thursday</b> 6:24 <b>tight</b> 19:15 <b>till</b> 3:24 16:10 <b>time</b> 8:9 10:15 14:12 22:8,12</p>	<p>28:3 <b>timeframe</b> 14:5 19:14,18,22 27:5 <b>timeframes</b> 14:11 <b>timely</b> 16:12 <b>timing</b> 10:18 12:3 22:3 30:10 <b>today</b> 5:2 20:6 26:16 33:2 <b>tomorrow</b> 33:5 <b>topic</b> 25:23 <b>total</b> 18:9 <b>traditional</b> 17:9 <b>transcribed</b> 1:14 <b>transcript</b> 1:5 35:8,11 <b>transcription</b> 35:7 <b>transparencies</b> 11:14 <b>tremaine</b> 4:7,7 5:12,21,22 10:6,7 14:1 30:2,3 32:15 <b>true</b> 35:11 <b>try</b> 10:12 14:22 <b>tuesday</b> 9:11 <b>turn</b> 12:1 14:24 20:1,10</p>	<p><b>turned</b> 17:24 <b>two</b> 13:20 27:3 33:17 <b>type</b> 25:18 <b>typewritten</b> 35:8</p> <p style="text-align: center;"><b>u</b></p> <p><b>ultimate</b> 27:21 <b>ultimately</b> 16:9 <b>unanimously</b> 3:2,18 29:4 <b>unavailable</b> 2:10 30:12 <b>under</b> 25:24 <b>understand</b> 11:16 32:15 <b>understanding</b> 22:7 <b>unfortunately</b> 30:10 <b>unidentified</b> 4:13 5:8 6:22 7:11 8:12 11:1 11:3 12:19 29:10 31:9 32:20 33:3,14 33:21 <b>unit</b> 18:11,11 18:13,15,17 23:10 <b>universe</b> 25:9 <b>unnecessarily</b> 30:16 <b>update</b> 27:25</p>	<p><b>updated</b> 5:2,3 9:25 11:9 <b>use</b> 4:4 <b>usually</b> 15:23</p> <p style="text-align: center;"><b>v</b></p> <p><b>veritext</b> 1:15 35:9 <b>version</b> 30:14 32:7 <b>veterans</b> 7:16 <b>view</b> 18:14 <b>virtually</b> 4:17 <b>voting</b> 31:24</p> <p style="text-align: center;"><b>w</b></p> <p><b>wait</b> 11:8 <b>want</b> 7:23 8:7 22:9,9 24:19 25:24 30:16 <b>wanted</b> 5:13 20:15,21 29:25 <b>wants</b> 33:7,10 <b>way</b> 5:16 16:12 17:17 <b>we've</b> 5:24 9:21 14:6 <b>week</b> 6:11,12 6:16 7:3,5,6,15 9:21 13:16 17:20 18:3,16 18:19 19:12 20:12,12,13,15 21:1,3,4,7,10 25:12,12,12 27:3,3,8,22</p>
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**[week - yesterday]**

30:11,15 <b>weeks</b> 5:13,18 5:24 6:6,10,11 6:14 10:24 13:18,20 19:5 22:22 23:6 27:3 <b>went</b> 7:19 <b>wilson</b> 33:9 <b>window</b> 16:19 <b>withdraw</b> 9:3 <b>witnesses</b> 6:3 15:10 16:22 17:13 29:19 <b>word</b> 32:6,7 <b>words</b> 26:22 <b>work</b> 6:10 9:23 10:11 15:9 16:6 19:2,13 20:15 21:2,10 27:5 29:7 <b>works</b> 7:7,15 8:23 13:14 <b>wrap</b> 14:23 <b>written</b> 8:2 13:19,21 <b>wrong</b> 9:3
<b>y</b>
<b>yeah</b> 3:10 7:6 7:15 11:2 22:16 32:20 <b>year</b> 10:5 16:1 16:8 28:14 <b>yesterday</b> 13:1