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STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Case Nos.
24018-24019,
24024-24027,
24683,
24594

Moderated by Gerasimos Razatos
Thursday, August 15, 2024
9:00 a.m.

Wendell Chino Building
1220 South St. Francis Drive
Santa Fe, NM 87505

Reported by: James Cogswell
JOB NO.: 6861370

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Page 4

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A P P E A R A N C E S (Cont'd)

List of Attendees:

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Division

William Ampomah, Commissioner, Oil Conservation
Commission

Greg Bloom, Commissioner, Oil Conservation Commission
(by videoconference)

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24
25

I N D E X

PAGE

VOIR DIRE of Robert Matthew Eales					
By Ms. Hardy					108
VOIR DIRE of George El-Kaseeh					
By Ms. Hardy					122
VOIR DIRE of Paul Ragsdale					
By Ms. Hardy					165
VOIR DIRE of Million Gebremichael					
By Ms. Seningen					189
OPENING STATEMENT By Ms. Hardy					105
OPENING STATEMENT By Ms. Seningen					106
WITNESSES:	DX	CX	RDX	RCX	
ROBERT MATTHEW EALES					
By Ms. Hardy	109				
By Ms. Seningen		118			
GEORGE EL-KASEEH					
By Ms. Hardy	124		160		
By Ms. Seningen		142			
PAUL RAGSDALE					
By Ms. Hardy	166				
By Ms. Seningen		177			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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I N D E X (Cont'd)

WITNESSES:	DX	CX	RDX	RCX
MILLION GEBREMICHAEL				
By Ms. Seningen	192			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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18
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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Case 24594		
Targa:		
Exhibit A	Hearing Application and Attached C-108	110/114
Exhibit B	Hearing Presentation	111/117
Exhibit C	Notice Information	116/117
NO.	DESCRIPTION	ID/EVD
OCD:		
Exhibit 1	Conditions of Approval	115/194
Exhibit 2	Million Gebremichael Resume	191/191

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P R O C E E D I N G S

MR. RAZATOS: Well, good morning to everyone. It's nine o'clock. This is the August 15th meeting of the Oil & Conservation Commission. I'm Gerasimos Razatos. I am the acting director for the Oil Conservation Division in the interim. So nice to meet all of you.

And it is time to call our meeting in session. So we'd like to do a roll call. As I said, I'm Gerasimos Razatos, I go by Gerry. I'm the acting director, and I'm Oil Conservation Commission chair.

Doctor.

DR. AMPOMAH: I am Dr. William Ampomah, designee of the energy secretary.

MR. RAZATOS: And I believe Mr. Bloom is going to be joining us electronically today.

Mr. Bloom, Commissioner Bloom, are you on?

There he is.

MR. RUBIN: Can we have Commissioner Bloom just test his mic so we can make sure we hear him? Is he muted?

MR. RAZATOS: Well, I think we lost him again.

Commissioner Bloom?

1 MR. BLOOM: Hi there.

2 MR. RAZATOS: Awesome.

3 MR. BLOOM: Good morning, everyone.

4 MR. RAZATOS: Okay. So I believe we
5 have a quorum. So let the record note that we do have
6 a quorum.

7 Okay. We have this week's agenda.
8 Everybody have a copy of the agenda? It has been
9 published. Is there any changes that we need to do or
10 any edits or anything like that?

11 Is this echoing because it's too far
12 away from me, Sheila?

13 MS. APODACA: It could be. If you are
14 logged into the meeting on another device, mute the
15 volume on that device.

16 MR. RAZATOS: I have.

17 MS. APODACA: Okay. Let me try to turn
18 down the volume then on your mic. Okay. Let's see if
19 that's any better.

20 MR. RAZATOS: Okay. Yep. There we go.
21 So were there any changes or anything?

22 DR. AMPOMAH: No. Not from me.

23 MR. RAZATOS: Awesome. Do we have a
24 motion to accept the agenda?

25 MR. BLOOM: I so move.

1 DR. AMPOMAH: I second.

2 MR. RAZATOS: Excellent. So our agenda
3 has been accepted. Thank you.

4 Our next motion is our meeting minutes
5 from last meeting. Any changes that we need to do to
6 the meeting minutes?

7 MR. BLOOM: I thought the meeting
8 minutes look good. I would move to approve.

9 MR. RAZATOS: Excellent.

10 DR. AMPOMAH: I second.

11 MR. RAZATOS: Okay. So we'll move that
12 our meeting minutes are accepted. Thank you for that.

13 All righty. So now we have our cases.
14 We're coming up to our cases. Our first case this
15 morning -- and of course --

16 MR. BLOOM: Mr. Chairman.

17 MR. RAZATOS: Yes, please.

18 MR. BLOOM: I'm sorry. Do we need a
19 vote on the agenda and the meeting minutes from the
20 last month? Or just want to say --

21 MR. RAZATOS: I think we do.

22 MR. BLOOM: Yeah. That we have -- you
23 can say they pass unanimously.

24 MR. RUBIN: Mr. Chairman, members of
25 the commission, yes, that is correct. We should

1 formally have a motion.

2 MR. RAZATOS: Sorry. Let's formally
3 have a motion then. A motion that we accept the
4 meeting minutes and the agenda.

5 MR. BLOOM: I so move.

6 DR. AMPOMAH: And I second.

7 MR. RAZATOS: Excellent. So
8 every -- both of them are accepted; correct? Do it
9 separately?

10 MR. RUBIN: We do need a roll call vote
11 because we have one member that is appearing
12 virtually.

13 MR. RAZATOS: Okay. So Commissioner
14 Bloom.

15 MR. BLOOM: Approve.

16 MR. RAZATOS: Okay. Commissioner
17 Ampomah.

18 DR. AMPOMAH: Approved.

19 MR. RAZATOS: And I approve as well.
20 Excellent. So now they're accepted?

21 MR. RUBIN: Yes, the agenda and the
22 minutes have been accepted by one motion.

23 MR. RAZATOS: Excellent. I'm getting
24 my feet wet, people. I'm sorry I'm learning.

25 MR. RUBIN: And I'd like to thank

1 Commissioner Bloom for reminding we had the open
2 meetings --

3 MR. RAZATOS: Yes. Thank you,
4 Commissioner Bloom. I need all the reminders I can
5 get, so -- plus it's blazing hot in here, so I
6 apologize. I look like I'm swearing, but it's,
7 like -- heat is right here, so -- stress and heat.
8 Got to love it; right?

9 Okay. Cool. Now we can get to our
10 next part, which is our actual procedures. Our first
11 case today is the consolidated cases 24018 through 19,
12 and 24024 through 24027, an application by Empire for
13 New Mexico to revoke the injection authority for the
14 Andre Dawson SWD number 001 in Lea County, New Mexico.
15 Are all parties present? Excellent. Go ahead.

16 MR. RUBIN: Mr. Chair, members of the
17 commission, if I may brief the commission on my review
18 of the expedited motion and the response and the
19 reply?

20 MR. RAZATOS: Please.

21 MR. RUBIN: As you may have gleaned
22 from them, the issues raised here do tend to relate to
23 the pending hearing that is set in a few months before
24 Hearing Officer Kip Harwood -- Rip Harwood, and relate
25 to the propriety of the respondent in this motion's

1 continuing injection of produced water into those
2 basins at issue.

3 Certainly a lot of the issues raised in
4 the expedited motion do relate to what would be
5 hopefully resolved at that hearing. In other words,
6 the propriety of and whether there is any -- there are
7 obviously legal issues as well. There is an issue
8 raised in the expedited motion of it that needs to be
9 addressed today.

10 And that is the accusation, for lack of
11 a better word, in the expedited motion that the
12 respondent has been exceeding its permitted amount of
13 injection of produced water. And that, of course, is
14 of serious concern to the commission. Any violation
15 of its permits warrants immediate consideration, so
16 the expedited nature of this motion is certainly
17 warranted in my view.

18 And interestingly, there were
19 no -- there was no evidence submitted with the
20 expedited motion asserting these over injections.
21 Nonetheless, the response didn't dispute that. It
22 rather reluctantly referred -- it rather, instead,
23 argued that as part of -- framing it as part of the
24 standards for preliminary injunction, well, whatever
25 damages are marginally are being caused to Empire by

1 whatever over diversion amount there is would not
2 weigh in favor of granting this as a preliminary
3 injunction.

4 I am not sure I agree with that
5 argument. You know, there's an analogy to that
6 preliminary injunction Rule 66 of course, but it does
7 seem to be a concern that it's basically -- even
8 there's no evidence and we don't know what the amounts
9 are, that there is -- you know -- over diversion under
10 that permit.

11 So what I would recommend is we don't
12 know the amount, we also don't know the effects that
13 would be resolved at the upcoming hearing through
14 testimony and argument, and the hearing officer's
15 report. Nonetheless, we do need to deal with this.

16 My recommendation is for the commission
17 to immediately order, and this would be an order
18 effective immediately, for the respondent here to
19 immediately cease any over diversions. Not over
20 diversions. Sorry, that's a state term. Any over
21 injections that are there, currently may be -- they
22 may be perpetrating. And that would be go into
23 immediate effect.

24 To provide a full accounting of any
25 such over diversions to the hearing officer and to all

1 the parties in the case as part of that hearing so the
2 board can that -- the commission can then assess that
3 as part of the rest of the issues in that case, and to
4 basically hold in advance any further action on the
5 expedited motion, so --

6 Of course, that's one way to handle it
7 that perhaps, you know, splits the baby, so to speak,
8 without having to take the drastic step of shutting
9 anyone down. But nonetheless, I think would help get
10 to the bottom of this. And certainly, if -- and stop
11 any violation of any permits at the time.

12 So if any of the commissioners have any
13 questions for me or of the parties, and certainly if
14 the commission wishes, they can hear argument of
15 counsel on this point, but it does seem like a fairly
16 straight forward motion.

17 MR. BLOOM: Mr. Rubin, Mr. Chair, if I
18 may?

19 MR. RAZATOS: Please.

20 MR. BLOOM: I'm wondering, I guess, a
21 question related to scope and jurisdiction here. And
22 I would like to hear from the parties, in particular,
23 the OCD. I'm wondering if this matter should be first
24 addressed by the OCD and handled as a typical -- I
25 guess say typical for lack of a better

1 word -- accusation of over injection.

2 MR. RAZATOS: Mr. Moander, you're
3 representing the OCD; correct?

4 MR. MOANDER: I am, Mr. Chair.

5 Commissioner Bloom, just to make sure
6 I'm clear on the what the request is, it sounds like
7 you want to know what OCD's overall position is on the
8 allegation of over injection, or are you talking about
9 within the confines of the, like, relevance to this
10 particular matter?

11 MR. BLOOM: Maybe both. But I'm
12 wondering if -- now that you mention it. But I'm
13 wondering if this might be something that the OCD
14 would typically deal with, and perhaps should deal
15 with in this case, given that this claim of over
16 injection has been made. I'm thinking that the first
17 stop would typically be the OCD and not the OCC.

18 MR. MOANDER: So as to -- generally
19 speaking, an allegation between operators like this is
20 one that we would certainly take a look at. We do
21 have some caution when the matter's actively being
22 litigated. And we don't know yet what the evidence
23 will show in this case. And I think there's some
24 value.

25 And that's really the nature of my

1 response was written towards that, Commissioner Bloom,
2 is that we want to see all the evidence, we want the
3 opportunity to examine witnesses. And whatever flows
4 from the hearing would be most likely material to our
5 jurisdiction and our role. And then at that point, we
6 would reevaluate, and then look to pursue whatever
7 remedy that may be appropriate at that time.

8 It's not often the case where we have a
9 matter that OCD appears in where we'll get this
10 pointed of an accusation. So I think that the
11 interests of the public are going to be served by
12 fleshing out the evidence in the hearing, see what
13 comes out, and then evaluate matters from there.

14 DR. AMPOMAH: Chris, I have a follow
15 up. So is it a position of OCD that they do not have
16 the injection volumes and they do not have the
17 injection pressures to see straight away whether the
18 accusation is true or not?

19 MR. MOANDER: At this point, I would
20 not be able to tell you what that specific evidence
21 would look like. Well, I would imagine we could -- we
22 may have some filings that would reflect a yes or a no
23 on that. And that's why OCD wants to proceed pretty
24 severely with this hearing, is to sus all this out
25 and --

1 And the other angle on this is, is
2 there's an opportunity to get testimony about these
3 things, additional information that might -- we could
4 get potentially from an RFI, but there's also the
5 issue of we can get it through this case. And that's
6 part of why OCD has not, as far as I'm aware, taken
7 any action one way or the other about the injection
8 volumes.

9 DR. AMPOMAH: So Counsel, I do have a
10 follow-up question then based on your submission. So
11 if we do not have the evidence, how then can we say
12 that Goodnight should cease the operation if, let's
13 say, the -- more or less make sure there are not any
14 over injection if we do not have any evidence?

15 MR. RUBIN: Commissioner Ampomah,
16 members of the commission, that is why I -- that is a
17 good point, and that is exactly why I couched my
18 advice as I did, because we do not know. And so all
19 we can do is issue an order, which is -- should be
20 self-apparent saying do not -- cease all over
21 diversions.

22 Do not -- we're not shutting anyone
23 down, but this commission may want to take strong
24 action as OCD counsel has stated. Once all the
25 information is in and we know the full extent of these

1 over diversions as to penalties, whatever remedial
2 action the hydrology may warrant as well. So I'm not
3 recommending that we shut anyone down at this point.

4 But if there is by issue we can order
5 today saying, "Cease any over injections," if the
6 evidence comes out that for some reason they
7 continued, well, we want to know that too. And this
8 will all come to light through the prism of the
9 hearing. And so all we could do today is say, "Stop
10 it," and hold everything else in advance. We would
11 get a full accounting about the --

12 MR. RAZATOS: The OCD wants to add
13 something else.

14 MR. MOANDER: I am conferring with my
15 cocounsel on this. Is the commission concerned about
16 remanding this issue to OCD hearings? Is that what's
17 underlying this? Just to kind of clarify things.

18 MR. RUBIN: I would agree with Counsel
19 Moander there that in this case because we have
20 pending litigation, the pending adjudicatory matter
21 that this directly relates to, I could see why this
22 was brought by Empire directly to the commission
23 rather than going through the division as an
24 enforcement mechanism.

25 MR. RAZATOS: Commissioner Bloom, you

1 look like you want to say something.

2 MR. BLOOM: Thank you, Mr. Chairman.
3 Yes, when the moment's right, I would like to hear a
4 response from Goodnight Midstream and then Empire,
5 Counsel.

6 MR. RAZATOS: So Counsel, just wanted
7 to make sure, we're not necessarily saying remand it
8 back to the OCD hearings. We're just saying we don't
9 know -- we don't have any evidence to show that
10 there's an over injection; correct?

11 MR. RUBIN: Mr. Chair, members of the
12 commission, correct, I'm not saying remand to the
13 division. The commission has set this for a hearing.

14 MR. RAZATOS: Right.

15 MR. RUBIN: The hearing is through the
16 hearing officer, who speaks -- who is an extension of
17 this commission.

18 MR. RAZATOS: Okay.

19 MR. RUBIN: So there's no remand that
20 I'm advocating for.

21 MR. RAZATOS: Okay. Does that answer
22 your question, Mr. Moander?

23 MR. MOANDER: Yes. Thank you.

24 MR. RAZATOS: Okay. Great. So should
25 we proceed to hear the parties? What's the

1 suggestion, I guess?

2 MR. RUBIN: Well, I did find that the
3 motion, the response to reply fairly succinctly
4 captured the issues as I've explained them. There
5 might be some -- but in the interest -- if the
6 commission wants to hear from counsel -- 'cause it an
7 interesting argument that -- whether --

8 We don't have any facts in the motion
9 or the reply and affidavit or some other discovery
10 that was provided that would say exactly what the
11 amounts are. We have not heard from Goodnight saying
12 "Yes, we have" or "No, we haven't." So there might be
13 something to be gained from that. It's up to the
14 commission.

15 MR. RAZATOS: Okay. So then I'll just
16 ask commissioners, do you want to hear the parties?
17 I'll start with Dr. Ampomah.

18 DR. AMPOMAH: Yeah. Greg wants to
19 hear, so I also want to hear.

20 MR. RAZATOS: I know Commissioner Bloom
21 wants to hear.

22 Commissioner Bloom, is that an
23 affirmative?

24 MR. BLOOM: Yes. And I think, you
25 know, five minutes approximately should suffice. I

1 mean, if people need more time, that's fine, but I
2 would like to hear from both parties.

3 MR. RAZATOS: Okay. Excellent. So the
4 parties are present; correct?

5 MR. BLOOM: And I would start with the
6 movement, Empire.

7 MR. RAZATOS: We'll start with Empire?

8 MR. BLOOM: Yes.

9 MR. RAZATOS: Yeah. Just making sure
10 that all the parties are present. That's all.

11 Okay. Awesome. So let's start with
12 Empire, please.

13 MR. PADILLA: Mr. Chairman, members of
14 the commission, my name's Ernest L. Padilla, appearing
15 for Goodnight. With me are Sharon Shaheen and Dana
16 Hardy. We're counsel for Empire. I will be speaking
17 concerning this motion today. And first of all, let
18 me just say that I agree with Mr. Rubin's analysis of
19 the situation.

20 The only thing that he missed that I
21 think is reporting. If we don't have any public
22 records, OCD records, of injection volumes from the
23 Andre Dawson well, the Ernie Banks well, there's been
24 no reporting on those two wells at all. But if you
25 look at our motion, all of the wells that we listed

1 there are -- there's evidence of over injection.

2 Now, I take it you want evidence on
3 this, in particular, those wells that are outside
4 the unit. Where we have to prove that there's going
5 to be migration from those wells into the San Andres
6 formation. But when you look at this, all you see is
7 an abuse of orders.

8 For example, the allegation that we
9 came up with -- and that was based on discovery
10 evidence, the evidence that was submitted to us in
11 discovery by Goodnight. There, we finally saw that
12 there was over injection, especially in the Andre
13 Dawson is egregious to where you have 41,000 barrels a
14 day when you have a limit of 25,000. And who knows
15 what the pressures are.

16 Seems to me that if you have a bottle
17 of water in a confined area, and you start pouring
18 more water in it, the water's going to have to go
19 somewhere. We're saying it's going into the Grayburg
20 formation, which is a producing formation for the
21 unit.

22 I won't go into residual oil zones at
23 this point, but that is what Empire is trying to
24 protect. We're confident that in September, we'll be
25 able to show that there's a residual oil zone, ROZ, in

1 the San Andres, and therefore, it needs to be
2 protected.

3 Right now, with
4 uncontrolled -- seemingly uncontrolled or excessive
5 over injection, I think the order of the commission,
6 and the commission has authority to do that, is to
7 stop the over injection. That is one goal that we
8 have.

9 Now, we asked also to balance and
10 suspend, but doesn't seem like from what I understand
11 and Mr. Rubin's analysis, is that you want to wait
12 until the September hearing to find out what the
13 evidence will show. But the problem here is that you
14 have overnight just simply in every well there's over
15 injection.

16 Some not as bad as others, but if you
17 look at the Andre -- the allegations on the Andre
18 Dawson well, I mean, that is really almost criminal in
19 terms of -- I don't know what the profit -- well, I
20 know it's a profit motive that drives that.

21 But it's -- you can't exceed the order
22 of the division in all of these cases where you're
23 limited to 25,000 barrels a day and the pressure, and
24 you're going to have problems with pressure gradients
25 and potentially fracturing the zone between the San

1 Andres and the Grayburg.

2 There are already -- we're going to
3 show that there are already natural fracturing in
4 areas of the -- between the San Andres and the
5 Grayburg. So to add pressures and add volumes, you're
6 not going to -- it's going to impair the ROZ in the
7 San Andres. So I -- to speak again, I think Mr. Rubin
8 analyzed this, and I think the pleadings speak for
9 themselves pretty much.

10 Now, as far as division is concerned, I
11 don't know where they're coming from. If I saw a
12 motion like that and I was counsel for the division, I
13 would certainly try to find out whether or not those
14 orders are being violated instead of being in an
15 adversarial situation where you want to prove
16 something. I don't know where the OCD's coming from
17 in this case.

18 So the OCD should be looking at over
19 injection and try to find out if the allegations are
20 correct. We're pretty certain they care correct. We
21 wouldn't have put that in there without some basis,
22 and evidence that we obtained only through discovery,
23 not through the public records of the OCD. We
24 should've got it -- we should've been able to get it
25 from the OCD records. We don't have that.

1 MR. RAZATOS: Mr. Moander.

2 MR. MOANDER: I'll wait my turn on
3 that.

4 MR. RAZATOS: Okay. I was saying --

5 MR. MOANDER: I'm just preparing.

6 MR. RAZATOS: You were very insistent
7 there, so --

8 Okay. Thank you, sir. Appreciate it.

9 Goodnight now; right? Doctor? The
10 doctor has -- should we wait till we're done, or --

11 MR. RUBIN: Oh, you always can. You're
12 the Commissioner.

13 MR. RAZATOS: Okay. Go ahead.

14 DR. AMPOMAH: So Mr. Padilla, I do have
15 one quick question and probably some follow-up. How
16 do you define over injection? Or how is Empire
17 defining over injection?

18 MR. PADILLA: Through evidence that we
19 obtained and the litigation part of this case. We
20 asked in discovery what volumes they were injecting.
21 Now, some of them there is reporting at the OCD, but
22 the Ernie Banks and the Andre Dawson, there's no
23 reporting on those wells from data first inception,
24 from first injection into those wells.

25 So it's hard to figure out where -- how

1 much water there is or being put in the zone. In one
2 instance in a four-day period, we were able to
3 establish that it was 41,000 barrels per day. That's,
4 like, 15,000 barrels over the limit. And you
5 shouldn't do that. Does that answer your question?

6 DR. AMPOMAH: Well, from a reservoir
7 engineering standpoint, I want to see the fracture
8 pressure for this particular formation, and then I
9 want to see the allowable pressure that OCD gave in
10 the order for me to more or less come to a conclusion
11 whether you are more or less injecting above what the
12 order is saying.

13 From a previous hearing, OCD made clear
14 that the pressure is the main item that -- the main
15 parameter that they go to in terms of assigning what
16 should be the maximum injection. So if I don't
17 see -- if I don't know what the fracture pressure is,
18 it becomes very difficult to just make an assumption
19 that just based on the volume, someone is injecting
20 above the fracture pressure, or more or less doing
21 over injection.

22 MR. PADILLA: I can tell you that the
23 Andre Dawson maximum pressure is 862.

24 DR. AMPOMAH: Surface?

25 MR. PADILLA: Daily. You can't exceed

1 that pressure. The Ernie Banks, I think, is 867, and
2 the Sosa well that we also have in there, it can't
3 exceed 900 pounds PSI injection pressure.

4 Now, I don't have the information on
5 the fracture pressure -- on the fracture gradient what
6 will part the formation.

7 DR. AMPOMAH: And I think that is
8 certainly something that OCD has to be able to respond
9 to. Thank you.

10 MR. PADILLA: Well, if that information
11 isn't available and if you don't have any reporting on
12 that, then that needs to be obtained.

13 MR. RAZATOS: Any other questions?
14 Commissioner Bloom, did you have any
15 questions?

16 MR. BLOOM: No. No, thank you,
17 Mr. Chair.

18 MR. RAZATOS: Dr. Ampomah, anymore?

19 DR. AMPOMAH: No, not from me.

20 MR. RUBIN: Mr. Chair, just one
21 question for Mr. Padilla.

22 So Mr. Padilla, why did you not submit
23 any evidence that you were referring to from
24 discovery --

25 MR. PADILLA: Well, perhaps --

1 MR. RUBIN: -- as part of the motion?

2 MR. PADILLA: That would -- we probably
3 should've added discovery information that we got. Or
4 at least verified the motion.

5 MR. RUBIN: Thank you.

6 MR. RAZATOS: Any other questions?

7 DR. AMPOMAH: Yeah. So Counsel, even
8 if they do not more or less submit any substantive
9 evidence to support your claim, I think it is a matter
10 of a concern that if that is happening, then more or
11 less OCD has to be able to figure that out and respond
12 to these allegations.

13 MR. PADILLA: I agree.

14 DR. AMPOMAH: It's for more or less a
15 public concern, not necessarily for Empire alone.
16 It's a public concern if that is certainly happening.

17 MR. RUBIN: Commissioner Ampomah and
18 members of the commission, if I understand
19 Mr. Moander's response, OCD cannot be -- may not
20 necessarily have had knowledge of this if a lot of the
21 information was gained in the discovery process and
22 adjudication. I am not sure if they were able to
23 monitor pressures in that region. I don't know if
24 Mr. Moander would want to speak to that.

25 MR. MOANDER: May I assume this will be

1 my argument now? And as part of my response?

2 MR. RAZATOS: We definitely can do that
3 if we all agree.

4 MR. MOANDER: Okay. So starting off,
5 the nature of OCD's response was fairly
6 straightforward and simple because OCD construed the
7 primary issue in Empire's motion, focusing on the
8 suspension more so than the stay, because the
9 suspension would be a final determination. So OCD
10 looked at the motion as being essentially a backdoor
11 summary judgement without those terms ever actually
12 appearing in the motion.

13 For OCD's view, first of all, is we
14 have a hearing set for this, and OCD fully intends to
15 participate, argue, ask questions. OCD has
16 participated in discovery. We've had active
17 litigation. The injection allegation is a more recent
18 development that occurred within the confines of
19 litigation.

20 And it -- from OCD's position, it
21 stands to reason that since we have an active
22 opportunity to conduct discovery, also, we'll have an
23 opportunity to examine witnesses, and more importantly
24 for this purpose, cross examine witnesses. That's the
25 forum where this evidence will need to be developed.

1 I did not come today primarily more
2 than -- that I'll say in terms of my reply. There was
3 no evidence provided at any -- the showing from
4 Empire's side that they could demonstrate the over
5 injection. OCD's also aware that there are filings
6 that are currently pending concerning some of this
7 material. Those filings have not been finalized from
8 the OCD end, so there is information there.

9 I cannot speak to whether that will
10 have been fully processed by the time of the hearing
11 or not. But when it comes to OCD's need to
12 know -- the need to know about what parties are
13 injecting, this -- when you have the reporting
14 structure, that's nice, but now we have the additional
15 opportunity to actually ask some questions, develop
16 evidence, and make representations to this commission
17 and its hearing officer in about six weeks.

18 Generally, it's not ideal to have
19 parallel litigation ongoing when you also -- if you're
20 conducting enforcement plus active litigation before
21 the commission. I'll just say it bluntly. It's much
22 easier to proceed with gaining information and
23 knowledge through litigation like this than it is
24 through traditional enforcement action.

25 And so OCD is pursuing this litigation.

1 And if evidence ultimately does show that there is
2 over injection, then OCD would evaluate that for
3 potential future enforcement purposes.

4 So back to the original motion as it's
5 been presented today. No, I did not come prepared to
6 provide exhibits or anything of the kind because there
7 were none to really respond to. It was mostly legal
8 argument and allegations. And so OCD's position is we
9 very much would like to proceed with this hearing at
10 the end of September so we can fully learn the
11 contours of both parties' cases and their evidence.

12 MR. RAZATOS: Thank you, Mr. Moander.

13 Any questions from the commissioners?

14 DR. AMPOMAH: Not from my side.

15 MR. RAZATOS: Commissioner Bloom?

16 MR. BLOOM: Not with -- no, Mr. Chair.

17 MR. RAZATOS: Excellent. Thank you.

18 Goodnight, please.

19 MR. RANKIN: Morning. Acting Director
20 Razatos, commissioners. Thank you for the opportunity
21 to speak. We've heard this morning and in the papers
22 that were filed by Empire are some very serious
23 allegations verging on criminal this morning. And we
24 take these allegations very seriously. And I'd like
25 the opportunity rebut everything that was said this

1 morning.

2 In fact, we have some images to show to
3 allay Mr. Ampomah's concerns about pressures, about
4 whether that's occurred. I think I would like to take
5 some time to clear the air and put this into context a
6 little bit. The motion that they filed happened to
7 have been filed when I was on vacation for three
8 weeks, so I didn't have a lot of time to respond to it
9 when I got back.

10 Well, our response was limited to
11 mostly legal arguments because counsel and Empire did
12 not file any exhibits or any evidence substantiating
13 their claims. If I may, I'm just going to walk
14 through this very quickly, because I think it would be
15 helpful. It goes into the context here of what I want
16 to say and review for the commission if I can share my
17 screen.

18 Number one, Mr. Rubin, I do want to
19 make clear that in response, Goodnight does deny the
20 allegations that were raised by Empire vigorously.
21 That we -- it's a general denial of the allegations
22 because there was nothing specific to respond to in
23 terms of evidence.

24 So if they had presented us with some
25 evidence to directly attack, address, we would have

1 done so. Instead, they didn't, and they relied on the
2 argument of counsel, so we did not see the need to
3 attach any evidence or specifically rebut their
4 claims.

5 Under the commission's precedence and
6 guidance, when you're seeking a stay or suspension
7 or -- of an order of the division or commission, the
8 commission has very clear guidance. It's a high
9 threshold. They cite to the Tenneco Oil Company case.
10 The requirement is to -- sorry. I wish I had my
11 mouse.

12 You have to make several showings. You
13 have to make showings, which means you have to present
14 evidence. You have to show that you're likely to
15 prevail on the merits. You have to show that there's
16 going to irreparable harm unless the stay is granted.
17 You have to present evidence that no substantial harm
18 will result as a result of the stay.

19 You have to make a showing that no harm
20 will ensue to the public interest. All these things
21 were not done. They also have to show under the
22 commission's own regulations that a stay is necessary
23 to prevent waste, to protect correlative rights,
24 protect public health, and prevent gross negative
25 consequences to an affected party.

1 So what is it that they're claiming
2 here, and what has the commission done? The
3 commission has very clearly in the past required clear
4 showing -- evidentiary showing of what is necessary to
5 overcome -- that you're likely going to prevail on the
6 merits of the claims. When that hasn't been, where
7 there's been no evidence shown, then those motions to
8 stay are denied.

9 Here, again, they have submitted
10 nothing. They rely entirely -- we've provided them
11 lots of evidence and the record, pressure data,
12 injection volumes, all that has been produced to them
13 and the division. So mere allegations of counsel, as
14 we understand from Tenneco, is not sufficient to
15 demonstrate their burden.

16 So let me just address the specific
17 issues here; okay? What would they need to show?
18 Well, they're going to need to show that the injection
19 is causing waste. To do that, they have to show that
20 the wells that Goodnight is operating tend to reduce
21 the total quantity of oil and gas ultimately recovered
22 from --

23 They have to show what the amount of
24 oil or gas is that can be recovered and that were
25 causing an impairment, the prohibition of them from

1 recovering that amount; okay? That's a pretty big
2 showing. They haven't attempted to make that showing.

3 Number two, they're saying that they
4 were harming their correlative rights. Okay. To make
5 that showing, you have to demonstrate that there's
6 recoverable oil or gas; okay? They're claiming that
7 we're impairing their correlative rights in the San
8 Andres where they're alleging an ROZ, a residual oil
9 zone.

10 So to make that claim, to say that
11 we're actually impairing their correlative rights,
12 they have to show that the gas down there is
13 recoverable. Technically, feasibly, reasonably. Not
14 only that, but under the correlative rights, under the
15 water -- under the numeration of power statute, which
16 defines the commission's authorities, they're alleging
17 that we're watering out in the unit strata.

18 Well, what does that require -- what do
19 they need to show to prove that? They need to show
20 that the strata are capable of producing in paying
21 quantities. They have to show that the San Andres ROZ
22 that they're alleging exists is capable of producing
23 in paying quantities, and that our injection tends to
24 reduce the total ultimate recovery from that pool.

25 So they have to show how much could

1 actually be recovered, and they need to show that they
2 can produce paying quantities in order for them to
3 show that we're watering out that zone. They haven't
4 even attempted to make that showing at all. And so
5 for those reasons, they cannot prevail on this motion.

6 Now, the allegations that they raise
7 are serious and concerning, and everybody agrees,
8 including Goodnight, that if there are over
9 injection -- continuous over injection issues, that
10 they need to be addressed.

11 In fact, Goodnight self-disclosed to
12 the division more than a year ago that it had
13 discovered itself that it was over injecting in the
14 Andre Dawson well. And it was -- and it disclosed the
15 reason for that over injection was due to a
16 malfunctioning meter.

17 So back, more than a year ago, end of
18 May, early June, Goodnight submitted a disclosure to
19 the division, to counsel, and the UIC group, that had
20 discovered that it was over injecting for a period of
21 time in the Andre Dawson, explained what it found, the
22 efforts it made to correct the issue, and that was
23 more than a year ago; okay? So that was disclosed by
24 Goodnight and more than a year ago.

25 The reason that Empire hasn't been able

1 to identify the C-115s that would normally show the
2 public reporting volumes is because the completion
3 reports, the C-104 and C-105s that are required once a
4 well is drilled, you need to get those approved before
5 you can physically upload the C-115 reports, the
6 volumes and the pressures that go along with your
7 monthly reporting requirements.

8 So the division has not yet approved
9 those. They've been with the division for some time.
10 Goodnight has been actively engaged with the division
11 to try to get those approved as quickly as possible.
12 They have, in the interim, provided the division with
13 email of the C-115 reports identifying all the volumes
14 and pressures.

15 As the commission may or may not be
16 aware, there is a -- there is, has been, a substantial
17 backlog in these completion report approvals from the
18 division. There are a lot of them. It does tend to
19 impact public reporting about not just injection
20 volumes, but also production volumes as well. So that
21 is the issue.

22 For those two wells, the reason that
23 you're not seeing those volumes publicly is because we
24 don't -- we have no way to upload them into the
25 division system because the C-104, C-105 haven't been

1 approved. Once they are approved, then the system
2 allows for the volumes to be uploaded. So
3 those -- the division is aware of those issues and
4 we've been working with them for more than a year to
5 try to get that resolved.

6 The injection issues, in their
7 complaint -- in their complaint, in their motions,
8 they allege that all of these wells have limits of
9 25,000 barrels of water per day. In fact, it's really
10 easy to look at the orders, and you'll see that
11 actually four of them have no limits whatsoever, and
12 they're entirely based on the pressures; okay?

13 Now, more recently, the division has
14 over concerns of induced seismicity, especially in the
15 deeper Devonian where you're closer to basement rock,
16 had imposed some rate limitations for high capacity
17 disposal wells.

18 Now, the concern around those higher
19 rate wells is generally limited to the Devonian where
20 you've got basement rock. I understand there's some
21 scientific papers and research that indicates that for
22 those deeper formations, rates can influence induced
23 seismicity, even though the injection pressures may
24 not be an issue.

25 So the division has instituted more

1 recently rate limits on some of the SWDs. I'm going
2 to explain a little bit for you on that because I
3 think it's helpful to put this all in context.

4 The way the rate limits came up for the
5 San -- for the Andre Dawson and the Ernie Banks is
6 that when Goodnight filed a C-108 application, which
7 is this snippet up here showing what they proposed,
8 they initially proposed 25,000 barrels per day for the
9 Andre Dawson and the Ernie Banks.

10 The reason they chose that number, as
11 you will hear in about a month, is because 25,000
12 barrels per day is more than what they inject on an
13 average basis in a month; okay? That is generally
14 more than enough to manage their injection rates.

15 The issue is, and it's becoming more of
16 an issue now as we move into more modern well
17 completion practices, is that Goodnight experiences
18 surges of disposal volumes. More commonly now,
19 operators out in the field are completing their wells
20 in batches. So rather than drilling one or two wells
21 and getting flow back from one or two wells, they're
22 doing batch drilling.

23 So when Goodnight first terminated
24 these wells, you -- maybe you get batch drills for
25 four or five days, and you get a slug of water over

1 four or five days. Now, you're seeing batch drills
2 that take two weeks or so to complete. So you're
3 getting more wells, you're getting longer laterals,
4 and you're getting more flowback water, so you get
5 more volumes in a big slug.

6 Goodnight's practice has been disperse
7 the flows to as many wells as possible over an area so
8 they have a central receipt point on their pipeline,
9 they monitor the flows, they treat the water, they put
10 it out to their multiple SWDs to manage the volumes
11 and pressures.

12 So they have initially identified
13 25,000 barrels as enough, and in fact, the four wells
14 that are currently injecting into the EMSU since
15 January 2023 have averaged less than 15,000 barrels of
16 water per day; okay? That's the average for the four
17 wells injecting into the EMSU. So well under the
18 25,000 barrel per day limit.

19 Same here with the Ernie Banks. This
20 just shows you, you know, what was initially proposed,
21 what the order provides for, and you'll see that it
22 does provide for 25,000 barrels with the rates and the
23 pressures. So those are the only two wells out of all
24 of the ones that were being accused of here that have
25 an injection limit.

1 As I mentioned before, we've already
2 self-disclosed on the Andre Dawson. As a result of
3 the allegations here, we went through more recent
4 injection volumes and did identify a few days for the
5 Ernie Banks that have exceeded the 25,000 barrel
6 limit. I understand that there is a valve issue that
7 may have caused that. It's a few thousand barrels
8 exceedance for a couple days.

9 But I'm going to show you at the end
10 here to address any concerns about what the -- I mean,
11 we take this very seriously obviously because
12 Goodnight did self-disclosed when it did go over. And
13 the intent is to make sure that they are in
14 compliance. We take it -- Goodnight takes it very
15 seriously.

16 Now, this just to sort of explain again
17 the context here. The 25,000 barrel per day limit,
18 was it proposed by Goodnight? It's not a technical
19 limit -- space limit. It's not a limit that's tied to
20 pressures. It's simply what Goodnight proposed. The
21 division adopted it when it issued the orders.

22 And for one of the wells, the Andre
23 Dawson here, we're actually asking for an increase as
24 part of these cases just to accommodate the spikes
25 that occur on occasion so we can make sure that we're

1 staying within our limits; okay?

2 Now, what does this look like in terms
3 of pressure; okay? We 100 percent agree with
4 Dr. Ampomah that the issue here is about pressures.
5 So this is a chart that shows back from January 2023
6 to about the present for two of the wells that have
7 the injection rate limits.

8 The squiggly lines here are the surface
9 injection pressures; okay? You'll see that they tend
10 to be very low and they bop up and down here and
11 there; okay? And you'll see that for the blue line
12 here, that's the Ernie Banks, there are some higher
13 points up here; okay?

14 Now, what is the limit that the
15 division has imposed; okay? Well, you look on the
16 lefthand side on the y-axis, that's the PSI. You'll
17 see the limits are way up here; okay? The Dawson is
18 at 857, the Banks is at 862. We are far below those
19 limits.

20 And the reason you're seeing some of
21 the spiking here is simply because of scaling.
22 Scaling is a common occurrence with saltwater disposal
23 wells. As scaling occurs, Goodnight periodically will
24 acidize its wells. And you'll see they just acidized
25 at the end of July.

1 After they did their acid test -- acid
2 cleanout, the wells both went back to vacuum; okay?
3 Despite their injection rates. In other words, there
4 is no impact to the reservoir. The reservoir is
5 receiving the volumes on vacuum, meaning there is zero
6 pressure buildup in the well.

7 Now, on the point that Empire made,
8 they're seeking relief, they're seeking -- they want
9 us to suspend or stop injection until -- on the
10 assumption, I presume, that we're injecting
11 continuously over the volumes here. And so they're
12 asking for Goodnight's wells to be shut in until the
13 net -- the over injections are balanced with the
14 amount of the authorized injection.

15 Well, here's -- you know -- we've given
16 them the data, and they would be able to see that if
17 you put this data on a plot, you'll see that for both
18 these wells, we're actually under by more than five
19 million barrels. I mean, if you were to ask us to
20 apply that relief right now, we could continue to
21 inject because there's no issue. I mean, every day
22 we're under injecting on average what the total
23 volumes are with these wells.

24 So not only was there no evidence, but
25 the claims, I think, are unsubstantiated. There are a

1 few days that have exceeded the injection rates.
2 Goodnight takes it very seriously. They're addressing
3 those issues. In one case, it was a metering from
4 last year. We self-disclosed that.

5 On the Ernie Banks, there were a few
6 additional days that had a different issue with a
7 valve. And Goodnight, as I understand it, has
8 completed that in fixing that issue. That was back in
9 2023. My understanding, and we'll provide all the
10 data to Goodnight -- to Empire and to the division, is
11 that there have been no further exceedances of the
12 injection rates.

13 So Mr. Acting Director Razatos and
14 commissioners, we ask that this motion be denied.
15 These issues all are going to be heard by the
16 commission in a month. They can continue to raise
17 their allegations about over injection or over
18 pressurization or communication with other zones, and
19 we'll address them in the full course of that hearing.

20 And, you know, rather than present the
21 data to the commission, for us to actually respond
22 to -- they just relied on allegations. And we take
23 those very seriously and want to have a full hearing
24 and airing of all these issues in September.

25 MR. RAZATOS: Thank you, Mr. Rankin.

1 Any questions from the commissioners?

2 MR. PADILLA: Mr. Chairman, may I
3 respond?

4 MR. RAZATOS: Please.

5 MR. PADILLA: Mr. Rankin makes an
6 interesting argument about injection rates and volumes
7 and that kind of thing, and he throws in the Devonian
8 here. That one's particularly interesting because the
9 Devonian has a disposal interval between 1,000 and
10 1200 feet of disposal zone. That's not the case with
11 the San Andres. And the Devonian has nothing to do
12 with the -- Devonian. The Devonian is not even
13 relevant to this proceeding.

14 He talks about the C-115s. They have
15 never been produced to us in discovery. And I don't
16 know why, but we haven't received the C-118s that they
17 have in their pockets somewhere, so --

18 And then he talks about surges. If you
19 have surges, you got to do something about evening out
20 those surges. And that means reduce injection volumes
21 so that you can even out and not have the surges. The
22 question -- the issue of whether or not a meter was
23 inoperative, we don't know that. In their response,
24 they never address any of this information that
25 Mr. Rankin has submitted here.

1 If you look at their response, they go
2 a lot into -- we had to respond to their argument on
3 injunctive relief. It probably has something to do
4 with it here. I mean, we're talking about a stay.
5 We're asking for a stay and suspension and said what
6 we're doing. And yes, a lot of this evidence is going
7 to come in in September.

8 But to the extent that they're -- we
9 didn't file this motion just for the frivolity of it
10 and trying to be argumentative. I mean, what we saw
11 is based upon information that we had. So if
12 Mr. Rankin has C-115s in his pocket somewhere, then
13 those should've been produced to show in the response
14 that our allegations were misplaced.

15 So I don't know. We can go argue all
16 day long on this thing, but I think Mr. Rubin's
17 analysis is correct is that somehow there has to be an
18 accounting, and ought to come before September.

19 The issue here is over injection. It's
20 not the merits of whether there's ROZ in the San
21 Andres or correlative rights. We're talking about
22 existing orders that we see are being over
23 injection -- where there's over injection. A
24 systematic practice that should be addressed by the
25 commission.

1 And I think the accounting should be
2 coming. I mean, that's an order that the commission
3 can issue at this point.

4 MR. RAZATOS: Thank you. Just to make
5 sure -- just so we could have questions for Goodnight.
6 I know Dr. Ampomah, you seem to have some questions as
7 well. Commissioner Bloom, you may also. So go ahead,
8 Dr. Ampomah.

9 MR. BLOOM: I want to -- Mr. Chair, if
10 I could quickly.

11 Mr. Rankin, if you're doing sharing
12 your screen, you could perhaps pull that down.

13 MR. RAZATOS: There we go. Thank you,
14 Mr. Rankin.

15 DR. AMPOMAH: No, I really wanted that
16 screen. I want the representation up. So if you can
17 bring it up where you have the pressure? Sorry about
18 that. So the next one, the one that had the pressure.

19 So Mr. Padilla, I do have a quick
20 question for you and the same for OCD as well. So as
21 you look at this data, is Empire challenging this data
22 based on the information you have?

23 MR. PADILLA: We can't challenge it
24 today. We've got to look at it. It certainly would
25 have been helpful to have had it in the response. But

1 we didn't get it in the response. So I haven't
2 seen -- we got nothing in the response in terms of
3 refuting any of the allegations that we had. If you
4 take all six wells that we cited in our motion, there
5 was no answer to those allegations.

6 Seems like maybe the answer to your
7 question on pressures is addressed by that slide
8 on -- and if that's true, I don't know. I don't know
9 what their pressures that were reported -- that's not
10 backed by anything other than a graph that somebody
11 wrote.

12 MS. HARDY: I think to be clear, if I
13 may just add to what Mr. Padilla has said, none of
14 this information is evidence on the record. This is
15 the first time we are seeing it here today. And
16 Goodnight has failed to produce the C-115s in response
17 to discovery request after discovery request. That's
18 the first time we heard today that those exist. So I
19 think that's our issue with the presentation. We
20 haven't seen this before.

21 MR. RUBIN: Commissioner Ampomah,
22 members of the commission, I think it's -- I think
23 Ms. Hardy's correct. I do ask that we kind of limit
24 the argument to one lawyer per party. I don't want
25 to -- we don't want to double team Mr. Rankin here.

1 But regardless, that point is taken.

2 Mr. Rankin, members of the commission,
3 has provided a lot of substance here, but nonetheless,
4 it is still just a lawyer talking. And he is not
5 pretending otherwise. There is no evidence before
6 this commission.

7 And I know Dr. Ampomah, you want to get
8 at the truth. But it would be unfair to either side
9 to get at the truth based upon what lawyers have said
10 today.

11 DR. AMPOMAH: Okay. Okay. Then I rest
12 my case.

13 MR. RUBIN: Which is why I am advising
14 that the motion need to be held in advance or perhaps
15 it could be denied without prejudice, but we do need
16 the hearing officer, I think to, as part of its
17 findings, decide -- make a recommendation to this
18 commission as to whether the permit has been violated.

19 Mr. Rankin, go ahead.

20 MR. RANKIN: Thank you. I just want to
21 address another allegation that was made. Empire did
22 not ask for the C-115s to be produced. And the C-115s
23 only would show monthly volumes; okay? What they
24 asked for were the daily volumes. And they asked for
25 the daily pressures. So we gave them more than what

1 would be discernable from the monthly volumes
2 themselves.

3 So if you were to look simply at the
4 monthly volumes, you may not, as I said because the
5 monthly average injection rates are around 14,000
6 barrels per day, they may not have discerned that
7 there was ever an over injection; okay?

8 So we gave them all this data including
9 the pressures. And I can't tell you exactly the date
10 it was up to, but it was up to around the end of 2023.
11 So they have all the pressures. They have all the
12 rates of the timeframe. We're going to supplement up
13 to the end of July so they have all that as well.

14 And I just want to make very clear that
15 actually they did have all this and they made more
16 than what the division would've had had it been filed
17 publicly.

18 MR. RAZATOS: Thank you, Mr. Rankin.

19 Commissioner Bloom, I wanted to give
20 you an opportunity to as well. I mean, in light of
21 what Mr. Rubin said, did you have any questions?

22 MR. BLOOM: Yes. Thank you, Mr. Chair.

23 So just sort of to recap. I opened
24 this can of worms by wanting to make sure that OCD
25 would fundamentally be okay with an order potentially

1 coming from the commission, and essentially bringing
2 this issue now into this case. You know, we heard
3 that the OCD is okay with that not wanting to explore
4 these issues during litigation as we heard from
5 Mr. Moander. So I heard that. I just note that, I
6 guess, now every allegation between parties will
7 become part of the case.

8 I'm wondering -- maybe some questions
9 for Mr. Rubin. We heard from Mr. Rankin about Tenneco
10 may have some bearing here. And I'm also wondering if
11 an order at this point from the commission not to over
12 inject would serve a purpose, and that all companies
13 need to obey their permits and state laws and regs.
14 And also, Mr. Rubin, would an order be seen as
15 prejudicial? Or become prejudicial in some way?

16 MR. RUBIN: Commissioner Bloom, members
17 of the commission, an order as I recommended that
18 would simply state that all over injections in
19 violation of the permit cease would not be
20 prejudicial. It is simply restating what should be
21 already understood by all operators licensed by the
22 commission or the division.

23 So from what Mr. Rankin has presented,
24 Commissioner Bloom, there might even be some dispute
25 as to what the permit says that they can do as to what

1 the limitations are, whether it's daily, monthly, what
2 the exceedances -- how to calculate exceedances. So
3 that's why I would simply want it to be sort of a
4 conclusory order from the commission today stating,
5 "Do not violate your permit."

6 And as to what that is, we will find
7 out after the hearing in September. But it is
8 important that we get to the bottom of whether there
9 was a violation, and we want a recommendation from a
10 hearing officer on that.

11 As you can see, Commissioner Bloom, it
12 is a rich tapestry as to whether what the permit says
13 and whether it's been violated.

14 MR. RAZATOS: Thank you, Mr. Rubin.
15 Commissioner Bloom, anything else?

16 MR. BLOOM: That's it. Thank you.

17 MR. RAZATOS: Excellent.

18 Dr. Ampomah?

19 DR. AMPOMAH: No, I'm okay.

20 MR. RAZATOS: Okay. So I'm sorry.
21 There is the OCD, please.

22 MR. MOANDER: As a matter of record
23 because I do believe these things are important and
24 this is related to the motion, but not the substance.
25 And I didn't get to mention it, because things got

1 right into the fist fight early this morning.

2 OCD's going to withdraw its section 2
3 of its response. It turned out there was a major IT
4 problem with email. And I, as the attorney, made an
5 allegation that turns out to be a little incorrect,
6 and so I wanted to withdraw that on the record and
7 make that clear so there's no confusion.

8 MR. RAZATOS: Okay. Thank you.
9 Appreciate that.

10 DR. AMPOMAH: So Counsel, we are not
11 really admitting what Mr. Rankin showed us today as
12 part of the proceedings; right?

13 MR. RUBIN: Commissioner Ampomah, that
14 is correct. We are not deciding anything. We are not
15 admitting -- there was nothing to admit in terms of
16 evidence. Again, lawyers can -- as right as the grass
17 may be, and Mr. Rankin may be, he's just still a
18 lawyer. And so we are not admitting anything today.
19 And I mean that -- I'm not -- don't mean that
20 pejoratively, Mr. -- you're a better lawyer than I.

21 But nonetheless -- so all I suggest
22 that we commit to today is, if it wishes, it can order
23 today that the permit be adhered to, be -- any over
24 injections cease as defined by the permit, whatever
25 that is, and to direct the hearing officer to include

1 in his recommendations whether the permit has been
2 violated, and to hold in obedience any further action
3 on the motion not decided today. So that's what I
4 recommend the motion be. Can I get a so moved?

5 MR. RAZATOS: Well, I move it.

6 MR. RUBIN: Okay. Do I have a second?

7 DR. AMPOMAH: I second.

8 MR. RAZATOS: It is ordered.

9 MR. RUBIN: We will need a roll call.

10 MR. RAZATOS: We need a roll call.

11 Okay.

12 Dr. Ampomah.

13 DR. AMPOMAH: Approved.

14 MR. RAZATOS: Commissioner Bloom.

15 MR. BLOOM: Nay, and I would like to
16 say I don't know that an order is necessary at this
17 point, so I am not voting in favor.

18 MR. RAZATOS: Okay. And I approve.

19 MR. RUBIN: Okay. Motion passes two to
20 one. I will draft up an order for the chair's
21 signature later today. And so with that, any other
22 matters on this agenda item from the parties?

23 MR. PADILLA: Mr. Rubin, we do
24 have -- we need some clarification. And maybe it's
25 already in some form. But we were -- counsel and I

1 were talking yesterday about the hearing examiner.
2 Will the -- and we were wondering if the commission
3 was going to be present during the September hearing
4 or just the hearing to the hearing examiner?

5 MR. RUBIN: Mr. Padilla, I do not know
6 the answer to that myself. I think it is at the
7 pleasure and discretion of the commission to delegate
8 to what extent it wishes to the hearing
9 officer -- examiner.

10 MR. PADILLA: And would there be a
11 report from the hearing officer recommending a
12 decision one way or the other? Do you know or that's
13 not decided yet?

14 MR. RUBIN: Mr. Padilla, it is my -- it
15 was my understanding that the hearing officer,
16 Mr. Harwood, would provide a recommendation, proposed
17 findings, and conclusions to the commission. Is there
18 some rule you're aware of that would preclude that?

19 MR. PADILLA: No, no, no. I was just
20 wondering whether we were going to submit requests of
21 findings and conclusions and that kind of thing.

22 MR. RUBIN: Yes. Mr. Padilla, the
23 hearing officers -- with all administrative
24 adjudication --

25 MR. RAZATOS: Mr. Rubin, I'm just going

1 to interrupt this again. There must be some IT glitch
2 on our end, on Teams. We're still streaming. So I
3 can see us on Teams. So we are proceeding. Sorry.

4 MR. RUBIN: Just open meetings and
5 compliance, are those --

6 -- are people able to hear us, members
7 of the public --

8 MR. RAZATOS: Commissioner Bloom, can
9 you hear us?

10 MR. BLOOM: Yes. There's been no
11 interruption on my end.

12 MR. RAZATOS: Okay. And can you see us?

13 MR. BLOOM: Yes, I can see the --

14 MR. RAZATOS: Okay. Good.

15 MR. BLOOM: -- right now.

16 MR. RAZATOS: Oh, there we go.

17 MR. RUBIN: There we go.

18 So to Mr. Padilla's point, hearing
19 examiners sometimes will ask for the parties to submit
20 proposed finding and conclusions before concocting
21 their own. That's up to him. We would expect a
22 report from him that this commission would then be
23 able to digest.

24 MR. PADILLA: And finally, we were also
25 wondering if -- how we're going to split up time, you

1 know, on who goes first, that kind of thing. That's
2 probably something we need to talk to Mr. Rankin
3 about, time limitations per witness and time
4 limitations on cross-examination.

5 MR. RUBIN: Yes, Mr. Padilla. We are
6 delegating those procedural matters to Mr. Harwood,
7 but I'm sure he would welcome some consensus from the
8 parties on those procedures.

9 MR. PADILLA: So if we had some
10 concerns about that, we would with Mr. Harwood?

11 MR. RUBIN: Correct, Mr. Padilla.

12 MR. PADILLA: Okay.

13 MR. BLOOM: And Mr. Chair, Mr. Rubin,
14 to my knowledge, I believe the commission has
15 typically sat through the discussions and made
16 questions, asked questions during hearings where there
17 is a hearing officer. That would be my preference.
18 But I just wanted to put that out there. I don't know
19 if there's a consensus among the commission or how
20 we'll handle that.

21 MR. RUBIN: If I may -- thank you,
22 Commissioner Bloom. All I would ask is that the
23 commission can be polled separated from today if a
24 quorum of the commission wishes to be present for the
25 hearing, we do need to comply with the Open Meetings

1 Act. that is the only constraint that I am concerned
2 about.

3 DR. AMPOMAH: Yeah, Mr. Rubin, I
4 remember -- when we're setting the date, I remember
5 the commissioners were going to be present, so -- and
6 that was my understanding too.

7 MR. RUBIN: Very well.

8 DR. AMPOMAH: Okay.

9 MR. RAZATOS: Okay. Any other points
10 on this particular matter?

11 MR. RANKIN: I'll just say that, you
12 know, counsel for Empire raised this question with me
13 this morning. I think it's appropriate to confer
14 among the parties and then coordinate with the hearing
15 examiner outside of the commission's meeting. I think
16 we can do that and should be able to reason to come to
17 agreement on how to manage the procedure.

18 MR. MOANDER: And OCD joins in that and
19 agrees as well.

20 MR. RAZATOS: Okay. Mr. Padilla.

21 MR. PADILLA: That's fine.

22 MR. RAZATOS: Okay.

23 MR. SUAZO: Mr. Chair.

24 MR. RAZATOS: Yes.

25 MR. SUAZO: May I be heard briefly?

1 MR. RAZATOS: Please.

2 MR. SUAZO: I'm Miguel Suazo, and I'm
3 representing Pilot Water in a matter that is impacted
4 by the matters that are before the commission today.
5 And since we're talking this procedural grounds, I
6 just wanted to flag for the commission that Pilot
7 Water would like to participate in the hearing in
8 September. The nature of that participation is going
9 to be limited in scope.

10 But essentially what I wanted to flag
11 for the commission is that Empire has filed
12 essentially similar, you know, complaints against
13 Pilot as it has against Goodnight. Specifically,
14 they're challenging order SWD-1750 and an order
15 R-23254, which was issued on June 26th.

16 They essentially state Pilot -- it's a
17 matter pending the outcome of these proceedings today
18 and the hearing in September. And so Pilot would just
19 like to ask to be included with the discussions with
20 the parties and the hearing examiner so that they can
21 participate in September, potentially furnish a
22 witness, although no decision has been made.

23 But most certainly to impart testimony
24 to the effect or at least a statement to the effect
25 that they are supportive generally of Pilot's position

1 in terms of its take on the impact to the EMSU in the
2 San Andres in this proceeding, which stands to impact
3 Pilot's interests in the San Andres outside of the
4 EMSU.

5 MR. RUBIN: If I may?

6 MR. RAZATOS: Please share, Mr. Rubin.

7 MR. RUBIN: Mr. Suazo, I don't have the
8 rules in front of me, but has there been a formal
9 intervention by Pilot?

10 MR. SUAZO: Well, I would need to go
11 back and look at the filings for this particular case.
12 I know that Goodnight has intervened in our case and
13 there was testimony from -- before the division about
14 the fact that these matters are related.

15 I don't think that they've been
16 formally consolidated, but they are, nevertheless
17 interrelated, which is why they were stayed. So if
18 that is a procedural matter that needs to be
19 undertaken, I suppose we should discuss that and
20 decide if that something that for purposes of
21 recordkeeping, the commission and counsel would like
22 to see just with those new issues once the hearing
23 date is actually upon us.

24 MR. RUBIN: Yes, Mr. Suazo. I think
25 you'd be well advised to consult the procedures on

1 this and the rules as to what you can do and cannot do
2 with that intervening. I'm sure that the other
3 parties may have opposition to you participating
4 without something formal from your client. Thank you.

5 MR. SUAZO: Thank you.

6 MR. RAZATOS: Excellent. Anything else
7 on this matter?

8 Okay.

9 MR. BECK: Commissioners, this is Matt
10 Beck on behalf of Rice Operating Company and Permian
11 Line Service, LLC. We stand in a similar position to
12 Pilot. We have intervened in this matter, and so
13 we're in the exact same position. Empire filed
14 applications, they moved to dismiss them, but because
15 of the commission's stay, they haven't been dismissed.

16 So we'll participate in a -- I would
17 think in parallel manner with Pilot and the like
18 manner and make sure that we're cleared in those
19 discussions as well.

20 MR. RAZATOS: Right. Thank you,
21 Mr. Beck. I think what Mr. Rubin said applies to you
22 as well. So --

23 MR. BECK: Certainly.

24 MR. RAZATOS: Excellent. Okay. So
25 this matter is complete.

1 MR. RUBIN: Yes, Mr. Chair, I would
2 advise that we move on to the next agenda item.

3 MR. RAZATOS: I think we also need a
4 little break, so how about we take a break? Let's
5 take a ten-minute break. Thank you everyone.

6 (Off the record.)

7 MR. RAZATOS: Our next case is case
8 number 24683, application of Western Environmental Law
9 Center, Citizens Caring for the Future, Conservation
10 Voters of New Mexico Education Fund, the Dine
11 C.A.R.E., Earthworks, Naeva, New Mexico Interfaith
12 Power and Light, San Juan Citizens Alliance, and
13 Sierra Club to amend 19.15.2, 19.15.5, 19.15.8,
14 19.15.9, and 19.15.25 NMAC.

15 Are all the parties present for this
16 particular case? Excellent. Great.

17 Mr. Rubin.

18 MR. CLOUTIER: Mr. Chair, this is
19 Andrew Cloutier. I'm here on Teams, not present.

20 MR. RAZATOS: Excellent. Thank you,
21 sir.

22 MR. RUBIN: Mr. Chair, members of the
23 commission, at this point, it would be appropriate to
24 have the petitioner, the parties seeking to have the
25 commission initiate this proposed rulemaking to

1 address the commission and make a presentation,
2 mindful, of course, that they should not be too
3 substantive in nature as ultimately a hearing would
4 resolve that -- a public hearing. Thank you.

5 MR. RAZATOS: Excellent. Thank you,
6 Mr. Rubin.

7 So who would like to start off?

8 I can barely see you. Sorry. Sure.
9 There you go.

10 MS. BEASLEY: There you go. Good
11 morning, and thank you all. I'm Ally Beasley, counsel
12 for Applicant. And here with me today are my
13 cocounsel, Kyle Tisdell, Morgan O'Grady, and Tannis Fox
14 over there.

15 So as you all sort of outlined, we are
16 seeking to amend 19.15.2, 5, 8, 9, and 25 NMAC
17 governing definitions, enforcement, and compliance,
18 certain financial assurance provisions, well operative
19 provisions, and well plugging and abandonment.

20 New Mexico needs an effective
21 regulatory scheme in order to facilitate plugging and
22 abandonment of wells when they reach the end of their
23 useful lives, and to ensure that the state and its
24 taxpayers don't bear the cost of orphan wells. And
25 currently, the commission rules allow operators to

1 post financial assurances that fall short of the
2 actual costs of plugging and cleanup.

3 And when wells reach the end of their
4 useful lives, those wells needs to be sort of properly
5 plugged and abandoned. And this discounting of that
6 cost creates a significant gap between total estimated
7 cost for the State to plug all of its oil and gas
8 wells, and what actually is available for that purpose
9 in funds held by the State for financial assurances.

10 And the current rules also allow
11 operators to keep wells in temporary abandonment
12 status indefinitely. And this creates risks for the
13 State and its taxpayers and our communities,
14 environment and financial risks when these wells can
15 sort of linger in temporary abandonment and are at
16 increased risks of becoming orphaned without any
17 demonstration that the wells will return to beneficial
18 use.

19 So this proposal, these proposed
20 amendments seek to address these regulatory gaps and
21 the attendant health and environment and financial
22 risks.

23 We, in preparing this, we consulted
24 with staff from both the Oil Conservation Division and
25 the State Land Office about our scope and language of

1 our proposal. And we really appreciate the
2 willingness to meet and the input.

3 And likewise, prior to filing the
4 petition, we met with representatives from NMOGA,
5 IPANM, the Permian Basin Petroleum Association to give
6 them notice of our filing. And we look forward to
7 continuing conversations with all parties here, and
8 hope work with the parties prior to hearing if hearing
9 is granted to try to find common ground and narrow the
10 scope of the issues further.

11 Today, we respectfully request that the
12 commission schedule a hybrid hearing on this matter
13 beginning April 7, 2025, and continuing after as
14 necessary. We anticipate needing about a week for the
15 hearing, but of course, that's up to the commission,
16 and it could go longer.

17 We had originally requested a hearing
18 date in October, and then when we moved this meeting
19 forward from July to August, we're looking at
20 December. But in order to accommodate other Oil
21 Conservation Division hearings coming up this year,
22 commission hearings, and the upcoming legislative
23 session during which the commission typically does not
24 meet, we have proposed to move that date to April 7th
25 for the start date for the hearing, and filed an

1 amended proposed notice to that effect earlier this
2 week.

3 And we also request that the commission
4 issue an order appointing a hearing officer in this
5 matter and requiring that the parties file each
6 witness's full direct testimony and exhibits by
7 January 31, 2025. So that would be two months in
8 advance of the April date if that were to be April.
9 And then each witness's full rebuttal testimony a
10 month in advance of hearing date, which for an April
11 7th hearing would be March 7, 2025.

12 And we request that full direct and
13 rebuttal testimony rather than the concise statement
14 of testimony as contemplated in the rules at
15 19.15.3.11(b)(2), so that the party and the commission
16 have a full understanding of the evidence prior to
17 hearing, and we can present a more fulsome record for
18 decision at hearing.

19 This is something that we have seen in
20 the Water Quality Control Commission, Environmental
21 Improvement Board, and PRC hearings, and so we are
22 proposing the same here. And it's my understanding
23 that a similar process is happening before the
24 commission in the PFAS hearing later this fall, so --

25 Yeah. Thank you for considering our

1 request for hearing, and I'd be happy to answer any
2 questions.

3 MR. RAZATOS: Excellent. Thank you.

4 MR. RUBIN: Ms. Beasley, I apologize.
5 I'm having some issues with my laptop. Do you have a
6 hard copy of the strikethrough, redlined version of
7 the proposed rules? An extra copy?

8 MS. BEASLEY: Would you like --

9 MR. RUBIN: Yeah.

10 MS. BEASLEY: It's not in red, but it
11 does have the strikethrough. So it's starting here.
12 Oh, it's -- I can extract it. You have one? Oh.

13 MR. RUBIN: Mr. Chair, members of the
14 commission, I just would advise that we hear from
15 anyone else, any other interested parties before we
16 hear from the commission.

17 MR. RAZATOS: We'll just go down the
18 table from --

19 MR. RUBIN: Looks like that's what
20 we're going to do.

21 MR. RAZATOS: Okay. Awesome.

22 MR. SUAZO: Thank you, Mr. Chair. Good
23 morning commissioners. My name is Miguel Suazo. I'm
24 with the Santa Fe of Beatty & Wozniak, joined today by
25 my colleague, Kaitlyn Luck. And we're here today

1 representing the New Mexico Oil and Gas Association,
2 also known as NMOGA, which consists of over 200 member
3 companies operating in New Mexico who help support our
4 state schools, including producing almost \$14 billion
5 in 2023 alone.

6 I'm pleased to be here today on behalf
7 of NMOGA. And I'm here because NMOGA's position on
8 this rulemaking and the need for a hearing is clear.
9 NMOGA opposes a hearing on these proposed rules. And
10 the reason why is because these rules as drafted do
11 not fit the needs of the industry. These rules demand
12 additional clarity and flexibility.

13 Good rules must establish clear, cost
14 effective, and performance-based standards. These
15 rules do not achieve that. Rules must provide
16 flexibility for operators and for the commission and
17 the division. They should allow for operational
18 flexibility without imposing rigid constraints. These
19 grids do not achieve that purpose.

20 Rules should also not overburden those
21 who are required to abide by them. NMOGA opposes
22 generally rules that are overly burdensome,
23 duplicative, redundant, impractical, and ineffective.
24 That is what these rules are.

25 Now, it's important for the commission

1 to understand that these rules with impact industry
2 differently, especially smaller oil and gas
3 businesses. And these are businesses that generate
4 value for our state's economy that are impacted.

5 There's a financial burden associated
6 with these rules. They'll force companies, large and
7 small, to bear significant costs, not only to ensure
8 compliance, but also to navigate their own risks and
9 expensive requirements.

10 These rules will create compliance and
11 operational challenges. And that's because these
12 rules are unclear and impractical. And because they
13 are impractical, they'll also be difficult for this
14 commission and OCD to implement them.

15 So bottom line here, broadly, which is
16 what you've requested today, these rules need drastic
17 refinement. To be practical and meaningful, the rules
18 need substantial revisions to align with industry
19 realities and avoid unnecessary strain on New Mexico's
20 businesses.

21 And finally, as you heard the
22 applicant's counsel say, they let NMOGA and IPANM know
23 that these rules were coming, but they didn't
24 collaborate with the industry to make sure that these
25 rules made sense from an industry perspective. So

1 this rulemaking, unfortunately, arises under
2 unfortunate circumstances.

3 The initiation of this rulemaking
4 could've been more effective if it were approached
5 with greater collaboration. This rulemaking was
6 pursued without industry engagement. There was no
7 consultation with NMOGA, the state's largest oil and
8 gas trade association.

9 So this is really a missed chance for
10 partnership with the application, and a valuable
11 opportunity that was missed to work together. And as
12 a result, these rules, as anybody who's worked in this
13 industry for any number of years can see that these
14 regulations reflect a lack of industry perspective and
15 expertise.

16 You know, NMOGA is dedicated to
17 industry improvement, and anyone who's worked in this
18 industry knows that oil and gas operations have
19 functioned better in recent decades than they did in
20 decades prior.

21 NMOGA would've preferred a cooperative
22 approach in this rulemaking, but instead, because it
23 requires so much work to make these rules make sense
24 for the industry itself, NMOGA has to oppose this
25 rulemaking and opposes any hearing on these rules.

1 And if any rules are passed, industry should be
2 involved from their inception before they are filed.

3 Instead, today, NMOGA's here in a
4 reactive position formulating -- is placed in a
5 reactive position that's neither productive or
6 conducive to the industry's growth, and it taxes the
7 resources of the agency's charge with regulating
8 NMOGA's oil and gas industry. And because of that,
9 NMOGA opposes these rules, opposes this rulemaking,
10 and opposes any further hearing on these rules. Thank
11 you.

12 MR. RAZATOS: Thank you, Mr. Suazo.
13 Appreciate it.

14 Mr. Tremaine.

15 MR. TREMAINE: Thank you, Mr. Chair.
16 My name's Jesse Tremaine. I am the legal director for
17 the Oil Conservation Division. And the OCD is here
18 today to, as a general matter, to support the
19 amendment of the referenced rules. We do agree that
20 there may likely be necessary changes and
21 modifications to the proposals as the parties work
22 through this process to refine the rule. But we do
23 see that as a matter of refinement and logical
24 outgrowth rather than going back to the drawing board.

25 I do, unfortunately, have to disagree

1 with Mr. Suazo. In my opinion, this has been a highly
2 collaborative process, not the draft of this
3 particular rule, but all of the parties present were
4 party to probably something like a six-month
5 stakeholder engagement process related to proposed
6 amendments starting in 2023 to the Oil and Gas Act.

7 Now, you will see that there are, if
8 you review the legislative proposals as opposed to
9 WELC's petition to amend these rules, you will see
10 that they are somewhat different, and that is the
11 necessary nature of taking the critical aspects of
12 what were proposed and discussed over a period of
13 months between all of those parties of that
14 stakeholder engagement, and applying it to the current
15 existing statutory authority.

16 So we're inherently dealing with a
17 different proposal because we're talking about
18 modifying rules under the existing statute as opposed
19 to modifying the statute.

20 But additional changes to transfer
21 requirements, modifications to financial assurance,
22 inactive well plugging, these are all issues that the
23 State and the Oil Conservation Division have numerous
24 public presentations regarding, and our position has
25 been clear and quite detailed regarding the inactive

1 well and financial assurance liability posed to the
2 State and the demands placed upon the current
3 reclamation fund and available BIL funds.

4 So we do support some form of the
5 current proposal, and we'll eagerly work with all of
6 the parties present in the case. We support this
7 going forward. OCD has reviewed the draft notice
8 presented by Western Environmental Law Center, and
9 provided some initial, like, technical wording
10 feedback. And we've also recently received some
11 proposed edits and comments on that in a comment
12 form -- in a redline form. But that is helpful from
13 IPANM.

14 So given that there is some additional
15 feedback on that proposed notice, I am proposing to
16 the commission that it might appropriate to allow the
17 parties to consider that input, provide a deadline by
18 which the parties can submit a stipulated -- either a
19 stipulated notice or a stipulated prehearing order
20 such as we did during, you know, the last ruling that
21 is currently underway, PFAS rulemaking, that is at the
22 pleasure or direction of the commission.

23 But I think those are alternatives that
24 will allow the parties to work through some of the
25 procedural questions that were presented in the filing

1 this morning IPANM. And I think that could be
2 processed relatively quickly.

3 And the last thing that I will comment
4 on is just as a procedural matter, OCD has proposed in
5 discussion with all of the parties -- after discussion
6 with all of the parties, we had proposed April as a
7 potential rulemaking date, April 7th, or frankly
8 anytime in April works for the division because of our
9 witness and legal resource availability after session,
10 we think that that would work. We do have some
11 limitations in terms of May to push that out.
12 Critical staff will be out during that period of time.

13 So in summary, we think that there is a
14 lot of record and a lot of history and a lot of
15 engagement here. It is critical, absent some change
16 during the legislative change, to address the
17 liability presented by the State of matters on the
18 ground in New Mexico and the current language of the
19 rules, and we support this rulemaking petition going
20 to hearing in April.

21 MR. RAZATOS: Excellent. Thank you,
22 Mr. Tremaine.

23 Mr. Feldewert.

24 MR. FELDEWERT: Good morning,
25 Mr. Chair, members of the Commission. Michael

1 Feldewert representing the offices of Holland & Hart
2 on behalf of OXY USA, Inc. OXY does not take a
3 position on whether you should hold a hearing or not.
4 I do have some comments, I guess, on the filing by
5 WELC on the proposed notice of hearing.

6 One would be a request that if we're
7 going spend your time and our time and all this money
8 on any rulemaking, that if you're going to present a
9 technical witness, the technical witness be here so
10 that you can have more effective examination of that
11 witness. So that would be my first proposed
12 suggestion.

13 Secondly, to avoid any surprise if we
14 do have a hearing, that not only technical testimony
15 and exhibits, but any exhibits that would be
16 considered nontechnical, whatever that necessarily
17 means, that those exhibits be filed in advance of the
18 hearing, not on the day of the hearing.

19 We don't know what those exhibits would
20 be. Nobody wants to surprised. It's not too big of a
21 burden to ask someone who wants to present
22 nontechnical exhibits at the hearing to file them
23 ahead of time. We did that in the procedural order
24 for the PFAS rulemaking. I think it makes a lot of
25 sense.

1 So if you're going to have a hearing,
2 those would be the two changes that I would suggest.
3 One, technical witnesses be here. I'm not talking
4 about nontechnical, I'm not talking about public
5 comment. I'm talking about technical witnesses, that
6 they be here for effective cross-examination.

7 And then secondly, that any exhibits
8 that you're going to -- people want to file, that they
9 be filed ahead of time with the parties and the
10 Commission so we have no surprise.

11 MR. RAZATOS: Thank you, Mr. Feldewert.
12 And Mr. -- and I don't remember how you
13 pronounce it. Mr. Cloutier or Cloutier?

14 MR. CLOUTIER: Cloutier, but I've been
15 called worse, so --

16 MR. RAZATOS: Okay. I apologize.

17 MR. CLOUTIER: No problem at all.

18 Good morning, Mr. Chair and members of
19 the Commission. Andrew Cloutier of the Hinkle Shanor
20 firm, representing the Independent Petroleum
21 Association of New Mexico. Like NMOGA, IPANM strongly
22 opposes the rule making on three primary bases.

23 First, I'm not going to repeat
24 Mr. Suazo's comments about the needs for refinement
25 and more collaboration, but I fully agree with and

1 IPANM adopts Mr. Suazo's comments by way of
2 supplementation.

3 My client was notified of the proposed
4 rulemaking about a week before the filing, and we
5 believe a true collaborative process should not be
6 under the gun of a upcoming hearing date, and the
7 commission should direct the parties to collaborate
8 some more before there's a filing.

9 We also oppose on public policy
10 grounds, and thirdly, because the commission lacks
11 statutory authority to enact many of these proposals.

12 That said, I'd like to make some
13 comments. Mr. Tremaine correctly states that I filed
14 this morning, based on receiving on the evening of
15 April 12th the amendments to the proposed notice of
16 hearing. I'd like to make some comments about those
17 suggestions because I -- as indicated in the filing, I
18 would make my comments here.

19 Mr. Tremaine identifies correctly that
20 there was house bill 133 before the recent legislative
21 session which had the strong backing of the
22 administration, it did not pass. While IPANM believes
23 that its failure to be enacted into law combined with
24 the administrative's efforts to get that bill enacted
25 into law is highly instructive on the issue of the

1 commission's authority to enact the proposed
2 rulemaking. I'd like to raise it for a more practical
3 issue, which is the hearing date.

4 As Mr. Tremaine alludes, and IPANM
5 hears there's rumors that some version of house bill
6 133 may be submitted in the upcoming legislative
7 session. I'm going to briefly share a screen with
8 you. This is the calendar of session dates on the
9 legislative session.

10 And on April 11th is the last day for
11 the governor to -- or I guess April 10 is her last day
12 to act on legislation. April 11th is the date that
13 unacted upon bills become pocket vetoed. So the
14 proposed hearing date is prior to what we will know
15 about the ultimate results of the upcoming 60-day
16 legislative session, and the 20-day period there is
17 constitutional under Article 4, Section 22 of the
18 constitution.

19 So assuming the legislature's website
20 is correct about the dates of the session, that is the
21 date for the so-called pocket veto, therefore, if the
22 commission is going to move forward with the public
23 hearing, which again, IPANM disagrees with, but if it
24 does, the hearing should occur sometime after we all
25 know what we're dealing with in terms of legislative

1 history.

2 I don't have a crystal ball, but it's
3 very obvious -- or very easy to imagine a scenario
4 where there is a reintroduction of some version of
5 house bill 133 in the next session that some form of
6 that bill passes with amendments.

7 And given a bill that presents her with
8 some but not all of what she asks for or contains
9 provisions that she may not have wanted, there's no
10 guarantee we're going to know by April 7th what the
11 governor has done with any bill that may alter the Oil
12 and Gas Act. So we submit that some later date at the
13 convenience of the parties would be more appropriate.

14 We think that the notice of hearing,
15 and I provide specific language in my filing, ought to
16 contain a provision for concerning motions because as
17 IPANM believes, and I think NMOGA's also suggested,
18 there's arguments about the Commission's authority to
19 enact some or all of the proposed rulemaking.

20 We take issue with the legal authority
21 section and think it should be amended. In
22 particular, it currently that the proposed rule is
23 authorized, et cetera. We believe that it ought to
24 state "Applicants contend that the proposed amendments
25 are authorized," because this commission has not made

1 any finding that it has the authority to enact these
2 rules, and that issue will be disputed.

3 I agree with Mr. Feldewert's comments
4 about the testimony section. IPANM is also
5 considering expert testimony, and so we wanted to make
6 clear that technical testimony includes expert witness
7 testimony. And we believe that there should be a
8 provision also that in the event -- especially in the
9 event of some developments in the 2025 legislative
10 session, for good caution, written testimony could be
11 revised, supplemented, or new testimony offered.

12 Finally, Ms. Beasley, I think,
13 articulates sensible and prudential reasons for
14 submitting nontechnical, nonexpert testimony in
15 writing, and IPANM agrees with this proposal. For
16 that reason, IPANM contends there is no good reason
17 for the oral comments section as written by the
18 applicants, which they're proposing that anyone who
19 essentially shows up at the hearing can offer
20 testimony to the Commission.

21 Parties ought to be made to intervene
22 and present their written nontechnical testimony in
23 advance. The Commission should not get itself bogged
24 down with surprise testimony, which none of us may
25 anticipate.

1 Additionally, I point that both on the
2 applicants' side and at least two of the intervener's
3 sides, we've got membership driven organizations. I
4 don't think the commission ought to be inviting us all
5 to engage in the game of having our members, their
6 employees, their friends, whatever, show up with
7 surprise testimony at the last minute, and therefore,
8 IPANM has suggested a completely different oral
9 comments, which we'd be limited to traditional public
10 comment that is usual for this Commission and more
11 appropriate for a public body.

12 With that, thank you for considering
13 IPANM's comments, and we look forward to hopefully
14 working the parties on the rule before the commission
15 considers any proposal. Thank you.

16 MR. RAZATOS: Thank you, sir.
17 Appreciate it.

18 Any other questions?

19 Dr. Ampomah, any questions?

20 MR. RUBIN: Just one point of
21 housekeeping, Mr. Chair.

22 MR. RAZATOS: Yes.

23 MR. RUBIN: Are there any other --

24 MR. RAZATOS: Sorry. Yes.

25 MR. RUBIN: -- persons entering today

1 that wish to offer comment on the proposed rulemaking?
2 Okay. Hearing none.

3 Mr. Chair, members of the commission,
4 if I may, briefly try to advise the commission on what
5 we've heard here. Yes, certainly the commission, this
6 is a proposed rulemaking. And Mr. Tremaine has
7 accurately stated the concept that what is proposed
8 today, what is put out for notice, does not
9 necessarily need to be what is the final after a
10 hearing.

11 The test is a logical outgrowth. So if
12 you decide that what is being -- what is in the
13 petition is at least, as OCD has said, could be
14 tweaked, it could still go out for notice as is.

15 Now, the second point is if the
16 commission does deem it prudent to initiate
17 rulemaking, I do suggest that pursuant to the rules
18 that we do have a hearing officer, and that would
19 certainly make for a much more orderly procession of
20 this proceeding.

21 Now, as to the notice, there are a lot
22 of things we can put in a proposed notice, such as
23 those issues of who can appear in person, who needs to
24 appear -- who can appear virtually. That could be
25 covered in the notice as well as what testimony needs

1 to be filed or not filed ahead of time.

2 I am mindful of the Open Meetings Act,
3 but more importantly, the public comment provisions of
4 the State Rules Act. And as I'm sure all the
5 attorneys here would acknowledge, it is a gray area,
6 what is public comment versus what is even
7 nontechnical testimony. This came up in the PFAS as
8 well.

9 And so we do have to be careful.
10 Limiting people to pre-filings when they just want to
11 get up and say something might be an -- might be a
12 State Rules Act issue. But again, this could all be,
13 in what I'm hoping would be a consensus notice or at
14 least some consensus in a proposed notice that could
15 be presented to the commission at its next meeting.
16 Especially the hearing date, at least, of April 7th
17 meets some consensus by all the concerned parties.

18 As to the concern about timing this
19 with the legislature, certainly if there's legislative
20 action that would obviate the need for any of this,
21 that would be a wonderful problem to have. And this
22 isn't legal advice, but waiting for a legislator to do
23 something or not do something is a waiting-for-Godot
24 proposition, often waiting for a pocket veto, we do
25 know that our Governor Grisham does have deep pockets

1 in that respect. But again, that is still
2 speculative.

3 So I did not hear from any of the
4 parties here opposing the initiation of any specifics
5 as directed to the specifics rather of the strike
6 lines or proposed additions to the text. I supposed
7 those will be tackled as part of the hearing if the
8 commission sees fit. So the notice otherwise meets
9 the requirements about the State Rules Act and the
10 commission rules.

11 And again, I want to remind the
12 commissioners, you may have questions about this,
13 about the substance. I would strongly advise against
14 getting too much into substance as there could be some
15 argument of prejudgment. I think there are folks who
16 would want to show up for a hearing in April who would
17 want to hear everything the commission has to say
18 about this.

19 So with that, I stand for any questions
20 by the commission. And of course, the commission can
21 ask questions of those parties appearing today.

22 DR. AMPOMAH: So I do have a question
23 for NMOGA and then IPANM.

24 So you are opposing the commission
25 setting up a hearing for this, but so were you invited

1 to the table or you were not invited at all?

2 MR. SUAZO: Thank you for the question,
3 Commissioner Ampomah. Well, I would need to confer
4 with my client on the exact timing. I guess what I
5 will say is that I do take exception with OCD and
6 Mr. Tremaine's characterization that we were involved
7 in the development of the language of these specific
8 rules as proposed.

9 And I am aware that HB-33 has been
10 looming out there. It failed to pass. I am aware
11 that these issues -- that the issues that the rules
12 concern are issues that the industry has been dealing
13 with for years.

14 But what I will say is that when it
15 comes to the actual text that was submitted to the
16 commission, that is not something that we feel that
17 NMOGA was involved in as much as is practical and
18 prudent, and, in our mind, essential so that the rules
19 that are ultimately adopted ultimately make sense for
20 the industry that actually has to abide by them.

21 And I think that if you put rules in
22 front of the commission that needs significant
23 modification, ultimately that leads to a poorer
24 outcome rather than a positive outcome because at the
25 end of the day, we have to abide by the rules, and the

1 commission and the division have to enforce those
2 rules.

3 So the better they are, the more that
4 we ensure that they make sense upon submission, that
5 they make sense for the industry, the better product
6 you're going to have. And that was not done here,
7 which is why there are problems and reservations with
8 these rules.

9 You know, there's no magic with
10 adopting these rules on the timeframe proposed by the
11 applicant. It is highly likely that a version of some
12 of these rules will be adopted by statute after the
13 legislative session next year.

14 And so what the commission faces is the
15 prospect, and what the industry faces as a prospect,
16 and what the applicant faces as a prospect is if there
17 are statutes that are passed by the legislature next
18 year, everybody's going to have to scramble to adjust
19 their reasons and expectations and the nuance of those
20 rules in the face of those adoptions when, in
21 hindsight, we'll have been working on this very
22 rulemaking may, in part, have been addressed through
23 the statutes.

24 And so I think it is prudent for the
25 commission to proceed carefully and slowly, and work

1 with and engage with industry so that we can do this
2 effectively and well, and not create additional issues
3 for ourselves just for the sake of passing
4 regulations.

5 And I would remind this commission that
6 many of these issues were addressed back in 2018.
7 There's plenty of testimony on stripper wells and
8 things of that nature and the impact economically.
9 There was a robust record of the commission assessing
10 these very issues.

11 This is just another bite of the apple
12 by the applicant, and they took that bite then, they
13 took that bite at the last legislative session,
14 they're going to take as many bites at the apple as
15 they can in this upcoming legislative session. And
16 for purposes of this rulemaking, we're going to have
17 to deal with the fallout of whatever results, if
18 anything, but it's possible that something will.

19 And so if we have to scramble a month
20 roughly ahead of our hearing to adjust to what the
21 legislature has done, that kind of is a problem for
22 everybody, and that's a waste of time, resources,
23 effort, and energy, all of which are limited. So
24 please keep that in mind. Thank you.

25 MR. CLOUTIER: Mr. Commissioner, the

1 question was also directed at me. Again, I will not
2 repeat Mr. Suazo's comments. IPANM was approached by
3 the applicants via email on June the 15th of this year
4 about the proposed rulemaking, and I believe it was
5 filed about a week later.

6 There was no substantive interaction
7 between IPANM and the applicants. We were presented
8 with rulemaking and told it was going to be filed, and
9 we were graciously welcomed to provide them with
10 comments, but it was not -- we were not part of the
11 process of developing the rules presented to us as a
12 package, and filed very shortly after it was presented
13 to us.

14 DR. AMPOMAH: Then I'll follow up to
15 the applicant, and then NMOCD. So they approached the
16 applicant, and then NMOCD taken to make sure that the
17 key stakeholders, those are the companies that needs
18 to abide by these rules, more or less, you know,
19 allowed to participate, you know, in the craft for
20 this rulemaking?

21 MS. BEASLEY: Thank you, Commissioner.
22 So our intent in reaching out was not for that to be
23 the sort of one and only opportunity to refine the
24 rules, to work together, to discuss the proposals. We
25 were hoping that would be the start of such a process.

1 And I'm not aware of any requirements that we work
2 to -- you know -- with any particular other parties to
3 craft the language prior to filing.

4 But it was very much our intent that we
5 would continue to do so and continue to refine these
6 provisions and work together to try to find common
7 ground, narrow the issues, all of that, you know,
8 between filing and a hearing.

9 And in particular, given that a hearing
10 would be now in the spring of 2025, if granted, that
11 was fully our intent from the start was that that
12 would just be initiation of what we hope would be a
13 more collaborative process, and not sort of
14 foreclosing anything further.

15 MR. TREMAINE: Commissioners, Jesse
16 Tremaine for OCD. So first, a clarification. I may
17 have misspoke or I may have just simply been
18 misunderstood. I'm not sure which. But I was not
19 intending to imply at any point that I had knowledge
20 of NMOGA participating in the crafting of this
21 particular language proposal.

22 What I said or what I intended to say
23 was that NMOGA was deeply and regularly involved in
24 the stakeholder process, and that the proposal
25 presented by WELC represents a proposal which is

1 squarely within the content and the substance of those
2 discussions from that stakeholder process that gave
3 rise to the legislative proposal.

4 So I am not aware of OCD having
5 provided substantive comment on the current proposal
6 in advance of its filing. But we were all part of
7 that process starting in August or September of last
8 year, I believe, running all the way through the
9 spring. So that was my comment.

10 And in terms of the stakeholder
11 engagement, I would say that I do agree that this is
12 simply the initiation of what OCD identifies as a very
13 necessary and critical update to the referenced rules,
14 and we will endeavor -- early in the process to
15 continue to engage in that stakeholder engagement.

16 So I anticipate many meetings between
17 all of the parties, exchange of additional red lines.
18 OCD, in response to the petition, is already preparing
19 to recommend revisions to the proposal, which we've
20 shared with all parties. And we're pretty much, in my
21 opinion, an open book as far as that goes.

22 We did not participate in drafting the
23 petition, so we haven't had those substantive meetings
24 with the industry stakeholders yet. We will have
25 them.

1 MR. SUAZO: Mr. Chair, may I be heard
2 briefly? Sorry.

3 MR. RAZATOS: Who asked?

4 MR. SUAZO: Miguel Suazo.

5 MR. RAZATOS: Oh. I'm trying to look.
6 I apologize. Yes.

7 MR. SUAZO: No problem. Just to kind
8 of harmonize what the applicant and OCD has said, and
9 specifically, I'd like to focus on the applicant. You
10 know, their purpose after filing is not to encourage
11 refinement and engagement, and so on and so forth,
12 modification of what they've proposed.

13 And the problem with that, and let me
14 just take one example. Applicant uses the term
15 "beneficial use" in their application. Beneficial use
16 is the rock upon which their application is built.
17 And as an environmental and more importantly a water
18 law attorney, that creates problems. The term
19 "beneficial use" is used in the Oil and Gas Act and
20 the rules, but nowhere is it defined.

21 And as we know from the oil and gas
22 context, terms of art are critical in any field of
23 law. And protection of correlative rights, prevention
24 of waste, those have a long body of case law behind
25 them. Well, so does beneficial use. And beneficial

1 use in the context of oil and gas is a very broad
2 term. It's a very vague term. And it runs the risk
3 of conflating two very clear and important sectors of
4 energy and environmental law.

5 And so if the applicant was truly
6 concerned about ensuring engagement and refinement, at
7 the very least, they could have brought industry to
8 the table on the language of these rules so that we're
9 not all faced with the next six, seven, eight months
10 of trying to hash this out and make sure that the
11 lines that currently drawn within the body of extent
12 law are not conflated and convoluted and confused.

13 So I can go on and on down the list,
14 but I've been asked not to go into depth by commission
15 counsel. But again, these rules are half baked at
16 best and problematic at worst. Not just now, but for
17 the long term.

18 And that is why NMOGA urges this
19 commission to reject these rules, encourage applicants
20 to come to the table with a serious proposal after
21 we've had the benefit of seeing if the legislature is
22 going to pass something that alters the contents of
23 these rules by statute so that we can actually come
24 back and have an actual product rulemaking. So for
25 those reasons, I encourage the Commission to reject

1 the rulemaking at the very least at this time. Thank
2 you.

3 DR. AMPOMAH: Listening to all the
4 arguments, I still believe NMOGA still do have the
5 opportunity to provide input to this order or this
6 rulemaking. So you still have the opportunity. Other
7 than just saying we should more or less deny entirely
8 the application, you still have opportunity to make
9 sure your members' concerns are more or less addressed
10 in the final draft.

11 MR. SUAZO: And we're not saying we
12 don't have the opportunity. We're just saying the
13 opportunity is now in front of us and not something
14 that we're actually helping to put together
15 constructively. And I think that does make a
16 difference when you're facing procedural schedules,
17 lining up witnesses, navigating what the legislature's
18 doing.

19 You know, everybody has commitments.
20 And so I think it's problematic under the
21 circumstances was my point, not that we don't have the
22 opportunity to participate in the process,
23 Dr. Ampomah.

24 MR. RUBIN: Mr. Chair, members of the
25 commission, this isn't strictly legal advice again,

1 but in my experience, lawyers respond well to
2 deadlines, lawyers respond well to hearing dates, and
3 so to the extent we want to spur the parties to get
4 together and work out what they can work out, or
5 really it's what they can't, as Dr. Ampomah, you have
6 said, there is ample opportunity between now and April
7 to do that.

8 And I have not heard anything -- it
9 seems like there has been some reaching out prior to
10 this petition. Again, so it is a long process, and as
11 long as the final rule is a logical outgrowth of what
12 is in the notice, the state law is satisfied.

13 DR. AMPOMAH: So let me ask. What
14 prevent us more or less set in the ruling date after
15 the legislative session? More like, let's say setting
16 the date after?

17 MR. RUBIN: Commissioner Ampomah and
18 members of the commission, there is nothing that would
19 preclude you from giving more notice, more time
20 through this rulemaking to proceed. The law only
21 gives constraints as to how little time. You know, 30
22 days typically is what the --

23 So what you are proposing is certainly
24 well within the commission's ability to do. If you
25 want -- if you feel like it is prudent for this

1 hearing to be set several months after the end of the
2 legislative session, that is certainly your
3 prerogative, and that is certainly well within your
4 discretion.

5 DR. AMPOMAH: Will that be a problem
6 for the applicant?

7 MS. BEASLEY: We would prefer an April
8 hearing, but are of course amenable to whatever the
9 commission ultimately decides about the timing. Just
10 given that we have already sort of moved this forward
11 to accommodate other things, we would of course prefer
12 April and feel that that is still ample time for the
13 refinement and collaboration that we've discussed.
14 But, of course, we defer to whatever the commission
15 decides.

16 MR. RAZATOS: And I'm just going to
17 interrupt. I apologize. There was concern that,
18 well, the governor has the pocket veto authority for
19 that particular week, which -- okay, whatever, she has
20 authority to be able to do that and that's her job.

21 Could we postpone it by a week and
22 start the 15th instead of the 7th? But would the
23 parties be amicable to something like that?

24 MR. RUBIN: Again, Mr. Chair, I think
25 the parties would probably want to get together and

1 propose a notice.

2 MR. RAZATOS: Sure.

3 MR. RUBIN: And everything would be
4 wrapped into what they would have in front of us for a
5 proposed notice including the hearing date, the
6 procedures for witnesses, for pre-filings. It could
7 all be something we could see at our next meeting --

8 MR. RAZATOS: Okay. So --

9 MR. RUBIN: -- in the form of a notice.

10 MR. RAZATOS: Just to make sure I'm
11 understanding, your advice is let's just say yay or
12 nay whether we want to have the hearing, and then they
13 can bring all that stuff to us?

14 MR. RUBIN: Mr. Chair, yes. What I am
15 saying is that you could vote today to initiate
16 rulemaking subject to the parties -- subject to
17 approval of a notice at the next meeting.

18 MR. RAZATOS: Okay.

19 MR. RUBIN: I would strongly suggest we
20 get a notice out in some form by this commission after
21 the next meeting, but we would give the interested
22 parties opportunity to present that at the next
23 meeting.

24 MR. RAZATOS: Okay. I just want to
25 make sure that we also capture Commissioner Bloom.

1 Were there any questions that you may
2 have had Commissioner?

3 MR. BLOOM: Thank you, Mr. Chair. No,
4 I too was interested in these questions around an
5 appropriate date and could something that happens in
6 the session realistically affect what might happen in
7 this chamber.

8 Ms. Beasley, I don't know if you want
9 to -- if you have any other thoughts on that, I'd be
10 glad to hear them. We've heard from, I think, NMOGA
11 and IPANM on that. But if you have anything you'd
12 like to add?

13 MS. BEASLEY: Sure. I would say given
14 the sort of speculative nature of exactly what will
15 even come up in session and even more so the
16 speculative nature of what will actually get passed,
17 even to these concerns about sort of having to
18 scramble or be prepared, I would think it better to
19 give ourselves deadlines, give ourselves these
20 parameters and to be preparing in advance in the
21 instance that something isn't passed legislatively so
22 that we are not then scrambling to sort of come up
23 with something and work out all of these procedural
24 details if something isn't passed that changes these
25 drastically while still leaving room for amendment

1 should something get through.

2 But in terms of that sort of causing a
3 scramble to prepare should something pass, I think
4 that one could argue that there would be a scramble if
5 it didn't as well, and, if anything, I think that this
6 would allow the parties to prepare more thoroughly for
7 whatever may happen, and then adjust as needed if,
8 say, the scope gets significantly narrowed by
9 something that were to come through the legislature.

10 It's unlikely that something would go
11 through that would broaden the scope significantly.

12 MR. RAZATOS: Thank you. Any other
13 question, Commissioner Bloom?

14 MR. BLOOM: No, that's it. Thank you.

15 MR. RAZATOS: Okay. So Commissioners,
16 I guess it's the question do we want to proceed with a
17 rulemaking?

18 MR. BLOOM: Mr. Chair, I believe we
19 should proceed with rulemaking, and I like Mr. Rubin's
20 suggestion that we entertain specific dates
21 potentially at our next meeting, but sometime in the
22 future.

23 MR. RAZATOS: Okay. Thank you.

24 MR. RUBIN: So as I understand it from
25 Commissioner Bloom, a motion is to initiate rulemaking

1 and to approve a proposed notice at the next meeting
2 that would encompass the concerns.

3 MR. RAZATOS: Okay. So that was the
4 motion. Do we have a second?

5 MR. RUBIN: Mr. Chair, did you make the
6 motion?

7 MR. RAZATOS: Oh, I'm sorry. Well, I
8 thought you were making the motion.

9 MR. RUBIN: Oh, I can't make it.

10 MR. RAZATOS: Well, I was -- that's why
11 I was wondering. I was like, "Oh."

12 MR. RUBIN: No, I state the motion, and
13 then I hope that one of my clients says, "So moved."

14 MR. RAZATOS: Okay. So moved.

15 DR. AMPOMAH: Yeah, so moved.

16 MR. BLOOM: I'll second.

17 MR. RUBIN: And can we have a roll call
18 vote, please?

19 MR. RAZATOS: Okay. Commissioner
20 Bloom?

21 MR. BLOOM: Approve.

22 MR. RAZATOS: Dr. Ampomah?

23 DR. AMPOMAH: Approved.

24 MR. RAZATOS: And I approve as well.

25 MR. RUBIN: Okay. Anything further

1 from the parties?

2 MS. BEASLEY: No, thank you, and we
3 look forward to following up about the notice.

4 MR. RUBIN: Thank you.

5 MR. SUAZO: Nothing further. Thank
6 you.

7 MR. RUBIN: Mr. Chair, do you want a
8 brief break, or should we move right to item three,
9 which is, I believe, a hearing?

10 MR. RAZATOS: I was thinking maybe we
11 take a ten-minute, and we can go from there,
12 so -- thank you, everybody.

13 (Off the record.)

14 MR. RAZATOS: Our next case is case
15 number 24594, application of Targa Midstream Services,
16 LLC for authorization to inject in Lea County, New
17 Mexico. Are all the parties present?

18 MS. HARDY: Yes, I believe so.

19 MS. SENINGEN: Yes.

20 MR. RAZATOS: Excellent. Great. So
21 Ms. Hardy, we will start with you.

22 MS. HARDY: Thank you. I'm Dana Hardy
23 with Hinkle Shanor on behalf of Targa Midstream
24 Services, LLC.

25 MS. SENINGEN: Hi, my name is Anna

1 Seningen, and I'm representing the Oil Conservation
2 Division today along with Jesse Tremaine, the OCD
3 legal director, who's here to help me if I need it.

4 MR. RAZATOS: Excellent. Ms. Seningen,
5 thank you. You'll do good.

6 MS. HARDY: And Commissioners, would
7 you like me to provide a brief opening?

8 MR. RAZATOS: Please, go ahead,
9 Ms. Hardy.

10 MS. HARDY: Well, thank you all for
11 your time. In this case, Targa seeks authorization to
12 inject treated acid gas, which we will refer to
13 periodically as TAG, from its Copperhead gas
14 processing plant into the proposed Copperhead AGI
15 number one well. That well will be located in section
16 13, township 24 south, range 32 east in Lea County.

17 The well is in an underground injection
18 control class 2 well. The well will be a vertical
19 well. We've provided the footages and the location in
20 our exhibits. It will inject TAG into the Devonian 31
21 Upper Silurian Wristen and Lower Silurian Fusselman
22 formations at a depth of approximately 17,299 feet to
23 18,689 feet.

24 The well's proposed maximum daily
25 injection rate is 26 million standard cubic feet per

1 day, and the proposed maximum surface injection
2 pressure will be approximately 3,460 pounds per square
3 inch.

4 As we will show in our testimony and
5 our exhibits, the well, as proposed in the C-108, will
6 not cause waste, impair correlative rights, or harm
7 public health or the environment, including through
8 the risk of induced seismicity. And in addition, the
9 well will facilitate the sequestration of TAG and CO2,
10 which is in the public interest.

11 And I will add that OCD has proposed
12 permit conditions here. And as Mr. Eales will
13 explain, Targa has agreed to those proposed permit
14 conditions. So Targa's application for the well is
15 reasonable, comports with the requirements of the Oil
16 and Gas Act, and we would ask that it be approved.

17 MR. RAZATOS: Thank you.

18 Ms. Seningen.

19 MS. SENINGEN: Yes. May we make an
20 opening statement?

21 MR. RAZATOS: Please.

22 MS. SENINGEN: Good morning, Mr. Chair
23 and commissioners. My name is Anna Seningen, as I
24 have previously introduced myself, and I am here with
25 Jesse Tremaine, the OCD legal director, and he's going

1 to help me as necessary. I would like to briefly
2 summarize the OCD's case today.

3 Division will present one witness,
4 Mr. Million Gebremichael. In addition, the division
5 will present two exhibits. One will be the conditions
6 of approval, and the other will be the resume of
7 Mr. Gebremichael.

8 The division supports the approval of
9 the well subject to the inclusion of the permit
10 conditions identified in Exhibit 1, and the
11 incorporation by reference the contents of the C-108
12 form application submitted by Targa for this case.

13 The division's purpose is to conserve
14 oil and gas, prevent waste, protect correlative
15 rights, protect public health and the environment, and
16 protect sources of drinking water. Thank you.

17 MR. RAZATOS: Excellent. Thank you,
18 Ms. Seningen.

19 So Ms. Hardy.

20 MS. HARDY: Thank you. Targa's first
21 witness is Mr. Matthew Eales.

22 MR. RAZATOS: And we need to swear him
23 in; correct?

24 MR. RUBIN: Sure. I will swear in the
25 witness.

1 MR. RAZATOS: Okay.

2 MR. RUBIN: Mr. Eales, you've raised
3 your right hand.

4 WHEREUPON,

5 ROBERT MATTHEW EALES,
6 Called as a witness, and having been first duly sworn
7 to tell the truth, the whole truth and nothing but the
8 truth, was examined and testified as follows:

9 MR. RUBIN: You are so duly sworn.

10 Proceed, Ms. Hardy.

11 MS. HARDY: Thank you.

12 VOIR DIRE EXAMINATION

13 BY MS. HARDY:

14 Q Can you please state your full name for the
15 record? Can you turn on your microphone?

16 A There we go. Robert Matthew Eales.

17 Q Mr. Eales, by whom are you employed and in
18 what capacity?

19 A Targa Resources as the vice president of
20 regulatory affairs.

21 Q What are your responsibilities in that
22 position?

23 A I'm responsible for the permitting of and
24 compliance with AGIs.

25 Q Have you previously testified at a

1 commission hearing?

2 A Yes.

3 Q Can you please briefly summarize your
4 education and professional experience?

5 A Yes. I have a master's degree in
6 environmental engineering from University of Kansas,
7 26 years of oil and gas experience in international
8 and domestic roles, primarily in environment and
9 health and safety, and most recently five years
10 working the state of New Mexico and our operations and
11 midstream operations.

12 MS. HARDY: Based on Mr. Eales'
13 qualifications, I would request that he be qualified
14 as an expert in environmental engineering.

15 MR. RAZATOS: If there's any concerns?
16 None? Okay.

17 MS. SENINGEN: No objection.

18 MR. RAZATOS: Excellent. Thank you.

19 MS. HARDY: Thank you.

20 INATION

21 BY MS. HARDY:

22 Q I would like to share our hearing exhibits
23 so we can go through them. So let me share my screen.
24 Mr. Eales, can you see the screen that's in front of
25 you? Is that turned on?

1 A No. Just showing the same images.

2 Q Okay.

3 A Yeah.

4 Q Can you see the exhibits now?

5 A Yes.

6 Q Okay. Mr. Eales, can you please -- let me
7 just get to it -- identify the document that is marked
8 as Targa Exhibit A?

9 (Targa Exhibit A was marked for
10 identification.)

11 A That is our C-108 application and the
12 hearing exhibits.

13 Q And are these document true and correct
14 copies?

15 A Yes.

16 Q And let me just go to the C-108. Did Targa
17 retain New Mexico Institute of Mining and Technology,
18 which I'll refer to as New Mexico Tech, to prepare its
19 C-108 application?

20 A Yes, we did.

21 Q And were you involved in that preparation?

22 A Yes.

23 Q And will other witnesses testify here today
24 regarding the content of the C-108?

25 A Yes.

1 MS. HARDY: Commissioners, just so I
2 don't forget later, I'd like to move the admission of
3 Targa Exhibit A, which is the hearing application, and
4 the attached C-108.

5 MR. RAZATOS: Any objections?

6 MS. SENINGEN: No objection.

7 MR. RAZATOS: Submitted.

8 MS. HARDY: Thank you.

9 (Targa Exhibit A was received into
10 evidence.)

11 BY MS. HARDY:

12 Q Let's next go to Targa's hearing
13 presentation, which hopefully this isn't making people
14 dizzy. I'm almost there. Okay. Can you see that,
15 Mr. Eales?

16 (Targa Exhibit B was marked for
17 identification.)

18 A Yes, I can.

19 Q Okay. Okay. And can you please identify
20 this document?

21 A Yes. That is our hearing presentation for
22 today.

23 Q And were these slides prepared by you or
24 under your supervision?

25 A Yes, they were.

1 Q Okay. And here on slide 2, this is
2 outlining Targa's presentation and witnesses today;
3 correct?

4 A That is correct.

5 Q Okay. So you will provide the overall
6 introduction, and then Mr. El-Kaseeh will provide the
7 site geology and hydrogeology and the dynamic
8 reservoir simulations, and Mr. Ragsdale will provide
9 the wellbore design?

10 A Correct.

11 Q Okay. Thank you.

12 Let's first look at the overview of the
13 Copperhead area and slide number 4. Let me just
14 shrink this down a little bit. Can you please
15 summarize or describe the information provided on that
16 slide?

17 A Yes. This slide is demonstrating the -- the
18 growth that we have seen to date and anticipated
19 growth for gas and oil volumes, to the right being the
20 gas. You'll see that we've seen a 17 percent
21 cumulative annual growth rate. Can expect that to
22 continue growing at least at 6 percent from -- from
23 here.

24 So basically, it's just showing what -- what
25 most know, and that the oil and gas production

1 is -- is growing in southeast New Mexico.

2 Q And does this slide support Targa's need for
3 this well?

4 A Yes.

5 Q Look at the next slide, slide 5. Can you
6 describe generally the well location?

7 A Yep. So the proposed well that we're
8 calling Copperhead AGI is located about 25 miles west
9 of Jal, New Mexico. Again, in the southeast New
10 Mexico corner.

11 Q And is additional natural gas treatment
12 capacity necessary in this area?

13 A Yes, it is.

14 Q Can you describe the information shown on
15 slide 6, which involves the Copperhead gathering and
16 processing needs?

17 A Yes. So the -- the image on the left shows
18 the gathering system that exists for Targa. You'll
19 see Roadrunner and Carlsbad, Red Hills plant, and then
20 Copperhead about 5 miles west of Red Hills, down into
21 plants in Texas on Bull Moose and Wildcat. So it's
22 just showing this particular area and the growth we
23 anticipate. And you'll see the gathering lines are
24 not as prevalent around Copperhead, but will be
25 growing.

1 And then to the right is our expectation for
2 growth and takeaway need for TAG specifically related
3 to this well that we're requesting. We're expecting
4 to see 10 million cubic foot per day within the first
5 year of plant operations and stabilizing with
6 potential growth at the upside with the -- the brown
7 dotted line.

8 Q And does Targa require additional injection
9 capacity to meet these --

10 A Yes, it does.

11 Q With respect to the environmental benefits
12 of TAG injection, can you please summarize those?

13 A Yep. Yeah, so the advent of TAG injection
14 came from protecting the environment where
15 historically sour gas, it's a mix of H₂S and CO₂, was
16 flared at sites, which creates a -- a large amount of
17 sulfur dioxide, and it's something that -- of course
18 one of the critical air pollutants with EPA.

19 So there was a conversion to injection of this
20 TAG 15, 20 years ago and maybe a little bit beyond
21 that in other countries, where you're taking that from
22 the atmosphere and injecting it into the formations to
23 eliminate that flaring and creation of SO₂.

24 Q And without an AGI well, how would oil and
25 gas operators treat their sour gas in the field?

1 A Yeah, it would be flaring.

2 Q Does the injection of TAG eliminate
3 flaring -- eliminate or reduce flaring at the plant as
4 a control for sulfur derived from the processing of
5 sour gas?

6 A Yes, it does.

7 Q And does injection into an AGI well reduce
8 the need to vent CO2?

9 A Yes, it does.

10 Q Will the injection of TAG here minimize CO2
11 emissions from the plant?

12 A Yes, it will.

13 Q In your opinion, will there be environmental
14 benefits if Targa is authorized to inject TAG into the
15 Copperhead AGI number one well?

16 A Yes, certainly.

17 Q Will Targa complete an H2S contingency plan
18 before commencing injection?

19 A Yes, we will.

20 Q And in your opinion, will Targa's H2S
21 contingency plan comply with all of the requirements
22 set out in part 11 of 19.15 NMAC?

23 A Yes, it will.

24 Q Okay. Mr. Eales, have you reviewed OCD's
25 proposed permit conditions?

1 A Yes, I have.

2 Q And I'm going to pull those up. And I
3 believe they are Exhibit 1, and they are attached to
4 OCD's prehearing statement.

5 (OCD Exhibit 1 was marked for
6 identification.)

7 You've reviewed those conditions?

8 A Yes, I have. Yes.

9 Q Okay. And does Targa accept those
10 conditions?

11 A Yes, Targa accepts those conditions.

12 Q Okay. Thank you. Go back momentarily
13 to -- trying to get my screen to go back to my
14 exhibits, but it's -- there we go.

15 Okay. So Mr. Eales, let's go next to our
16 notice information that we provided in this case. Can
17 you please identify Targa Exhibit C?

18 (Targa Exhibit C was marked for
19 identification.)

20 A Yes. These are the notices that we provided
21 for the regulation.

22 Q And did those include our hearing notice
23 letter, the certified mail receipts, and a chart
24 listing the parties?

25 A That's correct.

1 Q And was notice of this hearing provided to
2 all effected parties?

3 A Yes, it was.

4 Q In conclusion, Mr. Eales, in your opinion,
5 will the ability to inject treated acid gas into the
6 well result in more efficient operation of the plant?

7 A Yes.

8 Q And in your opinion, will Targa's proposed
9 method of disposing of TAG protect public health and
10 the environment?

11 A Yes, it will.

12 Q And will it prevent waste and protect
13 correlative rights?

14 A Yes.

15 Q Thank you.

16 MS. HARDY: Commissioners, I would move
17 the admission of Targa Exhibits B and C because I
18 don't believe I did that previously.

19 MR. RAZATOS: Any objections?

20 MS. SENINGEN: No objection.

21 (Targa Exhibit B and Targa Exhibit C
22 were received into evidence.)

23 MR. RAZATOS: They're so submitted.

24 MS. HARDY: Thank you. I have no
25 further questions for Mr. Eales. He's available for

1 cross-examination or questions from the commission.

2 MR. RAZATOS: Good training
3 opportunity, so we'll just give them a second.

4 MS. SENINGEN: One moment, please.

5 MR. RAZATOS: No problem, Ms. Seningen.

6 CROSS-EXAMINATION

7 BY MS. SENINGEN:

8 Q Sorry about that. Okay. So I would like
9 to -- you mentioned OCD Exhibit 1. I would like to
10 direct your attention that, on number 18, it requires
11 a redundant well. We were wondering about your
12 operational plan and intent of the redundant well.

13 A Yeah, we do intend to meet the requirements
14 of number 18 to permit a redundant well. That would
15 allow us, if there was a need for the redundant well,
16 to drill quickly.

17 Q As you sit here today, do you have an
18 intended depth for that well?

19 A No. The thought, very early thought right
20 now, would be a DMG well to be able to be in the
21 similar property, stay within our property boundaries,
22 'cause we do have state land to the north, and it's
23 best just to stay there. So if that were to be
24 drilled, we would have the Siluro-Devonian, and then a
25 stacked DMG.

Page 118

1 MS. SENINGEN: No further questions.

2 Thank you.

3 MR. RAZATOS: Thank you, Ms. Seningen.

4 MR. RUBIN: If I may, any redirect,
5 Ms. Hardy?

6 MS. HARDY: No, thank you.

7 MR. RUBIN: Okay.

8 Dr. Ampomah?

9 DR. AMPOMAH: Thank you.

10 Mr. Eales, so I'm just following up
11 with the redundant well. You said it's going to be in
12 the DMG and then the Devonian. So can you really
13 clarify, are you still in the preparation mode?

14 THE WITNESS: Yeah, I probably didn't
15 state it clearly. This one -- this AGI number one
16 that we're applying for is for the Siluro-Devonian.
17 The redundant well that we intend to permit as part of
18 number 18, at this point, it's looking like a DMG for
19 that well would be the -- the intent.

20 DR. AMPOMAH: Yeah, because I was
21 wondering if you are going to go back to the Devonian,
22 then my question is how far would your redundant well
23 be away from let's say the injection well? But --

24 THE WITNESS: It's a good question.
25 It's a little early at this stage, but we're looking

1 at -- this well is on the east side of the property,
2 number one. The second would be on the west side of
3 the property. That's about 1600 foot to the west of
4 this existing well. Or this -- this well that we're
5 here for.

6 DR. AMPOMAH: Okay. So can you tell
7 the commission the current gas production more like
8 the TAG coming from the Copperhead facility right now?

9 THE WITNESS: Right now, it's all a
10 envisioned facility. It's a facility that is
11 currently a large compressor station that will be
12 growing into a larger plant. So we do expect to see
13 on the slide that I covered, I think the TAG is
14 12 -- 12 million. Let me look at that real quick.

15 DR. AMPOMAH: Page 6?

16 THE WITNESS: And that's within the
17 first three years with potential of 25 million, but 12
18 million for what we foresee in the future for the
19 first three years.

20 DR. AMPOMAH: Okay.

21 THE WITNESS: This -- this well is
22 intended to be permitted and -- and drilled
23 proactively to be well in advance of bringing the gas
24 to the plant that's also would be built at the same
25 time. Or enlarged was the proper word.

1 DR. AMPOMAH: So if your initial
2 estimate is about 12,000 MCF today for a period of
3 about three years, then why is Targa requesting 26,000
4 MCF?

5 THE WITNESS: Then it would be to
6 anticipate the growth that we expect to see in that
7 area.

8 DR. AMPOMAH: Thank you.

9 THE WITNESS: Yes.

10 MR. RAZATOS: Commissioner Bloom, did
11 you have any questions?

12 MR. BLOOM: No questions. Thank you.

13 MR. RUBIN: Mr. Chair, I ask that
14 this -- unless there's anything further from the
15 division? One last question?

16 MS. SENINGEN: No, thank you.

17 MR. RUBIN: I ask that this witness be
18 excused.

19 MR. RAZATOS: So excused.

20 Thank you, Mr. Eales.

21 MS. HARDY: Thank you.

22 Targa's next witness is George
23 El-Kaseeh.

24 MR. RUBIN: Mr. El-Kaseeh, could you
25 raise your right hand, please?

1 WHEREUPON,

2 GEORGE EL-KASEEH,

3 Called as a witness, and having been first duly sworn
4 to tell the truth, the whole truth and nothing but the
5 truth, was examined and testified as follows:

6 MR. RUBIN: You are duly sworn.

7 Proceed, Ms. Hardy.

8 MS. HARDY: Thank you.

9 VOIR DIRE EXAMINATION

10 BY MS. HARDY:

11 Q Can you please state your full name for the
12 record?

13 A My name is George El-Kaseeh.

14 Q And is your microphone turned on?

15 A Yeah. Is this better?

16 Q That's better.

17 MS. HARDY: There's --

18 MR. RAZATOS: Ms. Hardy, there's some
19 feedback as well. Can we just have the members on
20 Teams please to mute themselves? Thank you.

21 Go ahead, Ms. Hardy.

22 BY MS. HARDY:

23 Q Can you state your full name again,
24 please --

25 A My -- my full name is Khadir George

Page 122

1 El-Kaseeh.

2 Q And by whom are you employed and in what
3 capacity?

4 A I'm employed by New Mexico Tech Petroleum
5 Recovery Research Center.

6 Q What are your responsibilities in your
7 position?

8 A My -- I am as -- a research engineer. As
9 well, I'm a section head for the industry service. I
10 lead the technical team to support the industry and
11 the challenges and anything that -- that require.

12 Q Have you previously testified at a
13 commission hearing?

14 A No.

15 Q Can you please briefly summarize your
16 educational and professional background?

17 A I have bachelor's degree in electrical
18 engineering. I spent 20 years in the industry with
19 Schlumberger. I started offshore, working offshore in
20 the Gulf of Mexico, Caribbean, and South America where
21 I was a team lead on -- in -- on data processing,
22 seismic data processing, and -- and quality control.

23 I spent -- like I said, I spent 20 years
24 Schlumberger. My last position was -- with
25 Schlumberger carbon services as the global monitor and

1 seismic manager for Schlumberger carbon services. I
2 left in 2017, and I joined in New Mexico Tech's
3 Petroleum Recovery Research Center in November of
4 2017, and I've been there since then.

5 Q Thank you.

6 MS. HARDY: Based on Mr. El-Kaseeh's
7 education and experience, I move that he be qualified
8 as an expert in geophysics and subsurface project
9 management.

10 MS. SENINGEN: No objection.

11 MR. RAZATOS: He is so entered.

12 MS. HARDY: Thank you.

13 DIRECT EXAMINATION

14 BY MS. HARDY:

15 Q Mr. El-Kaseeh, let's look at your slides.
16 And so we'll start with the site geology review. Can
17 you please explain what is shown on slide 8?

18 A Yes. So --

19 Q If you -- can you speak a little bit slowly
20 for the court reporter?

21 A Sure. Yes, so typically when we -- when we
22 make the geological model, we always -- always examine
23 the wells -- offsets wells around us. And this -- and
24 this slide shows the well within two-mile radius. And
25 the small circle is a half a mile radius that -- the

Page 124

1 table -- and the top table shows the two wells that
2 are within the half a mile radius.

3 One of them is -- is actually SWD well that
4 was permitted but not drilled. And the -- according
5 to all our research, the -- the permit has expired.
6 The second well is -- was drilled in 1957 for
7 production, however, it was plugged the same year.

8 And you can see within the -- with the
9 mile -- one-mile radius, you have several or so
10 well -- gas -- oil and gas wells. And in the -- in
11 the two-miles radius, there's some more wells there.
12 We -- we just take the -- that into account when we
13 build our model.

14 Q So is it correct that no wells produce from
15 the proposed injection zone anywhere within the
16 two-mile radius?

17 A That is correct.

18 Q Okay. Look at your next slide. Can you
19 explain what's shown here in slide 9?

20 A Yes. This is -- this is actually the -- the
21 Copperhead is -- is in the Delaware Basin, which is in
22 the Greater Permian Basin. The units were divided
23 with the Tobosa Basin. The geological model is based,
24 of course -- we -- we used the available well logs
25 from the area as well as we licensed some 3D seismic

1 that covered that area, and that's how we built the
2 model based on the geology and based on the well logs
3 and the seismic data.

4 Q Can you please explain what's shown on slide
5 10, paleogeography and depositional environments?

6 A Yeah. So again, this is the -- basically
7 what -- what we were looking at. It's -- it's
8 described as -- the -- the Copperhead area is
9 described as a shallow water, high energy carbonate
10 platform.

11 Q And what is shown on this slide, slide 11?

12 A Okay. This is -- this is consists of
13 the -- we -- where we -- where we can see we were
14 trying -- we -- this defines basically the confining
15 zone as well as the injection -- injection zone. Our
16 injection zone is consists of the Siluro-Devonian,
17 which is -- Siluro-Devonian is -- is the -- the
18 Thirtyone, as well as the Wristen. And also it
19 includes the Fusselman, which is about 1380 feet in
20 thickness.

21 And we have the confining zone, which is our
22 primary -- our primary cap -- caprock or -- or seal
23 is -- is the Woodford Shale, which is approximately
24 480 feet -- I'm sorry, 180 -- 140 to 180 feet. Then
25 also we have this -- our secondary -- secondary

1 caprock or -- or seal, which is -- which is the
2 Barnett Shale as well as the Mississippian Limestone.
3 The total caprock we have or the seal is about 780
4 feet.

5 Q And based on your analysis, is this an
6 appropriate injection zone for the AGI?

7 A Yes, because of the -- the -- yes,
8 the -- because of the porosity and permeability, the
9 caprock has very negligible porosity and permeability,
10 which constitutes a good caprock.

11 Q And can you explain what slide 12 shows,
12 please?

13 A Okay. So we obtained -- we obtained wells
14 from the area, of course. And this shows, again,
15 shows how the thickness of the injection zone, which
16 is about 1380 feet, that include the Thirtyone and the
17 Wristen, as -- as well as the Fusselman.

18 And the confining of, like I said, the 780
19 feet. The -- you see on the -- on the graph, you see
20 the -- the AGI one well. To the left of it is -- is
21 the gamma ray curve. Then to the right of it is the
22 porosity curves that we -- from five wells. And this
23 is what we used to -- to derive our porosities.

24 Q And what it shown on slide 13 regarding the
25 petrophysical properties?

1 A Okay. So again, this is the -- the closest
2 well we can find with deep blocks that we can use was
3 about 4.4 miles, the Cyclone Federal. So the majority
4 of the porosity as you see, it's -- it's highlighted
5 in yellow. And it could be fractured here.

6 Basically it -- it's -- that's where
7 that -- the -- the secondary porosity comes from.
8 Maximum -- maximum porosity in -- in the injection
9 zone is -- is 10 percent. The Woodford Mississippians
10 have -- other confining zone, and they have negligible
11 porosity.

12 Q And what is shown on slide 14, please?

13 A This actually represent the boundaries for
14 the seismic data we've -- we've licensed to -- to
15 build -- to help us build our model.

16 Q And can you explain the seismic
17 interpretation shown on slide 15?

18 A Okay. Yes. So these are -- this
19 interpret -- we interpreted different -- different
20 horizons. This represent the top so that -- the
21 Fusselman, of course, and you see the Siluro-Devonian
22 over there as well as -- as the Barnett Shale, which
23 is part of the caprock.

24 And this -- this was interpreted, of course,
25 using the well logs and -- and the 3D seismic that we

1 licensed from that area. And again, the thickness of
2 the -- of our injection zone is approximately 1380
3 feet. And our -- our caprock is about 780 feet with
4 low porosities and permeability.

5 Q And let's look at slide 16. Can you explain
6 what that slide shows regarding faults?

7 A Okay. So what we -- when we build the model
8 and we -- we look at the well location and we explore
9 around the well, of course, to identify any faults
10 within the area. Based on our -- based on our
11 interpretation from the seismic, we identified
12 two -- two faults with minor -- with minor
13 displacement.

14 They passed through our -- basically in the
15 area where we are -- we are looking at. And I don't
16 think -- the well -- there's a well to the northeast.
17 It's about 4.88 miles to -- from our well. The one to
18 the southwest is, what, 1.55 miles to the -- to the
19 southwest of us.

20 Q Do these faults create and concerns
21 regarding the proposed injection into the Copperhead
22 AGI?

23 A Based on our analysis, no, and we -- as you
24 can see in the -- in the coming slides, we have done
25 some analysis. But based on our analysis, no.

1 Q What is shown on slide 17, please?

2 A Again, this is -- this is we
3 interpreted -- we interpreted, of course, for the tops
4 here, split until we can have a better view. And we
5 overlaid our -- we overlaid the two faults. If you
6 see the one on the north -- basically north to
7 northeast, and the one in south -- south west, we want
8 to see how they are represented on the tops of
9 our -- of the confining zone.

10 This is basically the confining zone. As
11 you see on the bottom righthand side, it's the
12 Woodford Shale. And then you have the Mississippian
13 Limestone and the Barnett Shale. Again, they combine
14 to be about 780 feet in thickness.

15 Q And will these confining layers act as a
16 geologic seal that prevents the migration of TAG
17 outside of the injection interval?

18 A Yes. Based -- based on -- on the values of
19 the porosity and the permeability, yes, they do what
20 constitutes a good seal and good caprock.

21 Q And what is shown on slide 18, please?

22 A The -- again, this is -- this is
23 interpretation of our injection zone. And you
24 can -- you can see the Siluro-Devonian, and you can
25 see also the Fusselman formations. Basically, this is

1 the top. We just want to show them separately.

2 Q And what is shown on slide 19?

3 A Okay. So one of the things we -- we
4 consider also is what we call micro seismicities, or
5 induced seismicity in the area. This -- this slide
6 shows the -- the -- what we -- what we like to call
7 stations. They're -- they're seismometers or -- or
8 geophones that were installed and maintained by New
9 Mexico Tech Seismology Observatory.

10 And this is within 10 -- this is 10 and 20
11 miles, I believe. Yes. The stations -- and these
12 stations are monitored in real time, and the data is
13 freely available. Historical data and actual real
14 time data is -- is available.

15 Q And looking at slide 20, can you describe
16 the seismicity within 20 miles of the Copperhead AGI
17 site?

18 A Yes. So we look -- we looked at some
19 historical data to see if -- if any induced
20 seismicity, you know, happened within -- within the
21 past few years. And what we find out the
22 closest -- the closest event was about magnitude of 2.
23 Closest to AGI well was magnitude of 2. It's
24 about -- about -- over -- little bit over 8 miles away
25 from us.

1 But if you can see that most -- most of the
2 events are clustered in the southwest part of
3 the -- of this -- of the graph. And that's about 20
4 miles away from where our well is. And they are
5 three -- and they are three -- magnitude of 3 and
6 below.

7 Q Do these findings create any concern
8 regarding injection into the proposed well?

9 A No. Not based on our analysis.

10 Q Were these slides that we've just discussed
11 prepared by your under your direct supervision?

12 A Yes.

13 Q And are they true and accurate?

14 A Yes.

15 Q Let's look next at your reservoir dynamic
16 simulation. In looking at slide 22, is this a summary
17 really of what -- of the requirements that apply to
18 Targa as well and how it will meet them?

19 A Yes. Well, going back to what the -- I
20 mentioned earlier, this is that -- that -- of course,
21 this is -- we -- we do on the study and make sure that
22 we comply with the New Mexico rules. And -- and
23 we -- to prevent waste, of course, and will protect
24 the correlative rights. And also, we -- we prevent
25 any harm to environment and we protect the source of

1 drinking water. Yeah.

2 Now, specifically what we wanted to prove
3 here is the Siluro-Devonian, what our injection zone
4 can take the 26,000 -- the 26 figure that we are
5 asking for or requesting, and keep it in -- in the
6 ground safely. And also, we want to make sure that we
7 are operating at or below the maximum surface
8 injection pressure that's approved by the commission.

9 And our injection aim, of course, to -- we
10 want to get rid of the waste to protect the
11 environment.

12 Q And were you involved in preparing the
13 reservoir dynamic simulation for this well?

14 A Yes.

15 Q Okay. Can you please describe the model?

16 A Okay. So when -- when we do the simulation,
17 the simulation aims to -- to identify the behavior of
18 the -- of the TAG, prove if you like. And for -- for
19 us to build the model, we take into -- we take into
20 account, of course, the -- the composition of -- of
21 our TAG.

22 In this case, we have 70 percent of CO2 and
23 30 percent of -- of H2S in this case. And also, we
24 want -- we -- we are going with simulated for 60
25 years, starting 2025 till 2028 -- 85. And that

1 includes 30 years of injection and 30 years
2 post -- post of injection. Okay.

3 Again, we want to make sure that we are
4 performing the -- the 26 SFD is -- is -- we're
5 keeping -- we're staying within the maximum injection
6 pressure at the one head. And the injection zone,
7 again here, is about 1380 feet. This is -- we -- this
8 is -- and you can see the confining zone overlay the
9 Woodford and the Barnett at about 780.

10 Q In looking at slide 24, what are the
11 petrophysical parameters of the model?

12 A Okay. So these are the -- the porosity and
13 permeability are derived either from the literature or
14 the literature and the core -- core reports. In
15 our -- in this case, we wanted to show that the
16 maximum permeability here for our injection zone
17 is -- is the percent, of course.

18 And we want to show that -- we're showing
19 here that the -- the low permeability and porosity for
20 our confining zone, which constitute a good caprock.
21 And as you see on the righthand side, the bottom
22 righthand side where it identify which formation is
23 seal and which formation is our injection zone, and
24 the corresponding permeability and porosity.

25 Q Mr. El-Kaseeh, can you please explain what's

1 shown on slide 25?

2 A Yes. So this -- when we -- when we do the
3 simulation, we build the certain model. And
4 our -- this is basically the model dimensions. So our
5 model dimensions here is about -- the model is close
6 to 10 square miles. And the number says, as you see
7 on -- on this, is over a million cells. And the cell
8 size is 100 feet by 100 feet.

9 Q Okay. Then looking at slide 26, model
10 initialization, can you please describe what's shown
11 there?

12 A Okay. So there is -- when -- when we
13 do -- when you do the -- the simulation, you take into
14 consideration two things. One of the things
15 you -- you take, of course, is -- is the bottom hole
16 pressure. And this well head pressure. And also, you
17 take the temperature. And the temperature here,
18 we -- we obtained the temperature, of course, from
19 the -- from the literature.

20 Also, we assume -- in our -- in our
21 simulation, we assume in the reservoir that we
22 have -- we have completely 100 percent brine. That's
23 why you see the value of number 1, which is saturated
24 water. Then we have the saturated water, which is we
25 call SWI, and what they call -- refer to as a

1 reducible. This basically means that we have 45
2 percent of that space to inject the TAG.

3 Q And what is shown regarding the model
4 initialization on slide 27?

5 A This is also another parameter that we put
6 in our -- in our simulation, and -- which is the
7 salinity in the area. So what we did is we looked
8 around, we took about -- we took 11 miles radius
9 around us, and we identified three different wells.
10 And we took the salinity from each well. And we
11 averaged it out. That was an input to the model. One
12 of the inputs into the model.

13 Q And then what were the simulated injection
14 parameters as shown on slide 28?

15 A Yeah. So the simulation injection
16 parameter, this is -- this represent actually
17 the -- the calculation for the maximum well head
18 pressure. And it -- it was calculated based on
19 point -- 0.2 gradient.

20 And also this -- also the calculation for
21 the -- for the maximum bottom hole pressure, and which
22 is calculated decimal point six -- 0.65 gradient. We
23 need to keep the pressure -- the bottom hole pressure
24 at 90 percent of the formation fracture pressure.

25 Q And what's shown on slide 29?

1 A This is actually the results of -- of our
2 simulation. So these graphs represents the -- the
3 green graph represent the -- the well head pressure.
4 And we -- we want to make sure we are at or below it.

5 And this graph shows that based on our
6 simulation, it stayed within that. Same thing as
7 the -- the bottom -- the bottom hole pressure. It
8 stayed within the -- the maximum allowable. And also,
9 you can see that the pressure stayed steady for
10 through the injection period till we reached
11 the -- till we reached 155.

12 Q Mr. El-Kaseeh, if you could probably slow
13 down a little bit more, I'm sure it would help our
14 court reporter.

15 A Okay.

16 Q I know it's difficult. Could you please
17 describe what's shown on slide 30 regarding the TAG
18 plume?

19 A Okay. So this is the -- the TAG. There you
20 can see AGI well in the -- in the middle of the
21 circle. This circle represent the development and the
22 movement of the -- of the TAG plume over and
23 for -- and on -- on five years increment. And you can
24 see it's from 2030 to 2060.

25 And also, this is the -- the largest extent

1 of the TAG plume that we find here. It's just a
2 little bit over one mile with injection rate of the 26
3 that we are applying for.

4 Q And then what does slide 31 show regarding
5 the plume?

6 A This -- yes. This is, again, showing the
7 plume, but also here, we are displaying the -- the
8 vertical extent of the plume within the formation with
9 injection formations.

10 Q And let's turn to fault slip potential. Can
11 you explain what's shown on slide 32?

12 A Yeah. So since we -- the -- we think
13 that -- we identify the two faults, so we decided to
14 go ahead and -- and try to -- to study the effect of
15 the -- of our injection on that. But here, what's
16 shown -- showing the distances for these -- for these
17 faults from our -- from our injection well.

18 Q And what is shown on slide 33 regarding the
19 plume?

20 A This is the -- this is the plume, the TAG
21 plume in relation to the -- to the faults. You can
22 see the one to the northeast and the one in the
23 southwest. And this is a five-year increment, of
24 course.

25 Q So the plume doesn't reach the faults?

1 A The fault -- the plume does not. According
2 to our analysis, no, it does not reach the fault.

3 Q And then what does slide 34 show about the
4 CO2 plume?

5 A This is similar to the slides before. It's
6 a little -- except a little bit more powerful, of
7 course. This is -- this came out -- an output from
8 our simulation software. But it's pretty much an
9 identify -- it identifies where the faults are in
10 relation to the plume, to the TAG plume.

11 Q And then what are the fault slip potential
12 inputs?

13 A Okay. So fault -- fault slip potential
14 software developed by -- by Stanford actually, and
15 it's used in the industry. These -- this table
16 actually -- this place the parameters that
17 were -- were input in the -- in the software to -- to
18 calculate the fault slip potential in -- in that area.

19 It takes -- the -- the software takes into
20 account the azimuth and the dip of the faults as well
21 as the regional stress.

22 Q And -- shown on slide 36, what is the
23 pressure change needed to activate the fault?

24 A Okay. So we -- we -- when -- when -- from
25 the fault slip potential software, the output you get

1 is how much -- what is the pressure required to
2 activate a slip in fault. And this picture -- this
3 picture is showing actually where the faults are, and
4 it's -- it's displaying also the -- the TAG plume
5 development and the pressure front from that plume
6 development.

7 Q And does this show that there's no fault
8 slip potential risk after a 30-year injection period?

9 A That is correct. The next slide will show
10 actually the values that we calculated.

11 Q Okay. And then can you describe what's
12 shown here in slide 37?

13 A Yes. So there -- there are four -- four
14 different values. The faults that you see in the
15 northwest -- in the northeast and the southwest, these
16 are the faults we took into consideration when we ran
17 our program. The seven -- the -- under -- I start
18 with the northwest -- with the northeast one.

19 The northeast fault, as you see, 1787 PSI is
20 what represents the -- the pressure that came out or
21 the output from our fault slip potential software.
22 And the 250 PSI is what came out of our simulation
23 software, which when we -- when we examined the
24 development of the plume. And you -- as you can see,
25 it's much, much less than what it needs to activate

1 that -- that fault.

2 And similarly on the southwest, as you can
3 see, the 2849 came out of the software from the fault
4 slippage software. And it -- it's a 2849 compared to
5 250 PSI that came out of the output from -- from our
6 simulation software. And you can see it's much, much
7 less than what -- what's required to activate that
8 specific fault.

9 Q So is it correct that injection into this
10 AGI as proposed will not be sufficient to activate the
11 faults?

12 A Yes. That's accurate.

13 Q Okay. Okay. And Mr. El-Kaseeh, based on
14 your geophysical evaluation, is it your opinion that
15 the Devonian, Upper Silurian Wristen, and Lower
16 Silurian Fusselman formations are appropriate to
17 accept the injection of TAG at the location of the
18 Copperhead AGI?

19 A Yes.

20 Q Is it your opinion that TAG will safely be
21 contained within the injection interval?

22 A Yes.

23 Q In your opinion, will the injection of TAG
24 into the Copperhead AGI result in any increased risk
25 of induced seismicity?

1 A No.

2 Q Based on your analysis, will injection into
3 the well prevent waste, protect correlative rights,
4 and protect public health and the environment?

5 A Yes.

6 MS. HARDY: Thank you. I have no
7 further questions for Mr. El-Kaseeh.

8 MS. SENINGEN: The division has a few
9 questions.

10 CROSS-EXAMINATION

11 BY MS. SENINGEN:

12 Q Mr. El-Kaseeh, we'd like to clarify the
13 units that you've used. You have referenced to
14 thousands regarding the injection rate, but the
15 exhibits are labeled as millions. Can you please
16 clarify for the commission how you are
17 referencing -- referring to the units in the
18 presentation?

19 A Twenty-six million standard cubic feet per
20 day.

21 Q Okay. Thank you. I have a few more
22 questions to ask.

23 For your reservoir simulation calculation,
24 you estimated the bottom hole temperature to be 225
25 degrees Fahrenheit, which is close to 230 degrees

Page 142

1 Fahrenheit, that could cause strength retrogression.
2 Do you think the well will reach to that bottom hole
3 temperature in a dynamic state?

4 A I don't believe so. That -- that
5 temperature actually, the 225, was the derived from
6 literature. It's -- it's regional in that area, and
7 what's what we used for our modeling.

8 Q I apologize. Can you please explain for the
9 commission what strength retrogression is?

10 A This -- I have to get you that answer during
11 a break. I don't have that answer right now. But I
12 will get it for you in -- during a break.

13 Q One moment, please.

14 So is it your testimony that the temperature
15 will not exceed 225 degrees Fahrenheit?

16 A Yes.

17 Q Okay. I have a few more questions. What
18 convinced you to apply the 0.3 Poisson ration?
19 Ration, excuse me.

20 A That's -- that's the actual -- this
21 question's better suited to be answered by Mr. Paul
22 Ragsdale. This is something that has to do with the
23 drilling.

24 Q Okay. That's fine. Thank you.

25 Okay. I have one more question. Have you

1 compared the fracture gradient acquired using Eaton's
2 formula with the fracture gradient acquired via
3 step-rate tests for other AGI wells?

4 A I'm sorry. Are -- are you talking about
5 the -- the fracture or the fault slippage?

6 Q The fracture gradient.

7 A The fracture gradient. No. The fracture
8 gradient is -- we -- we use that -- we use
9 0.65 -- 0.65 PSI per foot, which is pretty much
10 standard.

11 MS. SENINGEN: Okay. Thank you. No
12 further questions.

13 MR. RUBIN: Any redirect by Ms. Hardy?

14 MS. HARDY: I do not have redirect.

15 I don't think you're done yet, though.

16 THE WITNESS: Sorry.

17 MR. RUBIN: Any questions by the
18 commissioners? We'll start with Dr. Ampomah.

19 DR. AMPOMAH: Okay. Yeah, thank you.
20 I do have a couple.

21 So let's start with slide number 8, if
22 we can go to slide number 8.

23 MS. HARDY: I think I'm there.

24 DR. AMPOMAH: Okay. Slide number 8 is
25 up. So I do see the star, which is the proposed AGI

1 well. Now, you've shown that there are two wells that
2 are very close. One was drilled in the '50s, but was
3 quickly abandoned. And then the other one was not
4 even drilled at all. But within less a couple of
5 radius -- couple of miles radius, are there any
6 production wells in the shale -- sessions that are
7 looking -- in yet?

8 THE WITNESS: Are you asking production
9 wells within the two-mile radius?

10 DR. AMPOMAH: Yeah.

11 THE WITNESS: Okay. Okay. I -- I have
12 some answer here, but -- within -- within one -- one
13 mile, there are eight active wells, gas and wells, and
14 one SWD well within the one mile. Then within two
15 miles radius, there are two active SWD wells and one
16 plugged.

17 DR. AMPOMAH: I do see -- so there are
18 essentially multiple wells, though? So you do have
19 two circles. So the first circle is one -- what would
20 the first circle be?

21 THE WITNESS: Half a mile, a mile, and
22 two.

23 DR. AMPOMAH: Okay. So if I look at
24 your legend, there are a lot of active oil wells in
25 there. Now, my -- and even there is one active gas

1 well I see within the 0.5 mile radius.

2 So I think probably this question would
3 be more suited for Mr. Ragsdale with regards to how
4 that well location was selected, because if you are
5 very close to, let's say, a production well, you're
6 going to have a lot of problems when you are drilling,
7 especially if -- taken significant amount of gas from
8 this well.

9 So that is a question pending, though.
10 So you don't necessarily have to answer that, but I
11 want to know what analysis was done to choose that
12 well location to avoid any potential issues when
13 you're drilling this particular well. Because you
14 might end up not being able to drill that well. You
15 have gas that's coming up --

16 So I want to know how that well
17 location was selected and then if there any mitigation
18 plans available to deal with this particular problem
19 if just in case it comes up? So you don't necessarily
20 have to answer that.

21 Now, let me ask how many wells have
22 porosity and permeability? Now we're entering to the
23 modeling.

24 THE WITNESS: The deepest well we have
25 of porosity and permeability was the -- the one I

1 mentioned, the SWD well that was about 4.4 miles from
2 us.

3 DR. AMPOMAH: So that will essentially
4 be only one well available to do the entire
5 petrophysics?

6 THE WITNESS: We -- that's the only
7 deep -- deep well that goes into our -- our formation.
8 Yes. But there are other wells that we use, but
9 they're -- they're not as deep.

10 DR. AMPOMAH: Well, I want to stress on
11 that. So let's go to slide number 24. So from that
12 deep well, then you got all these porosity and
13 permeability data that went into the modeling?

14 THE WITNESS: Of course.
15 We -- the -- we use that well as -- as one of
16 the -- as one of our data points. Yes. However,
17 we -- we also use the literature and we have some
18 core -- core reports that we -- for that.

19 DR. AMPOMAH: So then my question back
20 again, how many wells had porosity and permeability
21 that went into the modeling?

22 THE WITNESS: Five. On the -- and we
23 have one gamma ray. So there's -- there's five -- if
24 you go back to the slide where they show the graphs.

25 MS. HARDY: The one we were looking

1 at -- this one, or --

2 THE WITNESS: No. It's -- it shows
3 the -- the -- and that --

4 DR. AMPOMAH: That'll be slide
5 number -- slide number 12.

6 MS. HARDY: Twelve.

7 DR. AMPOMAH: Yeah.

8 THE WITNESS: Yeah, this one. So as
9 you see on the -- on the lefthand side, we have the
10 gamma ray, and on the righthand side, we have -- we
11 have data from five wells that we used.

12 DR. AMPOMAH: But what are those?
13 Like, on your righthand side, what are those? Are
14 they still not gamma ray logs? Because you are doing
15 correlation, so you're just telling us how the
16 structure was being developed, but not porosity or
17 permeability except some of these well logs that I'm
18 seeing is a porosity log.

19 THE WITNESS: Right. So like -- like I
20 mentioned, we -- we have on the -- from the
21 literature, mainly the we -- the -- we -- we derived
22 the porosity and the permeability -- the permeability
23 actually was also derived using the core -- core
24 reports that we have from there. And the heat well is
25 what we use mainly. Yes.

1 DR. AMPOMAH: Well, I don't -- so my
2 question is still not answered, though. Like, so we
3 go to slide number 13. You know, slide number 12 is
4 not porosity logs. And it's just a gamma ray log
5 trying to show the subsurfacing.

6 So definitely on this particular slide,
7 number 13, you are showing where you go into porosity
8 from. So my question is was this based on this single
9 well that the petrophysics was derived from? The
10 reason why I'm asking that is I want to know is your
11 model that you are using to more or less suggest to
12 the commission that you want 26 million, is that a
13 heterogenous model or is a homogenous model?

14 THE WITNESS: Okay. Yeah. So we have
15 some lateral variation within that, and also we -- we
16 looked at the seismic from that area. And I -- now I
17 understand what you are asking. I apologize. I
18 didn't understand.

19 Yes, the -- the model is -- is
20 definitely has some variation laterally and variation
21 horizontally, but is not -- because of the -- the data
22 that we have, the -- the available data we have, we
23 had to make some assumptions. And so it's not -- I
24 wouldn't say it's 100 percent heterogenous, but also
25 it's not 100 percent homogenous.

1 We had to make some assumptions
2 to -- to come -- to come to a point in between that
3 will give us the answer we -- we are looking for.

4 DR. AMPOMAH: On slide number 25. Let
5 me see if we can get to the bottom of this. So slide
6 number 25. Would you say that this one is an
7 inversion-derived porosity?

8 THE WITNESS: We -- to be -- I -- I
9 cannot recall, but I -- I believe -- I believe we have
10 done some -- some inversion in this area. Yes.

11 DR. AMPOMAH: Well, let's go back to
12 slide number 12. I think that needs to be clarified
13 though in terms of how many -- like -- let's say how
14 many well logs were utilized in the construction of
15 the geological model? That is not clear in your
16 presentation. Definitely the slide number 12 is not.

17 So I just want to be sure that we do
18 have that information that were utilized to be able to
19 build the geological model.

20 THE WITNESS: I -- I can get you that
21 answer.

22 DR. AMPOMAH: Okay. I appreciate that.

23 Let's go to slide number 16. Now, the
24 faults that you picked, at least you've shown us the
25 fault slip analysis that was done. But let me ask in

1 the hydrodynamic simulation itself, how did you handle
2 the fault? In the simulation itself, how did you
3 handle the faults?

4 THE WITNESS: In -- in what way? They
5 were input with the -- they were input to the -- to
6 the simulation, but -- I'm sorry. I don't understand
7 that question.

8 DR. AMPOMAH: Okay. Let me help a
9 little bit. So you have the fault, and -- okay. Then
10 let me put it this way. Is this faults closed or open
11 faults?

12 THE WITNESS: Oh, I see -- I see the
13 question now. How did we input it in the simulation?

14 DR. AMPOMAH: Yes.

15 THE WITNESS: If it's closed or open
16 faults. I believe we haven't -- I -- I have to give
17 you the correct answer, but I believe we -- we treated
18 them as open faults, but I will give you the
19 answer -- the correct answer in -- during the break.

20 DR. AMPOMAH: I will need that answer.
21 And then I want to know the specification as to how
22 you chose whether it's a closed or open. So normally,
23 you don't have the data, you know, for this unless you
24 drill through. So normally you have two scenarios
25 where one will be open and then one will be closed to

1 show the commission that even if it is open or closed,
2 maybe I'm still able to put in the volume, the
3 required volume.

4 So I want to know is it open or sealed
5 faults, and what is the specification for that? You
6 know, how were you able to do that or come up with
7 that number? Especially when you didn't do the
8 sensitivity analysis.

9 The fault slip analysis is good, but
10 the simulation itself -- you know -- the simulation
11 itself, where you get the information to put into the
12 fault slip analysis also has to be correct as well.
13 So yeah, if you can provide that information, that
14 would be wonderful.

15 THE WITNESS: Yes. Definitely I will.

16 DR. AMPOMAH: And you're saying that
17 these faults will not have an impact. I've seen the
18 pressures. You know, you've done a fault slip
19 analysis, you know the amount of pressure buildup that
20 needs to cause any potential, let's say, reactivation
21 of these faults depending on your put it.

22 But this fault is going all the way
23 past the Barnett. So what about brine migration? You
24 are pushing the brine away from the injection well.
25 So what about brine migration?

1 THE WITNESS: We -- yes. I don't
2 think -- I don't think the brine -- the brine will
3 reach that point based on our analysis. And I -- I
4 see your concern about maybe potential leakage, but
5 based on our analysis, I don't think we will reach
6 that point.

7 DR. AMPOMAH: I will politely disagree
8 on that. I mean, you have a fault. That is a -- so
9 let's -- the same slide that is on. You have less
10 than a mile away from, let's say, the fault. Less
11 than a mile away from the fault. So I don't know how
12 much you can do in such a way that 45 percent of the
13 space that will be available to contain the CO2. You
14 are not going to have impact. You're not going to
15 displace the brine to that particular fault.

16 If you look at the volume of your
17 CO2 -- what is the footprint? You have that
18 somewhere? The total distance for the plume was 1.04
19 miles of TAG plume. Assuming those miles more or less
20 moving to the south, you know, that is, like, 33 or
21 34. How is it -- I mean, definitely there is going to
22 be a brine migration. So maybe something to look
23 into.

24 And also for -- and NMOCD as well.
25 Especially when you are coming back, let's say, after

1 five years to give an update. So something for us to
2 keep an eye on.

3 How was the fracture pressure
4 calculated?

5 THE WITNESS: Fracture pressure,
6 how -- how it's calculated?

7 DR. AMPOMAH: Yeah. How was it
8 calculated in your model? And let's say what is the
9 source of that information?

10 THE WITNESS: We use -- we use
11 the -- the dips then multiply by 0.65 PSI per foot.

12 DR. AMPOMAH: So the 0.65 is the one
13 that I'm talking about.

14 THE WITNESS: Yes.

15 DR. AMPOMAH: How was it -- how did you
16 come up with that number?

17 THE WITNESS: That is -- I -- I believe
18 that's -- that's from the regional, and that -- that's
19 what we -- we attained from the literature.

20 DR. AMPOMAH: So then that goes to the
21 fact that once the well is drilled, you're going to do
22 a step-rate test. So definitely you're going to have
23 your actual number, and that would determine whether
24 you get 26 million standard cubic feet of injection or
25 not. So I think we can take it -- we can take it like

1 that. That is good enough.

2 THE WITNESS: Yeah.

3 DR. AMPOMAH: Now, on your slide 24.

4 On your slide number 24, I'll be very brief, so --

5 Now, when I look at these

6 parameters -- slide number 24. When I look at these

7 parameters, so you've highlighted your caprock and

8 then the reservoir zone. I mean, you have a caprock

9 with a porosity of, like, 1 percent, 1.5 percent, and

10 your actual injection zone have a porosity of, like, 2

11 percent. So I'm wondering is it really a caprock?

12 And I would be surprised -- I would be

13 surprised to see that comparison how your plume did

14 not really move up the caprock. So can you -- I mean,

15 can you respond to how you look at the difference

16 between the properties for your caprock that you use

17 for the modeling, and then tell me how you feel like,

18 let's say, just between a difference of 1.2 becomes a

19 reservoir? Unless it becomes, let's say, a caprock?

20 THE WITNESS: Okay. So based on our

21 analysis, the maximum -- the maximum porosity in -- in

22 our -- in our injection zone is about 10 percent. The

23 primary porosity comes from the -- from the limestone.

24 The secondary porosity, what we believe is -- is, like

25 to -- from what our -- our analysis is, is fractured

1 zone; right? And that's where you -- your secondary
2 porosity -- I'm mean porosity comes from.

3 And we believe it -- it's much higher
4 than -- than, of course, than the caprock. And you
5 have also secondary caprock on the top. Over there,
6 that actually guarantees that there's no leak that's
7 going to be there. But yeah, I see your point here.

8 DR. AMPOMAH: So how did
9 we -- definitely we do know that Woodford Shale is a
10 shale. So definitely it's a good caprock. But I'm
11 wondering the type of porosity and then the
12 permeability that you are showing here really, really,
13 really --

14 I mean, I can guarantee you that if you
15 do a modeling with a caprock of 0.1 milli -- you're
16 going to have CO2 moving. So I don't know whether you
17 guys had that situation or not.

18 THE WITNESS: Okay. I -- I think I
19 have an answer for you on this. Okay. So the
20 porosity that -- that you see in the caprock is
21 what -- what's called micro -- microporosity. And
22 this -- this actually -- 'cause it looks higher than
23 it is because it's -- it's water bound to -- to the
24 formation. And that's why your porosity shows much
25 higher here. But this is actual microporosity in

1 the -- in the caprock.

2 DR. AMPOMAH: Let me ask about
3 salinity. So you have three wells that you collected
4 data from. So I think it was within 11 miles. So
5 does this well more or less go through your injection
6 zone?

7 THE WITNESS: Yes.

8 DR. AMPOMAH: It goes through your
9 injection zone?

10 THE WITNESS: Yes, those wells, I
11 believe so. I need to confirm that, but I believe so.

12 DR. AMPOMAH: Okay.

13 THE WITNESS: And we averaged them out
14 as you see.

15 DR. AMPOMAH: Yeah, so I think I do
16 have some outstanding questions that probably if you
17 can concur with your team and probably respond to that
18 later. One is how many wells that were used for the
19 property modeling. How the fault was modeled within
20 the model? Is it a closed or open fault?

21 And since you didn't do -- or -- to
22 your analysis on that, how did you come up with, let's
23 say, whether it's closed or open. And the fault
24 transmissibility. Yeah. So what fault
25 transmissibility was used in the simulation model?

1 Now, let's talk about the temperature
2 issue. The temperature issue. So you said -- how did
3 you calculate the temperature, though?

4 THE WITNESS: This is from the
5 literature.

6 DR. AMPOMAH: Yeah, when you say "from
7 the literature," what was from the literature, though?
8 Like, what was the -- what was the information you got
9 from the literature?

10 THE WITNESS: We -- we looked at -- in
11 the -- in the regional area, and we -- we decided that
12 225 was an acceptable value in this area. But I can
13 also confirm if we used any other wells from that
14 area.

15 DR. AMPOMAH: So definitely then you
16 are looking at the temperature gradient. You got the
17 temperature gradient from the literature. And then
18 you tried to use that to calculate what is the
19 ultimate temperature within your zone.

20 The question was asked how is that
21 temperature changing when you are putting in the CO2?
22 Did you look at the potential temperature changes?
23 You know, how it impacts your well bore? I think that
24 was a question that was asked.

25 And hopefully you can concur and then

1 come back and tell us, you know, in regards to, let's
2 say, how the temperature is going to change over time.
3 And does it have an impact on the, let's say, the
4 wellbore or not. I think that was the question that
5 was asked. And I'm interested in that too, so --

6 THE WITNESS: Okay. I'll look into
7 that.

8 DR. AMPOMAH: But I'm going to stop
9 here. Thank you.

10 MS. SENINGEN: Could I recommend a
11 lunch break just considering that for time, we still
12 have -- they want to concur with each other about
13 something and we have a witness as well.

14 MR. RAZATOS: I was going to recommend
15 a lunch break. I was just waiting for the doctor to
16 finish his questions. So yeah, why don't we
17 take -- if everybody's okay with it, let's take an
18 hour lunch and we'll be back here at 1:45.

19 MS. SENINGEN: Thank you.

20 MS. HARDY: Thank you.

21 (Off the record.)

22 MR. RAZATOS: Okay. Good afternoon to
23 everyone. It's 1:45. We'll reconvene our hearing.
24 We were in the process of hearing case number 24594,
25 the application of Targa Midstream Services for

1 authorization to inject in Lea County, New Mexico. We
2 had finished with -- did we do rebuttal, cross-exam?
3 Where did we finish off? Oh, the doctor's
4 questionings. Okay. Awesome.

5 Commissioner Bloom, did you have any
6 questions for our witness?

7 MR. BLOOM: I do not. Dr. Ampomah
8 asked all my questions and more, so thank you.

9 MR. RAZATOS: Awesome.

10 Ms. Hardy, we'll turn it back to you.

11 MS. HARDY: Yes, thank you.

12 REDIRECT EXAMINATION

13 BY MS. HARDY:

14 Q So Mr. El-Kaseeh, before we took our break,
15 Dr. Ampomah asked you several questions. And I wanted
16 to go through those so you can provide the answers.

17 I believe the first question was regarding
18 the number of wells that were used in the model.

19 A Okay. So for -- for the geological model,
20 we used three wells, the existing wells there. And
21 also what we did, we used more than three existing
22 wells that -- that went deep, as deep as our
23 reservoir, and even deeper.

24 And we used additional wells that are
25 shallower. We tied them to -- to those wells, and we

1 tied them also -- we converted them with the seismic.

2 Q Thank you. And then I know there was a
3 question about whether the faults were modeled as open
4 or closed and the reason. And can you answer that
5 question?

6 A Yes. The faults -- as I mentioned earlier,
7 the faults were modeled open because our -- our
8 reasoning for that is to go with the worst case
9 scenario. And we could've definitely with the model
10 closed, but we thought we need to go with open
11 model -- open faults.

12 Q Thank you. And Dr. Ampomah had some
13 questions about whether the brine could reach the
14 faults, and can you answer -- provide the information
15 he requested?

16 A Yes. So if you -- if you look at the -- at
17 the pressure front close to the faults, it's about 150
18 to 250 PSI. For the brine to migrate up, you need
19 much more higher pressure for the brine to migrate up
20 there. We had calculated the critical pressure, and
21 we found out that it's not going to be any danger of
22 the brine migrating up into the -- the drinking water.

23 Q Thank you. And then I believe there was a
24 question on slide 25. Let's get there. Yeah, I was
25 there -- regarding the porosity and whether the model

1 was homogenous or heterogenous?

2 A Yes.

3 Q Can you answer -- provide that information,
4 please?

5 A Yes. So I apologize. I -- I was under the
6 impression we inverted here. We did not invert. We
7 used five wells in this area to -- and we rigged those
8 wells to come up with the -- with the heterogenous
9 porosity in the area, and we run through -- of course,
10 we compared it to the seismic.

11 MS. HARDY: I believe those were all
12 the questions I intended to ask him in redirect, but I
13 don't know if -- I wanted to make sure we answered
14 Dr. Ampomah's questions.

15 DR. AMPOMAH: Yeah, but -- so with
16 regards to the heterogeneity of the model, you know,
17 if you look at -- so let's look at slide number 31.
18 Slide number 31. And I think this one -- and NMOCD
19 will take care of it because you definitely do the
20 step-rate test. And that will infer whether you get a
21 26 million or not.

22 When I look at this model, I mean -- go
23 up, 31. So if you look at this model, the well is
24 right within the middle. And then your plume is more
25 or less equally distributed. So this is more like

1 close to a homogenous model.

2 You know, so if you use this model to
3 make a strong case that you can put in 26 million
4 standard cubic feet of gas per day -- I think that is
5 why the step-rate test is there. So I -- I still -- I
6 cannot argue that much, you know, because the
7 step-rate test is still going to help.

8 I'm always concerned about the 26
9 million request. You know, it's really on the higher
10 side. And I feel like the model -- there's no way the
11 model is going to support that because you have only
12 three wells. Or five wells populating through the
13 entire boundaries of the model. That is of the
14 concerning. But I think still NMOCD will take care of
15 that. So it's not a big problem.

16 Now, with regards to the faults, I'm
17 surprised that you say that the open fault is the
18 worst case scenario. If you put a closed fault, you
19 see that the direction of the flow is going to be
20 impeded. Like, you're going to build up pressure.

21 If you have open, you are more or less
22 releasing the pressure. So you are not building the
23 pressure. So your open fault scenario is not really
24 the worst case scenario, especially if you want to see
25 where the plume is going or let's say how much

1 pressure you are building up. So it can work both
2 ways.

3 So definitely during your five-year
4 period, definitely you might want to consider
5 including that scenario as well.

6 THE WITNESS: We will. Definitely.
7 Thank you.

8 DR. AMPOMAH: And thank you for taking
9 time to go back and then get some clarification.
10 Thank you.

11 MR. RAZATOS: Excellent. Anything
12 else?

13 MS. SENINGEN: No, we have nothing
14 else.

15 MR. RAZATOS: Awesome.

16 MS. HARDY: I don't have any further
17 questions for Mr. El-Kaseeh.

18 MR. RAZATOS: Okay. Can we excuse this
19 witness?

20 You are excused. Now you can get up.

21 THE WITNESS: I wanted to stand up
22 for --

23 MR. RAZATOS: Yeah, now you can do it.
24 Thank you, sir.

25 Ms. Hardy.

1 MS. HARDY: Thank you. Targa's next
2 witness is Mr. Paul Ragsdale.

3 MR. RUBIN: Mr. Ragsdale, please raise
4 your right hand.

5 WHEREUPON,

6 PAUL RAGSDALE,

7 Called as a witness, and having been first duly sworn
8 to tell the truth, the whole truth and nothing but the
9 truth, was examined and testified as follows:

10 MR. RUBIN: So duly sworn.

11 VOIR DIRE EXAMINATION

12 BY MS. HARDY:

13 Q Mr. Ragsdale, can you please state your full
14 name for the record?

15 A Luther Paul Ragsdale.

16 Q By whom are you employed and in what
17 capacity?

18 A I'm employed by Targa Midstream as a
19 engineering consultant.

20 Q And what do you do as an engineering
21 consultant?

22 A I -- I help them with the design and
23 construction and operation of the acid gas wells.

24 Q Have you previously testified at a
25 commission hearing?

1 A Yes.

2 Q Can you please briefly summarize your
3 educational and professional background?

4 A I graduated from New Mexico State in 1977,
5 went to work for Halliburton in 1977 in Hobbs, New
6 Mexico. Worked for Halliburton for about five years.
7 Then I've worked family-owned independent oil
8 companies.

9 I ended up with Yates Petroleum in 1995, and
10 worked for -- well, 1990. Worked for them for about
11 21 years, retired, and in the last five -- five or six
12 years I've done consulting.

13 MS. HARDY: Based on Mr. Ragsdale's
14 education and professional experience, I request that
15 he be qualified as an expert in drilling and
16 completion engineering.

17 MR. RAZATOS: Any objections?

18 MS. SENINGEN: No objection.

19 MR. RAZATOS: He has been entered.

20 MS. HARDY: Thank you.

21 DIRECT EXAMINATION

22 BY MS. HARDY:

23 Q Mr. Ragsdale, let's look at slide 39 of the
24 presentation. Can you please explain what's shown
25 there?

1 A This is the C-102 that was attached to the
2 C-108 that we submitted. On the lefthand side, it
3 shows the name of the well, the fact that we're a AGI
4 well, a Devonian, and the legal location 132432. The
5 righthand side is the surveyor's plot.

6 Q And can you please explain the wellbore
7 schematic that's shown on page 40?

8 A So this is a wellbore schematic that we've
9 done. And this is a very deep well, and so we kind of
10 split the schematic in half. This actually shows the
11 surface casing, the intermediate casing, and the
12 second intermediate that we would run.

13 Q And then what's shown on slide 41?

14 A So this is the bottom half. And in it, you
15 can see the production casing, which is the 7-inch
16 casing that will be set in the top of the Devonian.
17 The open hole that we will drill the Devonian hole
18 from 17,299 to 18,699. And then the tubing that would
19 be run into the well. The packer would be set at
20 17,250.

21 One thing I wanted to add, it's 3.5-inch G3,
22 which is a nickel alloy, a special alloy. It's very
23 noncorrosive, very resistant to H2S and CO2. And in
24 it, we -- you know -- we put packer fluid, diesel plus
25 additives. Those additives are biocides and corrosion

1 inhibitors that we run. And that's just in case you
2 have a leak, you -- you -- if you have water behind
3 it, it would -- it would corrode.

4 You can see the little green dashed line on
5 there. That's a fiber optic line that is going to be
6 run behind the 7-inch provided that our hole
7 conditions permit that -- that we can do that. We
8 don't show -- and -- and we will have a fiber optic
9 DTS line attached to the 3.5-inch tubing that will be
10 attached to the packer. And I'll -- and I'll go into
11 that further.

12 Q What's shown on slide 22?

13 A So this is our casing and our tubing design.
14 Shows you that the conductor will set 100 foot of
15 28-inch conductor basically just to get the rig on.
16 And then we'll set 1208 feet of 20-inch -- and that's
17 set at -- into the top of the rustler that protects
18 your water zone.

19 Then 5,034 feet of 13 3/8, that's set to the
20 top of the Delaware through the Lamar line. And I
21 think there was a question as to the DMG well
22 that -- the second DMG well. That's the top of the
23 DMG, and -- you know -- you probably have a couple
24 thousand feet, maybe five to seven thousand foot for
25 your DMG.

1 The intermediate is a 9 5/8 set to 12250.
2 That's to the top of the Wolfcamp. And then you'd set
3 the 7-inch down at 17,299 feet.

4 Q And what's shown on slide 43?

5 A These are the casing specs for each one of
6 those casing. And you can see under the long string.
7 The long string has both P110, and it's going to have
8 some special alloy pipe in it too. It also shows the
9 connections that we have. The tubing, it shows 9.2
10 Vantop G3.

11 Q And what is the cement design?

12 A And the -- and the cement design -- you
13 know -- I think the main thing is, is that all of
14 these strings will be circulated, cement will be
15 circulated to the surface. You can see in the -- the
16 9 5/8 intermediate number two, that's 12,250.

17 It lists three stages of cement, and in that,
18 we'll run -- stage 2 would be some CorrosaCem, a very
19 corrosion resistant cement, resistant to H2S. And
20 then down to the -- and that -- that'll be placed
21 across the DMG. So it would protect it from future
22 injection, protect our pipe.

23 And then the production string, we -- we're
24 going to use a WellLock resin cement as -- as our
25 shoe. And then, you know, we'll run a class H cement.

1 I think there was a question about high temperatures,
2 and -- and does -- does that high temperature cause
3 cement degradation?

4 This is a class H cement. I talked to
5 Halliburton, that's who's going to do our cement.
6 They'll some high temperature additives and -- and
7 some retarder, so you can get the cement in place.

8 We did look and we found one log -- we -- we
9 looked at lunch, and we found one log that
10 had -- close to the well, had 220 degrees on the log
11 as bottom hole temperature. And then we found another
12 one that was over that. Was, like, 230 or 240,
13 something like that.

14 Q What's shown on slide 45?

15 A So this is our drilling fluid design, AKA,
16 this is the mud. And so you'll -- you'll drill your
17 20-inch with fresh water and get it set. The -- the
18 17.5-inch hole, you're going to drill through the salt
19 section and land in the top of the Delaware Mountain
20 Group. And so you'll use brine. It'll be saturated
21 brine in there.

22 We'll then drill down to the Wolfcamp using
23 a cut brine system with about 9 pounds. Pretty
24 viscous. We shouldn't have a lot of problems, but I
25 think there was some questions about maybe lost

1 circulations because of offset producing wells. There
2 are some producing wells in the Bone Springs out
3 there. So -- so we'll be prepared for that.

4 Then when we -- after we set pipe into the
5 Wolfcamp, from the Wolfcamp to the top of the
6 Devonian, you're going to drill the Wolfcamp, and
7 there are Wolfcamp producing wells out there.
8 They're -- they're high pressure gas. And so
9 we'll drill with this oil-based mud.

10 We plan to use -- actually, from the time we
11 drill out from below the Delaware all the way to TD,
12 we'll have a managed pressure drilling system out
13 there. And so -- you know -- if we take kicks, we can
14 hold pressure and hold back pressure and -- and try to
15 hold that gas back.

16 And then -- and then once we get pipes set
17 into the top of the Devonian, we basically will drill
18 the open hole in the Devonian with fresh water and
19 some viscosity there. But a lot of times when you
20 drill the Devonian, you -- you'll lose circulation in
21 there, which is what you're looking for in an
22 injection well.

23 Q And then what about logging and testing,
24 which is discussed on slide 46?

25 A So -- so we -- we plan -- we've discussed

1 this with OCD, we -- we're going to try to find a bond
2 log for the 20-inch. It's -- it's -- sometimes it's
3 hard to find it. So I listed a four-arm caliper log.
4 I don't plan on any cased hole logs, but we
5 might -- if we can find the bond log, we -- we will
6 get one. They're hard to find.

7 In the intermediate is -- is your neutron
8 density and -- and resistivity logs, gamma ray and
9 forearm caliper, cased hole, cement bond logs, gamma
10 ray. The intermediate pretty much the same sweep of
11 logs.

12 Then when you get down in the production
13 casing, pretty much the same sweep logs, but we also
14 plan on running an FMI, which is a formation
15 microimager log, and a sonic log. And so a big part
16 of that is, is to look at the -- at our seal zones,
17 the Woodford and the zones above that, and -- and just
18 look -- where you're looking for fracturing.

19 And then, of course, when you go to the open
20 hole, we're going to run the gamma ray caliper, an
21 FMI, a sonic, a porosity log, a density log,
22 resistivity log. We'll run lots of logs in the open
23 hole.

24 Q Okay. And then you describe the additional
25 coring and monitoring which is --

1 A Yes. The coring, we -- we plan to do -- to
2 core the Woodford, and take an 80-foot section of core
3 on the Woodford. And then once we get into the open
4 hole, I think George had a slide that showed that
5 there's three porosity zones that we anticipate. And
6 we'll try to take a core of each one of those porosity
7 zones in the Devonian and I think in the Fusselman.

8 The fiber optics -- the fiber optic
9 will -- will be attached behind the 7-inch casing to
10 enable monitoring of temperature and the acoustics in
11 the formation. Again, this is dependent upon hole
12 conditions. You know -- it -- that's a very -- it's
13 an 8.5-inch hole, 7-inch, and running that fiber.

14 If we're having issues, we -- we may not be
15 able to run that. But we -- we plan on it. And that
16 will -- that really helps us to monitor the -- or to
17 model the plume if we can do that.

18 Then we'll have a fiber optic line attached
19 to the 3.5-inch tubing and to the 7-inch packer at,
20 like, 17,250 feet. That -- that fiber optic line
21 gives us both the bottom hole temperature and pressure
22 of the -- of the injection zone. It gives you the
23 bottom hole temperature and pressure of the casing
24 annulus. So it's a great way to monitor for leaks.

25 You also get real time data for pressure and

1 temperature. And so if your temperature starts to
2 change, you -- if you start seeing -- and we monitor
3 this daily. If you -- if your temperature starts to
4 change, it -- it could tell you that you have a -- a
5 leak.

6 As far as daily monitoring, we -- we inspect
7 those well heads daily. Somebody goes by and checks
8 them. We -- we have the pressures in our control
9 room, and the control people can see them and have
10 alarms. We have well head safety valves to shut the
11 pressure down -- I mean shut the well down if we get
12 overpressure. And -- and then we, you know, do a
13 visual inspection daily also.

14 Q And Mr. Ragsdale, will the coring be used to
15 confirm porosity --

16 A Yes.

17 Q -- in the caprock --

18 A Yes.

19 Q -- and underlying rock as well?

20 A Yes.

21 Q Okay. Thank you.

22 A Or lack of porosity.

23 Q Yes. That's -- yes. Hopefully, yes.

24 And I believe earlier Mr. El-Kaseeh referred
25 a question to you on temperature.

1 A I -- I think that was about the cement. And
2 so that -- it -- it is. I mean, it's -- it's very
3 high temperatures in there down at the bottom.
4 And -- and so, you know, we -- we -- when we get -- we
5 will log -- when we log, we'll get an accurate
6 temperature reading, and then we will get with our
7 cementers, probably Halliburton, and we will, you
8 know, come up with our cement blend.

9 In -- in this case, I have a Halliburton
10 recommendation, and they have a trademark cement that
11 they call NeoCem that has proprietary additives to it.
12 But it -- but it's those temperature retarders
13 and -- and things like that.

14 And then you'll pump test it. And so you'll
15 pump test this and you'll -- you'll get your pump
16 times, and you get compressive streaks one and two.

17 Q And Mr. Ragsdale, let me just go back for a
18 minute to the slide that was presented earlier on the
19 wells in and around the proposed AGI well. Let's see
20 if I can find that slide.

21 And there were questions about a well
22 located within the -- here it is -- within the
23 half-mile area of review. Do you recall those --

24 A Yes. And so that well -- you can see on
25 your table, it's called the McCloy Central. That's

1 really not a well. That well was -- I mean, that APD
2 was fired -- filed and then expired, and so there
3 really is not a well there.

4 Q Okay.

5 A Okay.

6 Q Okay. And were the slides that you
7 discussed prepared by you or under your direct
8 supervision?

9 A Yes.

10 Q Okay. And can you please summarize your
11 conclusions and recommendations?

12 A Well, this Siluro-Devonian formation can
13 receive the acid gas, the TAG. We can contain it
14 safely using good well design and good cementing
15 properties, and a -- and a good tubing and packer.
16 And we can keep this below the maximum surface
17 injection pressure.

18 Q And in your opinion, will the well be
19 designed to ensure the safe injection of TAG?

20 A Yes.

21 Q And is this well design appropriate for the
22 injection of TAG at this location and this reservoir?

23 A Yes, it is.

24 Q And in your opinion, will the proposed well
25 prevent waste to protect correlative rights?

1 A Yes, it will.

2 Q And is it correct that the proposed well
3 will not harm public health or the environment?

4 A That's correct.

5 Q Thank you.

6 MS. HARDY: Those are all of my
7 questions for Mr. Ragsdale.

8 MS. SENINGEN: We have a few questions.

9 MR. RAZATOS: Great.

10 CROSS-EXAMINATION

11 BY MS. SENINGEN:

12 Q You noted that your method of determination
13 of the cement top is a visual inspection. OCD would
14 like you to couple it with CBL to determine the cement
15 top except for surface casing, which OCD agreed that
16 visual inspection of the cement top and cement report
17 that includes density is acceptable. Did Targa agree
18 with OCD to couple visual inspection with cement bond
19 log?

20 A Yes.

21 Q Okay. What is your expected temperature
22 range between surface and 12,250 feet of depth?

23 A Well, let's start at the surface. you know,
24 your -- usually your -- your ambient
25 temperature -- but usually it's 70 degrees is your

Page 177

1 surface temperature. And then we think the bottom
2 hole, the static bottom hole temperature in this well
3 will be approximately 225 degrees. And it's a
4 gradient from there down.

5 I -- for years, I've always used a 1 degree
6 per 100 feet. So you're at 180 stages, that'd be 180
7 degrees plus 50 or 60 degrees. 230, 220.

8 Q Do you agree that class C cement may not be
9 suitable if the temperature is greater than 170
10 degrees Fahrenheit?

11 A That -- that is correct. Class H is
12 recommended.

13 Q What convinced you to apply a 0.3 Poisson
14 ration?

15 A Ratio?

16 Q Ratio. Sorry.

17 A You know, I didn't do that, so -- I -- I'll
18 have to look at that see -- I'm not -- I'm not sure
19 where that was at. That's in the permit application?

20 Yeah, and that's -- I'm sorry.

21 Q One moment.

22 Would you prefer to have a break to check on
23 that?

24 A Sure.

25 Q Okay. We can proceed with questions but

1 we'll go back to that; is that okay?

2 A Okay.

3 Q Okay. One moment, please.

4 MS. SENINGEN: Our remaining questions
5 depend on the answer to the Poisson's ratio, so we
6 don't have any more questions at this time.

7 MR. RAZATOS: Okay. Commissioners?

8 Dr. Ampomah?

9 DR. AMPOMAH: Yeah, definitely I do
10 have a few.

11 So certainly the Poisson ratio, the
12 model this has to be able to respond to that. I mean
13 we would have to be able to respond to that. Those
14 who did the modeling, they should be able to respond
15 to that.

16 THE WITNESS: Thank you --

17 DR. AMPOMAH: And I think that the
18 range that was given, 0.3, normally is a typical,
19 like -- it can be sandstone probably 0.25, so it is
20 still in a typical range. Mr. Ragsdale why open hole
21 in the production zone?

22 THE WITNESS: So -- so we
23 found -- I -- I've drilled several Devonian disposal
24 wells, SWDs, and -- and it's -- we found that if you
25 leave the hole open rather than sticking casing down

1 into it -- first off, you know, you would end up
2 running a liner into it and -- and liner tops are
3 notorious for leaking.

4 But the other is, is that when you
5 cement that liner across that porous Devonian
6 formation, you may damage the formation. And so
7 by -- by filling it full cement. And then you have to
8 perforate it, then you have to acidize it.

9 And so -- so when we drill open hole,
10 if you can get to your depth, you -- you've left your
11 hole, you know, basically undamaged, then -- it -- you
12 can increase your injection rate, I think.

13 DR. AMPOMAH: Interesting. So do you
14 believe that a typical class 2 well drilled in the
15 Permian -- and now you see a lot of class 6 wells
16 coming into play as well. So do you believe that
17 within the Permian, at least within that depth that we
18 did -- open hole would still suffice for a class 6?

19 THE WITNESS: Oh, I don't know about
20 class 6.

21 DR. AMPOMAH: Well, so that is where my
22 question is, so -- and that would be more or less for
23 the regulator to respond to. In terms of if we have
24 open holes for class 2 wells, and then we're going and
25 decide class 6 wells, which probably would have the

1 force to put in more, like, a casing --

2 THE WITNESS: A liner.

3 DR. AMPOMAH: Yeah. In the production
4 zone, then what are we really preventing? Because we
5 do have some wells that already open hole, and they
6 are going to say class 6 has to come up with
7 the -- the strict rules. So I think that is something
8 that NMOCD might have to start thinking about,
9 especially if we go into permitting.

10 MR. TREMAINE: Commissioner Ampomah, I
11 just -- at a very high level, the OCD will be looking
12 very closely at that. We do understand that there are
13 some similarities between class 2 and class 6. It's
14 the division's position that this is a class 2 well.

15 And so that -- those questions will be
16 answered in detail over a multi-year project
17 that -- to answer that. So we're -- none of our
18 witnesses or staff or myself are able to answer that
19 question today, but there's a lot that depends, and
20 it's something we'll be looking at.

21 DR. AMPOMAH: Thank you. I appreciate
22 that.

23 So with regards to the corrosion
24 resistance casing, I do see P110 and --

25 THE WITNESS: In the 7-inch.

1 DR. AMPOMAH: Yeah, in the 7-inch.

2 THE WITNESS: So I think it's listed as
3 P110 and chromium 13.

4 DR. AMPOMAH: So be specific on that
5 one.

6 THE WITNESS: So chromium 13 is a
7 corrosion-resistant alloy also. But I think we've
8 decided to run the G3 because it's better. It's in
9 there. I think when -- when this was written, we
10 couldn't find the -- the G3.

11 DR. AMPOMAH: So you believe that the
12 G3 will be even higher than that of the chrome --

13 THE WITNESS: If we run on the bottom
14 of the --

15 Can you -- can you go to that table,
16 Dana? It's the tubing and casing.

17 DR. AMPOMAH: Yeah, so page 42. Slide
18 42.

19 THE WITNESS: Yeah, so it's the -- one
20 more.

21 MS. HARDY: This one?

22 THE WITNESS: One more. Let's see.
23 No. That's it.

24 MS. HARDY: Okay.

25 DR. AMPOMAH: So I do see in the table

1 for sure, but in some part of your presentation, I do
2 see the P110 chrome --

3 THE WITNESS: Chromium 13.

4 DR. AMPOMAH: -- in there. So would
5 you -- is it your testimony that Targa is going to use
6 a higher level --

7 THE WITNESS: We are going to go -- we
8 are going to use the G3.

9 DR. AMPOMAH: But the G3, that is a
10 tubing; right?

11 THE WITNESS: It -- well, above -- you
12 can buy it -- you can buy the casing -- 7-inch casing
13 also.

14 DR. AMPOMAH: How about the -- right
15 here, you are not showing the CAD. So how would we
16 stick -- like, how would we hold Targa to that?
17 Because it's not -- like, if you look at the long
18 string -- yeah, the 7-inch, you do have chrome casing
19 and then P110. And even now, you're saying that
20 probably you're going to use G3 corresponding casing,
21 which is not shown here.

22 THE WITNESS: It's -- no, it's not.
23 It's -- it is better, it's an upgrade from the chrome.
24 It'll be 300 foot of corrosion-resistant pipe on the
25 bottom of the -- the bottom 300 foot from 17,299

1 to -- what would that be? -- 16,799, of chrome
2 resistant -- I mean of corrosion-resistant alloy pipe
3 for your shoot joint.

4 DR. AMPOMAH: So then would you amend
5 your application to make sure that, you know, we are
6 holding Targa to that?

7 MS. HARDY: I think it could be
8 included in the commission's order.

9 DR. AMPOMAH: Okay. Okay.

10 MS. HARDY: And it may be in the C-108
11 itself. I haven't been able to confirm that because I
12 don't know where it would be located, but the C-108 is
13 actually the application that we submitted.

14 DR. AMPOMAH: Okay. Okay. Yeah.

15 You know, so you talked a little bit
16 about the plans that you'll do to more or less control
17 the low circulation and even being able to control the
18 well. But is there a written plan? Because I think
19 this is something that NMOCD will have to look at
20 carefully because recently there was one well that was
21 drilled where you have gas coming up and then the well
22 needed to be shut down. Pivot to some location.

23 So production wells close by to, let's
24 say, a TAG injection well, there has to be a plan as
25 to how you're going to deal with the production zones.

1 The Woodford. You have to have a plan, you know, to
2 be able to deal with that. Or I don't know -- from
3 you description it sounds to me that you're going to
4 use experience, but is there a written plan?

5 THE WITNESS: There -- there will be.

6 DR. AMPOMAH: There will be.

7 THE WITNESS: Yes, sir. And we can
8 submit that to you.

9 DR. AMPOMAH: I think that --

10 THE WITNESS: We have a
11 drilling -- we'll -- we'll have a drilling plan and a
12 fluids design plan on -- on both. It'll be -- it'll
13 be very thorough.

14 DR. AMPOMAH: Very --

15 THE WITNESS: And -- and we'd be glad
16 to share that with you.

17 DR. AMPOMAH: Okay. Thank you. I
18 appreciate that.

19 So NMOCD agreed to ask you about
20 whether you're going to use cement bond logs to
21 identify the top of the cement. So is that your
22 testimony that it's strictly cement bond log, or you
23 intend to also use the fiber optic, which can also do
24 the same?

25 THE WITNESS: No. Just cement bond

1 log.

2 DR. AMPOMAH: Just the cement bond log?

3 THE WITNESS: Yes.

4 DR. AMPOMAH: Okay. You said the fiber
5 optic measures pressure?

6 THE WITNESS: Uh-huh. It's -- it's
7 attached.

8 DR. AMPOMAH: Okay.

9 THE WITNESS: So it's attached to a
10 gauge that is -- that is in the -- inside -- through
11 the -- through the packer so it can sense what the
12 pressure is in the tubing and the gauge on the
13 outside. And it transmits that data to it -- through
14 the fiber optic.

15 DR. AMPOMAH: Okay. So why the oil
16 base --

17 THE WITNESS: Oil base -- that'll keep
18 your shales from getting wet and sloughing. There's
19 lots of shales below the Wolfcamp in the Strawn and
20 the Atoka and in the Morrow and the Woodford. And so
21 if you can oil-based muds that then you keep those
22 shales from sloughing. It actually increases your
23 penetration rate to --

24 DR. AMPOMAH: So has there been, like,
25 a normally mud that is being used when drilling

1 through those zones?

2 THE WITNESS: Most of the horizontal
3 wells drilled in the Wolfcamp are using oil-based
4 muds.

5 DR. AMPOMAH: Okay. Okay. Thank you,
6 sir.

7 Oh, one last question. So you believe
8 the 3.5-inch tubing intake close to, like, a million
9 megatons of CO2 a year?

10 THE WITNESS: Yes, I do.

11 DR. AMPOMAH: Interesting. Okay.
12 Thank you. Thank you, sir.

13 THE WITNESS: You're welcome.

14 MR. RAZATOS: Commissioner Bloom, did
15 you have any questions? Just to make sure we catch
16 you as well.

17 MR. BLOOM: No questions. Thank you,
18 Mr. Chair.

19 MR. RAZATOS: Awesome. Mr. Tremaine.

20 MR. TREMAINE: Mr. Chair, if I could
21 interject here real quick? So we kind of left off
22 with a question about the Poisson ratio, and I
23 understand that Commissioner Ampomah responded there.
24 So if the commission's satisfied with the answer on
25 the record, we don't have to come back

1 I can make Mr. Gebremichael available
2 to address any technical questions that they had about
3 that or the reason for the question on direct. But it
4 sounded as if the commission was satisfied. So if
5 that -- if my read of that is correct, then I think we
6 can obviate the need to have the witness come back.

7 MR. RAZATOS: Dr. Ampomah, did that
8 answer your question?

9 DR. AMPOMAH: Yeah, because all these
10 are all estimations, until they drill the well and get
11 a core and go to the lab do the measurement. But I
12 think 0.3, 0.25 is still within the normal range for
13 Poisson's ratio.

14 MR. RAZATOS: Okay. Excellent.

15 Ms. Hardy.

16 MS. HARDY: Then I have no further
17 questions for Mr. Ragsdale. Thank you.

18 MR. RAZATOS: Okay. Mr. Ragsdale will
19 be -- may go.

20 Anyone else, Ms. Hardy?

21 MS. HARDY: Nothing further from Targa.
22 Thank you.

23 MR. RAZATOS: Okay. Excellent. Should
24 we take a quick ten-minute break? Yeah. Let's take a
25 ten-minute break, and then we can start with the OCD.

1 (Off the record.)

2 MR. RAZATOS: Okay. Let's get back on
3 record here. We had just -- we're still on case
4 number 24594. Targa finished with all of its
5 witnesses, so now we're turning it over to the NMOCD.

6 Ms. Seningen.

7 MS. SENINGEN: Good afternoon. I would
8 like to call our only witness, Mr. Million
9 Gebremichael, to the stand.

10 MR. RAZATOS: Excellent.

11 WHEREUPON,

12 MILLION GEBREMICHAEL,
13 Called as a witness, and having been first duly sworn
14 to tell the truth, the whole truth and nothing but the
15 truth, was examined and testified as follows:

16 MR. RUBIN: Duly sworn.

17 VOIR DIRE EXAMINATION

18 BY MS. SENINGEN:

19 Q Good afternoon. Could you please state your
20 name for the record?

21 A My name is Million Gebremichael.

22 Q Where do you work?

23 A I work for the Energy Mineral and Natural
24 Resources Department as part of a group responsible
25 for the oversight of the underground injection

1 control.

2 Q What is your position?

3 A Petroleum specialist advanced for the
4 Underground Injection Control Group.

5 Q What are the job responsibilities of your
6 position?

7 A I review technical aspects of UIC permits,
8 provide recommendations to district offices regarding
9 UIC wells, and provide input for the process, design,
10 and rulemaking.

11 Q Have you ever testified before the Oil
12 Conservation Commission before?

13 A Yes, I have.

14 Q Have you been recognized as an expert in the
15 field of petroleum engineering and underground
16 injection by the commission before?

17 A Yes, I have.

18 Q Have you prepared a resume for this hearing?

19 A Yes. It is Exhibit 2.

20 Q Could you please summarize your educational
21 background, training, and experience for the
22 commission?

23 A Yes. I have a Bachelor of Petroleum
24 Engineering degree from the Southern Alberta
25 Polytechnic in Canada. And also I have 12 years of

1 working for the exploration and production companies
2 as well as regulatory agencies.

3 I -- I work for Shell International, Encana,
4 ARC Resources, and also I work for the Alberta Energy
5 Regulator, which is a component organization to OCD
6 for three years. And then for the last two years,
7 I've been working as a UIC engineer with the state of
8 New Mexico Underground Injection Control Group.

9 MS. SENINGEN: Mr. Chair, at this time,
10 I move for the admission of Exhibit 2.

11 MR. RAZATOS: Any objections?

12 MS. HARDY: No objection.

13 MR. RAZATOS: He is so entered.

14 (OCD Exhibit 2 was marked for
15 identification and received into
16 evidence.)

17 MS. SENINGEN: I also would like to
18 move for the admission of Mr. Gebremichael as an
19 expert in the field of petroleum engineering
20 underground injection control, and acid gas injection
21 wells.

22 MR. RAZATOS: Any objections?

23 MS. HARDY: No objection.

24 MR. RAZATOS: Okay. He is entered.

25 //

1 DIRECT EXAMINATION

2 BY MS. SENINGEN:

3 Q Which standard do you apply when you
4 evaluate a class 2 underground injection control well
5 to be approved?

6 A The standards applies the prevent waste,
7 protect correlative rights, protect public health and
8 the environment, including the underground source of
9 drinking water.

10 Q Have you reviewed the Copperhead acid gas
11 injection number one application?

12 A Yes, I have.

13 Q And what is your opinion of the application?

14 A Targa's application to inject the treated
15 acid gas into the Devonian formation via Copperhead
16 AGI number one well is designed to ensure the safe and
17 effective injection.

18 And then the acquisition of tailored 3D
19 seismic data of the injection project area addresses
20 concern regarding presence -- any presence of any
21 faults that could impact by injection pressure, and
22 then lead to induced seismicity.

23 Additionally, Targa's proposed managed
24 pressure drilling will significantly reduce a
25 likelihood of the under/over drilling balances that

1 may occur.

2 Q Were there any concerns that you had with
3 the application and the proposed location and depth of
4 the proposed AGI well?

5 A Yes. Targa has proposed a maximum injection
6 of 26 million cubic foot per day. OCD will reassess
7 this maximum injection rate once Targa completes the
8 step-rate test, which will be a condition of approval
9 outlined in Exhibit 1.

10 Additionally, Targa plans to install the
11 bottom hole pressure and temperature gauged by the
12 optic -- the fiber optic line. OCD would like -- we
13 would like to ensure that when it goes through the
14 master valves, that it's provides a complete seal or
15 it doesn't impair a complete seal of the well.

16 Q You mentioned conditions of approval. Do
17 you have an exhibit listing those conditions?

18 A Yes. It's Exhibit 1.

19 Q Has the commission seen this exhibit or
20 something similar to this exhibit before?

21 A Yes, it has.

22 Q Who was this exhibit prepared by?

23 A By OCDUIC group, which I'm part of.

24 Q To the best of your knowledge, is this
25 exhibit a true and accurate representation of OCD's

1 updated recommendations for AGI conditions of
2 approval?

3 A Yes.

4 MS. SENINGEN: Mr. Chair, at this time,
5 I move for the admission of Exhibit 1.

6 MR. RAZATOS: Any objections?

7 MS. HARDY: No objection.

8 MR. RAZATOS: It so will be admitted.

9 (OCD Exhibit 1 was received into
10 evidence.)

11 BY MS. SENINGEN:

12 Q Did you change this exhibit relative to any
13 prior versions provided to the commission in earlier
14 AGI cases?

15 A Yes, we did.

16 Q And why did you change this exhibit?

17 A We added item 12 and then item 18 in the
18 Exhibit 1. Item 12 was added to make sure all seismic
19 events are recorded with seismic monitoring station.
20 And item 18 was added to make sure that redundant well
21 is constructed in a timely manner.

22 Q Did you discuss these changes with Targa?

23 A Yes, we did.

24 Q Have OCD and Targa agreed to the conditions
25 that ensure compliance with the standards you

1 previously mentioned?

2 A There is an overall agreement. And OCD
3 expects Targa to address the concern mentioned
4 earlier. OCD reserves the right to reassess
5 the -- the proposed maximum injection rate after the
6 completion of the step-rate test on the well.

7 Additionally, the integration of the fiber
8 optic line into the well construction must be done in
9 a way that it doesn't impede the complete seal of the
10 well to prevent an escape of the injectate.

11 Q So you would agree that Targa agreed to
12 comply with the conditions listed in the conditions --

13 A Yes.

14 Q -- of Exhibit 1? Excuse me.

15 A Yes.

16 Q Could you please summarize the conditions
17 for the commission?

18 A The conditions outlined in Exhibit 1
19 represent OCD's standard approval criteria for
20 AG -- for AGI wells. These conditions exceed the
21 standard approval or requirements for underground
22 injection wells due to the specific nature of the
23 injectate, namely treated acid gas.

24 The AGI wells must be constructed using
25 corrosion-resistant alloy strings and include

1 subsurface safety box and then a packer fluid that
2 contains corrosion inhibited -- inhibitors and biocide
3 additives.

4 OCD has added two items to the previously
5 approved AGI condition of approval admitted by the
6 commission. Like I mentioned before, these items are
7 item 12 and then 18 in the OCD Exhibit 1.

8 The addition item 12 in the OCD Exhibit 1 is
9 necessitated by the fact that deep wells subject to
10 such high pressure could be subjected to induced
11 seismicity. And then having seismic monitoring
12 stations would provide OCD with necessary data to take
13 appropriate seismic provision protocol in a timely
14 manner.

15 Item 18 was added to ensure that limited
16 time required to initiate the completion of the second
17 well, to have available redundant well in case the
18 primary well is down from various reasons.

19 Q I would like to ask some questions now in
20 response to Targa's witnesses. Are there any other
21 clarifications that you feel are necessary after
22 reviewing Targa's application and cement top
23 methodology?

24 A Well, with the cement top methodology, it's
25 just we -- we would like to ensure that the 20-inch

1 surface casing, both the -- like he mentioned earlier,
2 CBL and then visual inspection are coupled.
3 Especially in the -- no, no. The 20-inch CBL is
4 exempted, but the visual inspection should be coupled
5 with a cement report that includes density of
6 the -- density of the cement.

7 Also, as I mentioned in the -- at the
8 12 -- at the 1250 depth, still the cement type is
9 described as a C type. And then as the Targa expert
10 testified earlier, at this depth, the temperature
11 could be about 180 degrees, which exceeds the 170
12 degrees, which makes the C type not suitable. So we
13 would -- OCD would like Targa to utilize a cement type
14 H and above.

15 Q Are there any other clarifications that you
16 feel are necessary about strength regression?

17 A Yes. So the strength -- the strength -- the
18 cement strength retrogression, which is especially at
19 the bottom, that might be -- I think the gentleman
20 already addressed it, but OCD would like to make sure
21 that --

22 At or about 230 degrees there is going to be
23 a degradation of the cement and then creation of
24 permeability, so OCD would require you to add
25 additives like the -- the, you know, silica flour,

1 that would prevent the degradation.

2 Q Are there any other clarifications you wish
3 to address about Poisson's ratio?

4 A Yes. Dr. Ampomah kind of touched it, but we
5 would like to make sure that whether is it a limestone
6 or a sandstone or it's a mix, that triggered you to
7 utilize the 0.3?

8 I mean, usually 0.27 is for limestone, which
9 is mostly the industry accepted standard. And then
10 0.33 is for sandstone. But you pick point -- what was
11 the -- the ratio that you picked is 0.3? Was it 0.3?

12 Q That's correct.

13 A Yes, 0.3. So we would like you to
14 characterize the exact nature of that formation. Is
15 it a mix between the two that triggered you to put the
16 0.3? Because those single ratios could make a lot of
17 difference in the simulation in the model.

18 Q Are there any other clarifications you wish
19 to address about the fracture gradient comparison?

20 A We would like to ask Targa -- they did use
21 the Eaton's formula for theoretical calculation of
22 fracture gradient. Of course, that will be determined
23 by the step-rate test, which is unempirical data.

24 But we would like to know though your
25 Eaton -- Eaton's fracture gradient which was utilized

1 for the simulation model, if you have compared it to
2 any other AGI wells in the past, and then what is the
3 value discrepancy between Eaton's driven fracture
4 gradient and then step-rate test driven fracture
5 gradient?

6 Q Do you have any concerns about the redundant
7 well being on the Delaware Mountain group?

8 A Yes. That came today. When we were
9 evaluating the Copperhead AGI number one, the Devonian
10 well, we were not aware Targa's intent that they will
11 drill the redundant well in the DMG.

12 So the intermediate two, which covers the
13 DMG zone, which is the Cherry, the Bell, you know,
14 those -- those are active producing zones. And OCD
15 would like that you utilize a corrosion-resistant
16 cement for that part. Also, when you -- when you
17 build your -- I'm talking about for AGI number one.

18 The way it's designed right now, there is no
19 corrosion-resistant cement in there. Also, we highly
20 recommend if you could consider corrosion-resistant
21 alloys for that part as well, if you really go ahead
22 with your DMG redundant well.

23 Q In your opinion, will these conditions and
24 the items that you addressed in your testimony provide
25 adequate assurance that the proposed well will not

1 cause waste or harm correlative rights?

2 A Yes, given our concerns are addressed.

3 Q In your opinion, will these conditions and
4 items addressed in your testimony protect public
5 health and the environment, including underground
6 sources of drinking water?

7 A Yes.

8 MS. SENINGEN: Those are all of the
9 questions that I had for Mr. Gebremichael.

10 MR. RAZATOS: Okay. Ms. Hardy.

11 MS. HARDY: No questions. Thank you.

12 MR. RAZATOS: Okay. Commissioners, did
13 you have any questions?

14 DR. AMPOMAH: No questions.

15 MR. RUBIN: Yes. Yes, I have one
16 question for the witness.

17 The concerns that you cited, sir, with
18 the respect to the class H concrete, the Poisson
19 ratio, whether it's a 0.27 or a 0.33, depending on the
20 type of stone we're looking at, and also your concerns
21 about the DMG redundant well, did you -- are you
22 advocating those concerns be incorporated into what is
23 now Exhibit 1 as permit conditions?

24 THE WITNESS: Yes.

25 MR. RUBIN: Oh, okay. Are they

1 currently part of the Exhibit 1?

2 THE WITNESS: No, they are not, but
3 they should be incorporated. Those -- those concerns
4 should be addressed. Yeah.

5 MR. RUBIN: Okay.

6 MR. TREMAINE: If I may, Counselor. I
7 think the division would advocate -- or I would
8 advocate for the division that based on the record
9 today, that we make sure that those clarifications
10 made on the record during all of the direct testimony,
11 that my understanding is all of the parties are
12 agreeing to would be added into the terms of the
13 order.

14 So rather than adding them to the
15 exhibit, I think the record's adequate to include
16 those as requirements and incorporate into the order.

17 MR. RUBIN: Thank you, Mr. Tremaine.
18 So I guess if the commission were to approve the
19 application, the parties would submit a new proposed
20 form of order with those conditions incorporated
21 therein?

22 MR. TREMAINE: That would be my
23 recommendation rather than resubmitting exhibits.

24 MR. RUBIN: All right. Because you
25 don't want me to write it.

1 MR. RAZATOS: Excellent. Commissioner
2 Bloom, did you have any questions?

3 MR. BLOOM: I do not. Thank you,
4 Mr. Chair.

5 MR. RAZATOS: Okay. Can this witness
6 step down? Everybody okay with that?

7 THE WITNESS: Yes. Thank you.

8 MR. RAZATOS: You're still muted.

9 MR. RUBIN: Anything further from
10 either party before the commission deliberate?

11 MS. HARDY: Not from Targa.

12 MS. SENINGEN: No.

13 MR. RUBIN: All right. Commissioners,
14 if you have any deliberations you wish to -- of
15 course, we can always go in a closed session, but I
16 understand it's not the wish of the commission. So
17 well, would you like, Counsel, to state a motion at
18 this point?

19 MR. RAZATOS: Commissioner Bloom,
20 Commissioner Ampomah?

21 DR. AMPOMAH: Yeah, so I think if you
22 look at the application very detailed, and I'm very
23 happy with regards to how NMOCD is handling this,
24 especially the rate that they are proposing and then
25 their approach. You know, after the step-rate test,

1 NMOCD will -- they have the right -- they reserve the
2 right to go back and say, "No, you cannot have the
3 26."

4 So I think that addresses most of my
5 concerns. But essentially, the application looks
6 great, and I do not have any concerns. You know, and
7 I do support this.

8 MR. RUBIN: Okay. Commissioner Bloom,
9 do you have any further comment?

10 MR. BLOOM: No, I concur with
11 Dr. Ampomah, and would move to approve this.

12 MR. RUBIN: All right. So then based
13 upon the sentiments of the commission, will the
14 commission entertain a motion to approve the
15 application subject to the permit conditions as
16 proposed by the department, that Exhibit 1 to be
17 supplemented by the testimony of the department
18 witness today?

19 MR. BLOOM: I so move.

20 DR. AMPOMAH: I second.

21 MR. RUBIN: Okay. And we'll take a
22 roll call vote. Mr. Chair.

23 MR. RAZATOS: I agree.

24 MR. RUBIN: Okay. Dr. Ampomah.

25 DR. AMPOMAH: Approve.

1 MR. RUBIN: Mr. Bloom.

2 MR. BLOOM: Approve.

3 MR. RUBIN: All right. The application
4 is so granted.

5 Anything further from the parties on
6 that?

7 MS. HARDY: No. Thank you very much
8 for your time today.

9 MR. RUBIN: Oh, that's okay.

10 MS. SENINGEN: No. Thank you very
11 much.

12 MR. RUBIN: All right. Thank you very
13 much for your presentations. Very professional, and
14 they are very much appreciated.

15 MR. RAZATOS: Excellent.

16 MR. RUBIN: Mr. Chair, I believe
17 that --

18 MR. RAZATOS: We've got our next point
19 on our list is any pending litigation.

20 Mr. Rubin.

21 MR. RUBIN: Well, could give you the
22 inevitable Atencio lawsuit update. The motion for
23 a -- petition for an interlocutory appeal was granted,
24 so the court has now in the realm court of appeals.
25 They will decide the legal issues as presented in our

1 motion to dismiss this, which we joined in with the
2 other defendants, the legislative defendants had a
3 different motion, but our executive codefendants,
4 which were Ebner, NMBD, and their cabinet secretary.

5 So I would anticipate at least six
6 months for the court of appeals to chew on this, and
7 then in the meantime we are mercifully relieved of our
8 duties to respond -- do anything else. In the
9 district court level, everything is stayed.

10 MR. RAZATOS: Great.

11 MR. RUBIN: Yes. So that's all I have
12 at this time.

13 MR. RAZATOS: Thank you for the update.

14 And our next point this afternoon is
15 any other business that anyone may have. I do have
16 one point. We had discussed last meeting that in
17 October, I would be out of the country the week that
18 the meeting is held. I believe we did -- we looked at
19 all schedules.

20 And Sheila, it was October the 9th;
21 correct? -- that it worked out?

22 MS. APODACA: Yes, that's correct.

23 MR. RAZATOS: Excellent. So our
24 October hearing is going to be held on October the 9th
25 for that reason, so --

1 Any other issues that anybody else may
2 have?

3 DR. AMPOMAH: The next meeting is
4 September 19th, and we do have the long hearing also
5 coming up, so are we going to have two meetings in a
6 month?

7 MR. RUBIN: I was writing that down.
8 Sheila, is it true -- I understood as
9 we discussed before that the hearing on Empire and
10 Goodnight is scheduled for the 23rd?

11 MS. APODACA: Yeah, that's right. The
12 23rd through the 27th.

13 MR. RUBIN: Okay. And so to have a
14 meeting on September 19th in addition to that, is that
15 something we can consolidate with the hearing -- with
16 that date, or no?

17 MS. APODACA: Right now, the only thing
18 on the September 19th docket would be the presentation
19 of a notice of hearing for the rulemaking that was
20 heard today.

21 MR. RUBIN: Okay. Well, certainly,
22 Commissioners, nothing set in stone yet as to when you
23 wish to meet. Hopefully that notice on the issue we
24 just heard this morning, we might be able to deal with
25 that rather quickly, and we could just have one

1 meeting on -- beginning on the date of the hearing.
2 Is that -- I mean, I think we should probably pin that
3 down now.

4 MR. RAZATOS: That works for me.
5 Commissioner Bloom?

6 MR. BLOOM: So Mr. Rubin, are you
7 saying that we would forego meeting on the 19th, and
8 instead bring up the 19th's business on the 23rd?

9 MR. RUBIN: Yes, Commissioner Bloom,
10 that is my suggestion just as a --

11 MR. BLOOM: I think that would make
12 sense, yeah. Save people some time and driving.

13 MR. RAZATOS: Dr. Ampomah.

14 DR. AMPOMAH: Oh, I second that.

15 MR. RUBIN: All right, then. Okay.
16 Okay. So you'll make sure that happens with --

17 MR. RAZATOS: Yes.

18 MR. RUBIN: Okay.

19 MR. RAZATOS: So Sheila, can we just
20 document that the 19th's hearing, since we only have
21 the one topic, we'll hear it on the 23rd at the
22 beginning before we start with a case?

23 MS. APODACA: Okay.

24 MR. RAZATOS: Excellent. Any other
25 business? Any other issues? Okay. So --

1 MR. BLOOM: We can push it out to five
2 o'clock, guys.

3 MR. RAZATOS: I beg your pardon?

4 MR. BLOOM: We can push it out to five
5 o'clock.

6 MR. RAZATOS: Is that what you want?
7 You want us to push it out to five?

8 MR. BLOOM: No, we can wrap it up.
9 Let's wrap it up.

10 MR. RUBIN: Yeah, you do not need a
11 motion to adjourn.

12 MR. RAZATOS: So just as mentioned, our
13 next meeting is going to be on the 23rd, and this
14 meeting is adjourned. Thank you, everybody.

15 (Whereupon, the meeting concluded at
16 2:55 p.m.)

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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

August 29, 2024



JAMES COGSWELL

Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, MORGAN PALMER, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

August 29, 2024



MORGAN PALMER

[& - 18]

&	1,000 49:9	115s 41:1 49:14	14 72:4 128:12
& 3:12,20 4:4 4:11,13 5:5 6:2 6:4 11:4 71:24 79:1	1.04 153:18	50:12 52:16	14,000 54:5
	1.2 155:18	53:22,22	140 126:24
	1.5 155:9	116/117 10:8	142 8:20
	1.55 129:18	118 8:17	15 1:11 114:20
0	10 5:15 82:11	118s 49:16	128:17
0.1 156:15	114:4 126:5	11th 82:10,12	15,000 30:4
0.2 136:19	128:9 131:10	12 120:14,14,17	44:15
0.25 179:19	131:10 135:6	127:11 148:5	150 161:17
188:12	155:22	149:3 150:12	155 137:11
0.27 198:8	100 46:3 135:8	150:16 190:25	15th 11:3 92:3
200:19	135:8,22	194:17,18	99:22
0.3 143:18	149:24,25	196:7,8 197:8	16 129:5
178:13 179:18	168:14 178:6	12,000 121:2	150:23
188:12 198:7	102 167:1	12,250 169:16	16,799 184:1
198:11,11,16	104 41:3,25	177:22	160 8:19
0.3. 198:13	105 8:11 41:25	1200 49:10	1600 120:3
0.33 198:10	105s 41:3	1208 168:16	165 8:8
200:19	106 8:12	122 8:6	166 8:22
0.5 146:1	108 8:4 10:6	1220 1:16 2:17	17 112:20
0.65 136:22	43:6 106:5	12250 169:1	130:1
144:9,9 154:11	107:11 110:11	124 8:19	17,250 167:20
154:12	110:16,19,24	1250 197:8	173:20
001 15:14	111:4 167:2	12th 81:15	17,299 105:22
	184:10,12	13 105:16	167:18 169:3
1	109 8:16	127:24 149:3,7	183:25
1 3:21 4:5	11 115:22	168:19 182:3,6	17.5 170:18
10:12 107:10	126:11 136:8	183:3	170 178:9
116:3,5 118:9	157:4	132432 167:4	197:11
135:23 155:9	110 3:21 4:5	133 81:20 82:6	1750 63:14
178:5 193:9,18	110/114 10:6	83:5	177 8:23
194:5,9,18	111/117 10:7	1380 126:19	1787 140:19
195:14,18	115 41:5,13	127:16 129:2	18 118:10,14
196:7,8 200:23	115/194 10:12	134:7	119:18 130:21
201:1 203:16			194:17,20

<p>196:7,15 18,689 105:23 18,699 167:18 180 126:24,24 178:6,6 197:11 189 8:10 19 15:11 131:2 19.15 115:22 19.15.2 66:13 67:16 19.15.25 66:14 19.15.3.11 70:15 19.15.5 66:13 19.15.8 66:13 19.15.9 66:14 191/191 10:13 192 9:4 1957 125:6 1977 166:4,5 1990 166:10 1995 166:9 19th 206:4,14 206:18 207:7 19th's 207:8,20 1:45 159:18,23</p>	<p>191:14 192:4 20 5:6 82:16 114:20 123:18 123:23 131:10 131:15,16 132:3 168:16 170:17 172:2 196:25 197:3 200 72:2 2017 124:2,4 2018 91:6 2023 44:15 46:5 48:9 54:10 72:5 76:6 2024 1:11 209:16 210:13 2025 69:13 70:7,11 84:9 93:10 133:25 2028 133:25 2030 137:24 2060 137:24 21 166:11 218 4:23 22 82:17 132:16 168:12 220 170:10 178:7 225 142:24 143:5,15 158:12 178:3 230 142:25 170:12 178:7 197:22</p>	<p>231-9312 2:23 23254 63:15 23rd 206:10,12 207:8,21 208:13 24 105:16 134:10 147:11 155:3,4,6 240 170:12 24018 15:11 24018-24019 1:5 24024 15:12 24024-24027 1:6 24027 15:12 24594 1:8 10:3 104:15 159:24 189:4 24683 1:7 66:8 247-4800 5:9 25 67:16 113:8 120:17 135:1 150:4,6 161:24 25,000 26:14 27:23 42:9 43:8,11 44:13 44:18,22 45:5 45:17 250 140:22 141:5 161:18 2523 3:5 26 105:25 109:7 133:4 134:4 135:9</p>	<p>138:2 149:12 154:24 162:21 163:3,8 193:6 203:3 26,000 121:3 133:4 26th 63:15 27 136:4 27th 206:12 28 136:14 168:15 2849 141:3,4 29 136:25 209:16 210:13 2:55 208:16</p>
2			3
<p>2 6:16 10:13 57:2 70:15 105:18 112:1 131:22,23 155:10 169:18 180:14,24 181:13,14 190:19 191:10</p>			<p>3 132:5 3,460 106:2 3.5 167:21 168:9 173:19 187:8 3/8 168:19 30 98:21 133:23 134:1,1 137:17 140:8 300 183:24,25 30276 210:14 31 70:7 105:20 138:4 162:17 162:18,23 32 105:16 138:11 32311 209:16 325 3:13</p>

<p>33 89:9 138:18 153:20 34 139:3 153:21 36 139:22 37 140:12 39 166:23 3d 125:25 128:25 192:18</p>	<p>500 4:14 6:5 505 2:9,22,23 2:24 3:8,16,24 4:8,17 5:9 6:8 6:22 50s 145:2 537-4477 2:9 570-5565 6:22 575 5:18</p>	<p>7th 69:24 70:11 78:7 83:10 87:16 99:22</p>	<p>988-7577 3:8 9:00 1:12 9th 205:20,24</p>
4	6	8	a
<p>4 82:17 112:13 4.4 128:3 147:1 4.88 129:17 40 167:7 408 2:6 409 6:16 41 167:13 41,000 26:13 30:3 42 182:17,18 43 169:4 45 136:1 153:12 170:14 46 171:24 476-3200 2:22 476-3441 2:24 480 126:24</p>	<p>6 112:22 113:15 120:15 180:15,18,20 180:25 181:6 181:13 60 82:15 133:24 178:7 622-6510 5:18 66 17:6 6861370 1:23</p>	<p>8 67:16 124:17 131:24 144:21 144:22,24 8.5 173:13 80 173:2 85 133:25 857 46:18 862 30:23 46:18 867 31:1 87102 5:7 87501 4:24 6:17 87504 2:7 3:6 3:14,22 4:6 87505 1:17 2:18 4:15 6:6 88202 5:16</p>	<p>a.m. 1:12 abandoned 68:5 145:3 abandonment 67:19,22 68:11 68:15 abide 72:21 89:20,25 92:18 ability 98:24 117:5 209:10 210:7 able 20:20 26:25 28:24 30:2 31:8 32:11,22 40:25 47:16 60:6,23 62:16 99:20 118:20 146:14 150:18 152:2,6 173:15 179:12 179:13,14 181:18 184:11 184:17 185:2 206:24 above 30:11,20 172:17 183:11 197:14 absent 78:15 abuse 26:7 accept 12:24 14:3 116:9</p>
5	7	9	
<p>5 67:16 113:5 113:20 5,034 168:19 5/8 169:1,16 50 178:7</p>	<p>7 69:13 70:11 167:15 168:6 169:3 173:9,13 173:19 181:25 182:1 183:12 183:18 70 133:22 177:25 725 5:6 780 127:3,18 129:3 130:14 134:9</p>	<p>9 67:16 125:19 169:1,16 170:23 9.2 169:9 90 136:24 900 31:3 983-8545 4:17 6:8 986-2678 3:16 988-4421 3:24 4:8</p>	

[accept - adjourn]

<p>141:17 acceptable 158:12 177:17 accepted 13:3 13:12 14:8,20 14:22 198:9 accepts 116:11 accommodate 45:24 69:20 99:11 account 125:12 133:20 139:20 accounting 17:24 22:11 50:18 51:1 accurate 132:13 141:12 175:5 193:25 209:9 210:5 accurately 86:7 accusation 16:10 19:1 20:10,18 accused 44:24 achieve 72:15 72:19 acid 47:1,1 105:12 117:5 165:23 176:13 191:20 192:10 192:15 195:23 acidize 46:24 180:8 acidized 46:24</p>	<p>acknowledge 87:5 acloutier 5:17 acoustics 173:10 acquired 144:1 144:2 acquisition 192:18 act 62:1 76:6 82:12 83:12 87:2,4,12 88:9 95:19 106:16 130:15 acting 7:3 11:5 11:10 35:19 48:13 action 18:4 21:7,24 22:2 34:24 58:2 87:20 209:12 209:16 210:8 210:12 activate 139:23 140:2,25 141:7 141:10 active 33:16,21 34:20 145:13 145:15,24,25 199:14 actively 19:21 41:10 actual 15:10 68:2 89:15 96:24 131:13</p>	<p>143:20 154:23 155:10 156:25 actually 33:11 34:15 39:11 40:1 42:11 45:23 47:18 48:21 54:15 64:23 68:8 89:20 96:23 97:14 101:16 125:3,20 128:13 136:16 137:1 139:14 139:16 140:3 140:10 143:5 148:23 156:6 156:22 167:10 171:10 184:13 186:22 adam 3:19 add 22:12 28:5 28:5 52:13 101:12 106:11 167:21 197:24 added 32:3 194:17,18,20 196:4,15 201:12 adding 201:14 addition 106:8 107:4 196:8 206:14 additional 21:3 34:14 48:6 72:12 76:20</p>	<p>77:14 91:2 94:17 113:11 114:8 160:24 172:24 additionally 85:1 192:23 193:10 195:7 additions 88:6 additives 167:25,25 170:6 175:11 196:3 197:25 address 36:25 38:16 45:10 48:19 49:24 53:21 67:1 68:20 78:16 188:2 195:3 198:3,19 addressed 16:9 18:24 40:10 50:24 52:7 90:22 91:6 97:9 197:20 199:24 200:2,4 201:4 addresses 192:19 203:4 addressing 48:2 adequate 199:25 201:15 adhered 57:23 adjourn 208:11</p>
--	--	--	---

[adjourned - allow]

<p>adjourned 208:14</p> <p>adjudication 32:22 59:24</p> <p>adjudicatory 22:20</p> <p>adjust 90:18 91:20 102:7</p> <p>administration 81:22</p> <p>administrative 59:23</p> <p>administrativ... 81:24</p> <p>admission 111:2 117:17 191:10,18 194:5</p> <p>admit 57:15</p> <p>admitted 194:8 196:5</p> <p>admitting 57:11,15,18</p> <p>adopted 45:21 89:19 90:12</p> <p>adopting 90:10</p> <p>adoptions 90:20</p> <p>adopts 81:1</p> <p>advance 18:4 22:10 53:14 70:8,10 79:17 84:23 94:6 101:20 120:23</p>	<p>advanced 190:3</p> <p>advent 114:13</p> <p>adversarial 28:15</p> <p>advice 21:18 87:22 97:25 100:11</p> <p>advise 66:2 71:14 86:4 88:13</p> <p>advised 64:25</p> <p>advising 53:13</p> <p>advocate 201:7 201:8</p> <p>advocating 23:20 200:22</p> <p>affairs 108:20</p> <p>affect 101:6</p> <p>affected 37:25</p> <p>affidavit 24:9</p> <p>affirmative 24:23</p> <p>afternoon 159:22 189:7 189:19 205:14</p> <p>ag 195:20</p> <p>agencies 191:2</p> <p>agency's 75:7</p> <p>agenda 12:7,8 12:24 13:2,19 14:4,21 58:22 66:2</p> <p>agi 105:14 113:8 114:24</p>	<p>115:7,15 119:15 127:6 127:20 129:22 131:16,23 137:20 141:10 141:18,24 144:3,25 167:3 175:19 192:16 193:4 194:1,14 195:20,24 196:5 199:2,9 199:17</p> <p>agis 108:24</p> <p>ago 40:12,17,23 40:24 114:20</p> <p>agrarkin 3:23</p> <p>agree 17:4 22:18 25:18 32:13 33:3 46:3 75:19 80:25 84:3 94:11 177:17 178:8 195:11 203:23</p> <p>agreed 106:13 177:15 185:19 194:24 195:11</p> <p>agreeing 201:12</p> <p>agreement 62:17 195:2</p> <p>agrees 40:7 62:19 84:15</p> <p>ahead 15:15 29:13 51:7</p>	<p>53:19 79:23 80:9 87:1 91:20 105:8 122:21 138:14 199:21</p> <p>aim 133:9</p> <p>aims 133:17</p> <p>air 36:5 114:18</p> <p>airing 48:24</p> <p>aka 170:15</p> <p>alarms 174:10</p> <p>alberta 190:24 191:4</p> <p>albuquerque 5:7</p> <p>align 73:18</p> <p>allay 36:3</p> <p>allegation 19:8 19:19 26:8 33:17 53:21 55:6 57:5</p> <p>allegations 27:17 28:19 32:12 35:8,23 35:24 36:20,21 38:13 40:6 45:3 48:17,22 50:14 52:3,5</p> <p>allege 42:8</p> <p>alleging 39:8 39:16,22</p> <p>alliance 66:12</p> <p>allow 67:25 68:10 72:17 77:16,24 102:6</p>
---	--	--	--

[allow - answered]

<p>118:15 allowable 30:9 137:8 allowed 92:19 allows 42:2 alloy 167:22,22 169:8 182:7 184:2 195:25 alloys 199:21 alludes 82:4 ally 67:11 allyson 6:11 alter 83:11 alternatives 77:23 alters 96:22 ambient 177:24 amenable 99:8 amend 66:13 67:16 76:9 184:4 amended 70:1 83:21 amendment 75:19 101:25 amendments 68:20 76:6 81:15 83:6,24 america 123:20 amicable 99:23 amount 16:12 17:1,12 38:23 39:1 47:14 114:16 146:7 152:19</p>	<p>amounts 17:8 24:11 ample 98:6 99:12 ampomah 7:5 11:13,13 12:22 13:1,10 14:6 14:17,18 20:14 21:9,15 24:17 24:18 29:14 30:6,24 31:7 31:18,19 32:7 32:14,17 35:14 46:4 51:6,8,15 52:21 53:7,11 56:18,19 57:10 57:13 58:7,12 58:13 62:3,8 85:19 88:22 89:3 92:14 97:3,23 98:5 98:13,17 99:5 103:15,22,23 119:8,9,20 120:6,15,20 121:1,8 144:18 144:19,24 145:10,17,23 147:3,10,19 148:4,7,12 149:1 150:4,11 150:22 151:8 151:14,20 152:16 153:7 154:7,12,15,20</p>	<p>155:3 156:8 157:2,8,12,15 158:6,15 159:8 160:7,15 161:12 162:15 164:8 179:8,9 179:17 180:13 180:21 181:3 181:10,21 182:1,4,11,17 182:25 183:4,9 183:14 184:4,9 184:14 185:6,9 185:14,17 186:2,4,8,15,24 187:5,11,23 188:7,9 198:4 200:14 202:20 202:21 203:11 203:20,24,25 206:3 207:13 207:14 ampomah's 36:3 162:14 analogy 17:5 analysis 25:18 27:11 50:17 127:5 129:23 129:25,25 132:9 139:2 142:2 146:11 150:25 152:8,9 152:12,19 153:3,5 155:21 155:25 157:22</p>	<p>analyzed 28:8 andre 15:14 25:23 26:12 27:17,17 29:22 30:23 40:14,21 43:5,9 45:2,22 andres 26:5 27:1 28:1,4,7 39:8,21 49:11 50:21 64:2,3 andrew 5:13 66:19 80:19 andrews 3:12 angle 21:1 anna 2:15 104:25 106:23 anna.seningen 2:21 annual 112:21 answer 23:21 30:5 52:5,6 59:6 71:1 143:10,11 145:12 146:10 146:20 150:3 150:21 151:17 151:19,19,20 156:19 161:4 161:14 162:3 179:5 181:17 181:18 187:24 188:8 answered 143:21 149:2 162:13 181:16</p>
--	--	--	--

[answers - argument]

<p>answers 160:16</p> <p>anticipate 69:14 84:25 94:16 113:23 121:6 173:5 205:5</p> <p>anticipated 112:18</p> <p>anulus 173:24</p> <p>anybody 74:12 206:1</p> <p>anymore 31:18</p> <p>anytime 78:8</p> <p>apd 176:1</p> <p>apodaca 7:9 12:13,17 205:22 206:11 206:17 207:23</p> <p>apologize 15:6 71:4 80:16 95:6 99:17 143:8 149:17 162:5</p> <p>apparent 21:20</p> <p>appeal 204:23</p> <p>appeals 204:24 205:6</p> <p>appear 86:23 86:24,24</p> <p>appearing 14:11 25:14 33:12 88:21</p> <p>appears 20:9</p> <p>apple 91:11,14</p>	<p>applicant 67:12 90:11,16 91:12 92:15,16 95:8 95:9,14 96:5 99:6</p> <p>applicant's 73:22</p> <p>applicants 83:24 84:18 85:2 92:3,7 96:19</p> <p>application 10:5 15:12 43:6 66:8 74:10 95:15,16 97:8 104:15 106:14 107:12 110:11,19 111:3 159:25 178:19 184:5 184:13 192:11 192:13,14 193:3 196:22 201:19 202:22 203:5,15 204:3</p> <p>applications 65:14</p> <p>applies 65:21 192:6</p> <p>apply 47:20 132:17 143:18 178:13 192:3</p> <p>applying 76:14 119:16 138:3</p>	<p>appointing 70:4</p> <p>appreciate 29:8 57:9 69:1 75:13 85:17 150:22 181:21 185:18</p> <p>appreciated 204:14</p> <p>approach 74:22 202:25</p> <p>approached 74:4 92:2,15</p> <p>appropriate 20:7 62:13 66:23 77:16 83:13 85:11 101:5 127:6 141:16 176:21 196:13</p> <p>approval 10:12 100:17 107:6,8 193:8,16 194:2 195:19,21 196:5</p> <p>approvals 41:17</p> <p>approve 13:8 14:15,19 58:18 103:1,21,24 201:18 203:11 203:14,25 204:2</p> <p>approved 14:18 41:4,8</p>	<p>41:11 42:1,1 58:13 103:23 106:16 133:8 192:5 196:5</p> <p>approximately 24:25 105:22 106:2 126:23 129:2 178:3</p> <p>april 69:13,24 70:8,8,10 78:6 78:7,8,20 81:15 82:10,11 82:12 83:10 87:16 88:16 98:6 99:7,12</p> <p>arc 191:4</p> <p>area 26:17 44:7 87:5 112:13 113:12,22 121:7 125:25 126:1,8 127:14 129:1,10,15 131:5 136:7 139:18 143:6 149:16 150:10 158:11,12,14 162:7,9 175:23 192:19</p> <p>areas 28:4</p> <p>argue 33:15 50:15 102:4 163:6</p> <p>argued 16:23</p> <p>argument 17:5 17:14 18:14</p>
---	---	--	---

[argument - back]

<p>24:7 33:1 35:8 37:2 49:6 50:2 52:24 88:15 argumentative 50:10 arguments 36:11 83:18 97:4 arises 74:1 arm 172:3 art 95:22 article 82:17 articulates 84:13 asked 27:9 29:20 53:24,24 61:16 95:3 96:14 158:20 158:24 159:5 160:8,15 asking 45:23 47:12 50:5 133:5 145:8 149:10,17 asks 83:8 aspects 76:11 190:7 asserting 16:20 assess 18:2 assessing 91:9 assigning 30:15 associated 73:5 association 4:11 5:11 6:2 69:5 72:1 74:8</p>	<p>80:21 assume 32:25 135:20,21 assuming 82:19 153:19 assumption 30:18 47:10 assumptions 149:23 150:1 assurance 67:18 76:21 77:1 199:25 assurances 68:1,9 atencio 204:22 atmosphere 114:22 atoka 186:20 attach 37:3 attached 10:6 111:4 116:3 167:1 168:9,10 173:9,18 186:7 186:9 attack 36:25 attained 154:19 attempted 39:2 40:4 attendant 68:21 attendees 7:2 attention 118:10 attorney 57:4 95:18 209:14</p>	<p>210:10 attorneys 87:5 audio 209:8 210:3 august 1:11 11:3 69:19 94:7 209:16 210:13 authorities 39:16 authority 15:13 27:6 76:15 81:11 82:1 83:18,20 84:1 99:18,20 authorization 104:16 105:11 160:1 authorized 47:14 83:23,25 115:14 availability 78:9 available 31:11 68:8 77:3 117:25 125:24 131:13,14 146:18 147:4 149:22 153:13 188:1 196:17 avenue 4:14,23 6:5,16 average 43:13 44:16 47:22 54:5</p>	<p>averaged 44:15 136:11 157:13 avoid 73:19 79:13 146:12 aware 21:6 34:5 41:16 42:3 59:18 89:9,10 93:1 94:4 199:10 awesome 12:2 12:23 25:11 71:21 160:4,9 164:15 187:19 axis 46:16 azimuth 139:20</p>
			b
			<p>b 10:1,7 70:15 111:16 117:17 117:21 baby 18:7 bachelor 190:23 bachelor's 123:17 back 23:8 35:4 36:9 40:17 43:21 46:5 47:2 48:8 64:11 75:24 91:6 96:24 116:12,13 119:21 132:19 147:19,24 150:11 153:25 159:1,18</p>

[back - big]

<p>160:10 164:9 171:14,15 175:17 179:1 187:25 188:6 189:2 203:2 backdoor 33:10 backed 52:10 background 123:16 166:3 190:21 backing 81:21 backlog 41:17 bad 27:16 baked 96:15 baker 5:5 balance 27:9 balanced 47:13 balances 192:25 ball 83:2 banks 25:23 29:22 31:1 43:5,9 44:19 45:5 46:12,18 48:5 barely 67:8 barnett 127:2 128:22 130:13 134:9 152:23 barrel 44:18 45:5,17 barrels 26:13 27:23 30:3,4 42:9 43:8,12</p>	<p>44:13,15,22 45:7 47:19 54:6 base 186:16,17 based 21:10 26:9 30:19 42:12 50:11 51:22 53:9 72:14 81:14 109:12 124:6 125:23 126:2,2 127:5 129:10 129:10,23,25 130:18,18 132:9 136:18 137:5 141:13 142:2 149:8 153:3,5 155:20 166:13 171:9 186:21 187:3 201:8 203:12 basement 42:15,20 bases 80:22 basically 17:7 18:4 112:24 126:6,14 128:6 129:14 130:6 130:10,25 135:4 136:1 168:15 171:17 180:11 basin 69:5 125:21,22,23</p>	<p>basins 16:2 basis 28:21 43:13 batch 43:22,24 44:1 batches 43:20 bear 67:24 73:7 bearing 55:10 beasley 6:11,18 67:10,11 71:4 71:8,10 84:12 92:21 99:7 101:8,13 104:2 beatty 4:13 6:4 71:24 beck 5:4 65:9 65:10,21,23 becoming 43:15 68:16 beg 208:3 beginning 69:13 207:1,22 behalf 2:2,11 3:2,10,18 4:2 4:10,19 5:2,11 6:2,10 65:10 72:6 79:2 104:23 behavior 133:17 believe 11:15 12:4 56:23 61:14 81:5 83:23 84:7 92:4 94:8 97:4</p>	<p>102:18 104:9 104:18 116:3 117:18 131:11 143:4 150:9,9 151:16,17 154:17 155:24 156:3 157:11 157:11 160:17 161:23 162:11 174:24 180:14 180:16 182:11 187:7 204:16 205:18 believes 81:22 83:17 bell 199:13 beneficial 68:17 95:15,15 95:19,25,25 benefit 96:21 benefits 114:11 115:14 best 96:16 118:23 193:24 209:10 210:6 better 12:19 16:11 18:25 57:20 74:19 90:3,5 101:18 122:15,16 130:4 143:21 182:8 183:23 beyond 114:20 big 39:1 44:5 79:20 163:15</p>
--	---	--	--

<p>172:15 bil 77:3 bill 81:20,24 82:5 83:5,6,7 83:11 billion 72:4 bills 82:13 biocide 196:2 biocides 167:25 bit 36:6 43:2 112:14 114:20 124:19 131:24 137:13 138:2 139:6 151:9 184:15 bite 91:11,12 91:13 bites 91:14 blazing 15:5 blend 175:8 blocks 128:2 bloom 7:7 11:15,17,17,21 11:25 12:1,3 12:25 13:7,16 13:18,22 14:5 14:14,15 15:1 15:4 18:17,20 19:5,11 20:1 22:25 23:2 24:20,22,24 25:5,8 31:14 31:16 35:15,16 51:7,9 54:19 54:22 55:16,24</p>	<p>56:11,15,16 58:14,15 60:8 60:10,13,15 61:13,22 100:25 101:3 102:13,14,18 102:25 103:16 103:20,21 121:10,12 160:5,7 187:14 187:17 202:2,3 202:19 203:8 203:10,19 204:1,2 207:5 207:6,9,11 208:1,4,8 blue 46:11 bluntly 34:21 board 18:2 70:21 75:24 body 85:11 95:24 96:11 bogged 84:23 bond 172:1,5,9 177:18 185:20 185:22,25 186:2 bone 171:2 book 94:21 bop 46:10 bore 158:23 bottle 26:16 bottom 18:10 56:8 73:15 130:11 134:21</p>	<p>135:15 136:21 136:23 137:7,7 142:24 143:2 150:5 167:14 170:11 173:21 173:23 175:3 178:1,2 182:13 183:25,25 193:11 197:19 bound 156:23 boundaries 118:21 128:13 163:13 box 3:5 5:15 196:1 break 66:4,4,5 104:8 143:11 143:12 151:19 159:11,15 160:14 178:22 188:24,25 brief 15:17 104:8 105:7 155:4 briefly 62:25 82:7 86:4 95:2 107:1 109:3 123:15 166:2 brine 135:22 152:23,24,25 153:2,2,15,22 161:13,18,19 161:22 170:20 170:21,23</p>	<p>bring 51:17 100:13 207:8 bringing 55:1 120:23 broad 96:1 broaden 102:11 broadly 73:15 brought 22:22 96:7 brown 114:6 build 125:13 128:15,15 129:7 133:19 135:3 150:19 163:20 199:17 building 1:15 163:22 164:1 buildup 47:6 152:19 built 95:16 120:24 126:1 bull 113:21 burden 38:15 73:5 79:21 burdensome 72:22 business 205:15 207:8 207:25 businesses 73:3 73:3,20 buy 183:12,12 bwenergylaw... 4:16 6:7</p>
--	---	--	--

[c - cement]

c	135:25,25 175:11 189:8 203:22	careful 87:9 carefully 90:25 184:20	casing 167:11 167:11,15,16 168:13 169:5,6 172:13 173:9 173:23 177:15 179:25 181:1 181:24 182:16 183:12,12,18 183:20 197:1
c 2:1 3:1 4:1 5:1 6:1 7:1 10:6,8 11:1 41:1,3,3,5 41:13,25,25 43:6 49:14,16 50:12 52:16 53:22,22 106:5 107:11 110:11 110:16,19,24 111:4 116:17 116:18 117:17 117:21 167:1,2 178:8 184:10 184:12 197:9 197:12	called 80:15 82:21 108:6 122:3 156:21 165:7 175:25 189:13 calling 113:8 canada 190:25 cap 126:22 capable 39:20 39:22 capacity 42:16 108:18 113:12 114:9 123:3 165:17 caprock 126:22 127:1,3,9,10 128:23 129:3 130:20 134:20 155:7,8,11,14 155:16,19 156:4,5,10,15 156:20 157:1 174:17	caribbean 123:20 caring 66:9 carlsbad 113:19 case 1:4 10:3 13:14 15:11 18:1,3 19:15 19:23 20:8 21:5 22:19 28:17 29:19 37:9 48:3 49:10 53:12 55:2,7 64:11 64:12 66:7,7 66:16 77:6 95:24 104:14 104:14 105:11 107:2,12 116:16 133:22 133:23 134:15 146:19 159:24 161:8 163:3,18 163:24 168:1 175:9 189:3 196:17 207:22	caused 16:25 45:7 causing 38:19 38:25 102:2 caution 19:21 84:10 cbl 177:14 197:2,3 cease 17:19 21:12,20 22:5 55:19 57:24 cell 135:7 cells 135:7 cement 169:11 169:12,14,17 169:19,24,25 170:3,4,5,7 172:9 175:1,8 175:10 177:13 177:14,16,16
c.a.r.e. 66:11 cabinet 205:4 cad 183:15 calculate 56:2 139:18 158:3 158:18 calculated 136:18,22 140:10 154:4,6 154:8 161:20 calculation 136:17,20 142:23 198:21 calendar 82:8 caliper 172:3,9 172:20 call 11:8,9 14:10 58:9,10 103:17 131:4,6	capture 100:25 captured 24:4 carbon 123:25 124:1 carbonate 126:9 care 28:20 162:19 163:14	cased 45:24 172:4,9 cases 13:13,14 15:11 27:22 35:11 194:14	

[cement - class]

<p>177:18 178:8 180:5,7 185:20 185:21,22,25 186:2 196:22 196:24 197:5,6 197:8,13,18,23 199:16,19 cementers 175:7 cementing 176:14 center 5:6 6:10 6:15 66:9 77:8 123:5 124:3 central 44:8 175:25 certain 28:20 67:18 135:3 certainly 16:3 16:16 18:10,13 19:20 28:13 31:8 32:16 51:24 63:23 65:23 86:5,19 87:19 98:23 99:2,3 115:16 179:11 206:21 certificate 209:1 210:1 certified 116:23 certify 209:4 210:2 cetera 83:23</p>	<p>chair 11:11 15:16 18:17 19:4 23:11 31:17,20 35:16 51:9 54:22 61:13 62:23 66:1,18,22 71:13,22 75:15 78:25 80:18 85:21 86:3 95:1 97:24 99:24 100:14 101:3 102:18 103:5 104:7 106:22 121:13 187:18,20 191:9 194:4 202:4 203:22 204:16 chair's 58:20 chairman 13:16,24 23:2 25:13 49:2 challenge 51:23 challenges 73:11 123:11 challenging 51:21 63:14 chamber 101:7 chance 74:9 change 78:15 78:16 139:23 159:2 174:2,4 194:12,16</p>	<p>changes 12:9 12:21 13:5 75:20 76:20 80:2 101:24 158:22 194:22 changing 158:21 characterizati... 89:6 characterize 198:14 charge 75:7 chart 46:5 116:23 check 178:22 checks 174:7 cherry 199:13 chew 205:6 chino 1:15 choose 146:11 chose 43:10 151:22 chris 20:14 chris.moander 2:19 christopher 2:13 chrome 182:12 183:2,18,23 184:1 chromium 182:3,6 183:3 circle 124:25 137:21,21 145:19,20</p>	<p>circles 145:19 circulated 169:14,15 circulation 171:20 184:17 circulations 171:1 circumstances 74:2 97:21 cite 37:9 cited 52:4 200:17 citizens 66:9,12 claim 19:15 32:9 39:10 claiming 38:1 39:6 claims 36:13 37:4 38:6 47:25 clarification 58:24 93:16 164:9 clarifications 196:21 197:15 198:2,18 201:9 clarified 150:12 clarify 22:17 119:13 142:12 142:16 clarity 72:12 class 105:18 169:25 170:4 178:8,11</p>
--	---	--	--

[class - commission]

<p>180:14,15,18 180:20,24,25 181:6,13,13,14 192:4 200:18 cleanout 47:2 cleanup 68:2 clear 19:6 30:13 36:5,19 37:8 38:3 52:12 54:14 57:7 72:8,13 76:25 84:6 96:3 150:15 cleared 65:18 clearly 38:3 119:15 clerk 7:9 client 65:4 81:3 89:4 clients 103:13 close 135:5 142:25 145:2 146:5 161:17 163:1 170:10 184:23 187:8 closed 151:10 151:15,22,25 152:1 157:20 157:23 161:4 161:10 163:18 202:15 closely 181:12 closer 42:15 closest 128:1 131:22,22,23</p>	<p>cloutier 5:13 66:18,19 80:13 80:13,14,14,17 80:19 91:25 club 66:13 clustered 132:2 co2 106:9 114:15 115:8 115:10 133:22 139:4 153:13 153:17 156:16 158:21 167:23 187:9 cocounsel 22:15 67:13 codefendants 205:3 cogswell 1:22 209:2,17 collaborate 73:24 81:7 collaboration 74:5 80:25 99:13 collaborative 76:2 81:5 93:13 colleague 71:25 collected 157:3 combine 130:13 combined 81:23 come 22:8 30:10 34:1</p>	<p>35:5 50:7,18 62:16 96:20,23 101:15,22 102:9 150:2,2 152:6 154:16 157:22 159:1 162:8 175:8 181:6 187:25 188:6 comes 20:13 22:6 34:11 89:15 128:7 146:19 155:23 156:2 coming 13:14 28:11,16 51:2 55:1 69:21 73:23 120:8 129:24 146:15 153:25 180:16 184:21 206:5 commencing 115:18 comment 77:11 78:3 80:5 85:10 86:1 87:3,6 94:5,9 203:9 comments 77:11 79:4 80:24 81:1,13 81:16,18 84:3 84:17 85:9,13 92:2,10</p>	<p>commission 1:2 2:3 7:6,7 11:4 11:11 13:25 15:17,17 16:14 17:16 18:2,14 21:16,23 22:15 22:22 23:12,13 23:17 24:6,14 25:14 27:5,6 32:18 34:16,21 36:16 37:7,8 38:2,3 41:15 48:16,21 50:25 51:2 52:22 53:2,6,18 55:1 55:11,17,22 56:4 59:2,7,17 60:22 61:14,19 61:23,24 63:4 63:6,11 64:21 66:23,25 67:1 67:25 69:12,15 69:22,23 70:3 70:15,20,24 71:14,16 72:16 72:25 73:14 77:16,22 78:25 80:10,19 81:7 81:10 82:22 83:25 84:20,23 85:4,10,14 86:3,4,5,16 87:15 88:8,10 88:17,20,20,24 89:16,22 90:1</p>
---	---	--	---

[commission - concluded]

<p>90:14,25 91:5 91:9 96:14,19 96:25 97:25 98:18 99:9,14 100:20 109:1 118:1 120:7 123:13 133:8 142:16 143:9 149:12 152:1 165:25 188:4 190:12,16,22 193:19 194:13 195:17 196:6 201:18 202:10 202:16 203:13 203:14 commission's 37:5,22 39:16 62:15 65:15 82:1 83:18 98:24 184:8 187:24 commissioner 7:5,7 11:17,20 11:25 14:13,16 15:1,4 19:5 20:1 21:15 22:25 24:20,22 29:12 31:14 32:17 35:15 51:7 52:21 54:19 55:16,24 56:11,15 57:13 58:14 60:8 61:22 89:3</p>	<p>91:25 92:21 98:17 100:25 101:2 102:13 102:25 103:19 121:10 160:5 181:10 187:14 187:23 202:1 202:19,20 203:8 207:5,9 commissioners 18:12 24:16 35:13,20 48:14 49:1 62:5 65:9 71:23 88:12 93:15 102:15 105:6 106:23 111:1 117:16 144:18 179:7 200:12 202:13 206:22 commit 57:22 commitments 97:19 common 46:22 69:9 93:6 commonly 43:18 communication 48:18 communities 68:13 companies 55:12 72:3 73:6 92:17 166:8 191:1</p>	<p>company 5:2 37:9 65:10 compared 141:4 144:1 162:10 199:1 comparison 155:13 198:19 complaint 42:7 42:7 complaints 63:12 complete 44:2 65:25 115:17 193:14,15 195:9 completed 48:8 completely 85:8 135:22 completes 193:7 completing 43:19 completion 41:2,17 43:17 166:16 195:6 196:16 compliance 45:14 60:5 67:17 73:8,10 108:24 194:25 comply 61:25 115:21 132:22 195:12 component 191:5</p>	<p>comports 106:15 composition 133:20 compressive 175:16 compressor 120:11 concept 86:7 concern 16:14 17:7 32:10,15 32:16 42:18 87:18 89:12 99:17 132:7 153:4 192:20 195:3 concerned 22:15 28:10 62:1 87:17 96:6 163:8 concerning 25:17 34:6 40:7 83:16 163:14 concerns 36:3 42:14 45:10 61:10 97:9 101:17 103:2 109:15 129:20 193:2 199:6 200:2,17,20,22 201:3 203:5,6 concise 70:13 concluded 208:15</p>
---	--	--	---

[conclusion - contingency]

<p>conclusion 30:10 117:4</p> <p>conclusions 59:17,21 60:20 176:11</p> <p>conclusory 56:4</p> <p>concocting 60:20</p> <p>concrete 200:18</p> <p>concur 157:17 158:25 159:12 203:10</p> <p>condition 193:8 196:5</p> <p>conditions 10:12 106:12 106:14 107:5 107:10 115:25 116:7,10,11 168:7 173:12 193:16,17 194:1,24 195:12,12,16 195:18,20 199:23 200:3 200:23 201:20 203:15</p> <p>conductive 75:6</p> <p>conduct 33:22</p> <p>conducting 34:20</p> <p>conductor 168:14,15</p>	<p>confer 62:13 89:3</p> <p>conferring 22:14</p> <p>confident 26:24</p> <p>confined 26:17</p> <p>confines 19:9 33:18</p> <p>confining 126:14,21 127:18 128:10 130:9,10,15 134:8,20</p> <p>confirm 157:11 158:13 174:15 184:11</p> <p>conflated 96:12</p> <p>conflating 96:3</p> <p>confused 96:12</p> <p>confusion 57:7</p> <p>connections 169:9</p> <p>consensus 61:7 61:19 87:13,14 87:17</p> <p>consequences 37:25</p> <p>conservation 1:2 2:2,11,16 7:3,5,7 11:4,6 11:11 66:9 68:24 69:21 75:17 76:23 105:1 190:12</p>	<p>conserve 107:13</p> <p>consider 77:17 131:4 164:4 199:20</p> <p>consideration 16:15 135:14 140:16</p> <p>considered 79:16</p> <p>considering 70:25 84:5 85:12 159:11</p> <p>considers 85:15</p> <p>consists 72:2 126:12,16</p> <p>consolidate 206:15</p> <p>consolidated 15:11 64:16</p> <p>constitute 134:20</p> <p>constitutes 127:10 130:20</p> <p>constitution 82:18</p> <p>constitutional 82:17</p> <p>constraint 62:1</p> <p>constraints 72:18 98:21</p> <p>constructed 194:21 195:24</p> <p>construction 150:14 165:23</p>	<p>195:8</p> <p>constructively 97:15</p> <p>construed 33:6</p> <p>consult 64:25</p> <p>consultant 165:19,21</p> <p>consultation 74:7</p> <p>consulted 68:23</p> <p>consulting 166:12</p> <p>cont'd 3:1 4:1 5:1 6:1 7:1 9:1</p> <p>contain 83:16 153:13 176:13</p> <p>contained 141:21</p> <p>contains 83:8 196:2</p> <p>contemplated 70:14</p> <p>contend 83:24</p> <p>contends 84:16</p> <p>content 94:1 110:24</p> <p>contents 96:22 107:11</p> <p>context 36:5,15 43:3 45:17 95:22 96:1</p> <p>contingency 115:17,21</p>
---	---	---	---

[continue - course]

<p>continue 47:20 48:16 93:5,5 94:15 112:22 continued 22:7 continuing 16:1 69:7,13 continuous 40:9 continuously 47:11 contours 35:11 control 70:20 105:18 115:4 123:22 174:8,9 184:16,17 190:1,4 191:8 191:20 192:4 convenience 83:13 conversations 69:7 conversion 114:19 converted 161:1 convinced 143:18 178:13 convoluted 96:12 cool 15:9 cooperative 74:21 coordinate 62:14</p>	<p>copies 110:14 copperhead 105:13,14 112:13 113:8 113:15,20,24 115:15 120:8 125:21 126:8 129:21 131:16 141:18,24 192:10,15 199:9 copy 12:8 71:6 71:7 core 134:14,14 147:18,18 148:23,23 173:2,2,6 188:11 coring 172:25 173:1 174:14 corner 113:10 correct 13:25 14:8 19:3 23:10,12 25:4 28:20,20 40:22 50:17 52:23 57:14 61:11 82:20 107:23 110:13 112:3,4 112:10 116:25 125:14,17 140:9 141:9 151:17,19 152:12 177:2,4 178:11 188:5</p>	<p>198:12 205:21 205:22 correctly 81:13 81:19 correlation 148:15 correlative 37:23 39:4,7 39:11,14 50:21 95:23 106:6 107:14 117:13 132:24 142:3 176:25 192:7 200:1 corresponding 134:24 183:20 corrode 168:3 corrosacem 169:18 corrosion 167:25 169:19 181:23 182:7 183:24 184:2 195:25 196:2 199:15,19,20 cost 67:24 68:6 68:7 72:13 costs 68:2 73:7 couched 21:17 could've 74:4 161:9 counsel 18:15 21:9,24 22:18 23:5,6 24:6 25:16 28:12</p>	<p>32:7 36:11 37:2 38:13 40:19 57:10 58:25 62:12 64:21 67:11 73:22 96:15 202:17 209:11 209:14 210:7 210:10 counselor 201:6 countries 114:21 country 205:17 county 15:14 104:16 105:16 160:1 couple 45:8 144:20 145:4,5 168:23 177:14 177:18 coupled 197:2 197:4 course 13:15 16:13 17:6 18:6 48:19 67:2 69:15 88:20 99:8,11 99:14 114:17 125:24 127:14 128:21,24 129:9 130:3 132:20,23 133:9,20 134:17 135:15</p>
--	--	---	--

[course - deem]

<p>135:18 138:24 139:7 147:14 156:4 162:9 172:19 198:22 202:15 court 124:20 137:14 204:24 204:24 205:6,9 covered 86:25 120:13 126:1 covers 199:12 craft 92:19 93:3 crafting 93:20 create 73:10 91:2 129:20 132:7 creates 68:6,12 95:18 114:16 creation 114:23 197:23 criminal 27:18 35:23 criteria 195:19 critical 76:11 78:12,15 94:13 95:22 114:18 161:20 cross 33:24 61:4 80:6 118:1,6 142:10 160:2 177:10 crystal 83:2 cubic 105:25 114:4 142:19</p>	<p>154:24 163:4 193:6 cumulative 112:21 current 68:10 76:14 77:2,5 78:18 94:5 120:7 currently 17:21 34:6 44:14 67:25 77:21 83:22 96:11 120:11 201:1 curve 127:21 curves 127:22 cut 170:23 cx 8:14 9:2 cyclone 128:3</p>	<p>51:21 54:8 123:21,22 126:3 128:14 131:12,13,14 131:19 147:13 147:16 148:11 149:21,22 151:23 157:4 173:25 186:13 192:19 196:12 198:23 date 54:9 62:4 64:23 69:18,24 69:25 70:8,10 78:7 81:6 82:3 82:12,14,21 83:12 87:16 98:14,16 100:5 101:5 112:18 206:16 207:1 dates 82:8,20 98:2 102:20 dawson 15:14 25:23 26:13 27:18 29:22 30:23 40:14,21 43:5,9 45:2,23 46:17 day 26:14 27:23 30:2,3 42:9 43:8,12 44:16,18 45:17 47:21 50:16 54:6 79:18 82:10,11,15,16</p>	<p>89:25 106:1 114:4 142:20 163:4 193:6 days 43:25 44:1 45:4,8 48:1,6 98:22 de 3:13 deadline 77:17 deadlines 98:2 101:19 deal 17:15 19:14,14 91:17 146:18 184:25 185:2 206:24 dealing 76:16 82:25 89:12 decades 74:19 74:20 december 69:20 decide 53:17 64:20 86:12 180:25 204:25 decided 58:3 59:13 138:13 158:11 182:8 decides 99:9,15 deciding 57:14 decimal 136:22 decision 59:12 63:22 70:18 dedicated 74:16 deem 86:16</p>
	d		
	<p>d 8:1 9:1 11:1 daily 30:25 53:24,25 56:1 105:24 174:3,6 174:7,13 damage 180:6 damages 16:25 dana 4:21 25:15 104:22 182:16 danger 161:21 daniel 2:4 dashed 168:4 data 29:23 38:11 47:16,17 48:10,21 51:21</p>		

[deep - devonian]

<p>deep 87:25 128:2 147:7,7 147:9,12 160:22,22 167:9 196:9</p> <p>deeper 42:15 42:22 160:23</p> <p>deepest 146:24</p> <p>deeply 93:23</p> <p>defendants 205:2,2</p> <p>defer 99:14</p> <p>define 29:16</p> <p>defined 57:24 95:20</p> <p>defines 39:16 126:14</p> <p>defining 29:17</p> <p>definitely 33:2 149:6,20 150:16 152:15 153:21 154:22 156:9,10 158:15 161:9 162:19 164:3,4 164:6 179:9</p> <p>definitions 67:17</p> <p>degradation 170:3 197:23 198:1</p> <p>degree 109:5 123:17 178:5 190:24</p>	<p>degrees 142:25 142:25 143:15 170:10 177:25 178:3,7,7,10 197:11,12,22</p> <p>delaware 125:21 168:20 170:19 171:11 199:7</p> <p>delegate 59:7</p> <p>delegating 61:6</p> <p>deliberate 202:10</p> <p>deliberations 202:14</p> <p>demand 72:11</p> <p>demands 77:2</p> <p>demonstrate 34:4 38:15 39:5</p> <p>demonstrating 112:17</p> <p>demonstration 68:17</p> <p>denial 36:21</p> <p>denied 38:8 48:14 53:15</p> <p>density 172:8 172:21 177:17 197:5,6</p> <p>deny 36:19 97:7</p> <p>department 2:5 189:24 203:16 203:17</p>	<p>depend 179:5</p> <p>dependent 173:11</p> <p>depending 152:21 200:19</p> <p>depends 181:19</p> <p>depositional 126:5</p> <p>depth 96:14 105:22 118:18 177:22 180:10 180:17 193:3 197:8,10</p> <p>derive 127:23</p> <p>derived 115:4 134:13 143:5 148:21,23 149:9 150:7</p> <p>describe 112:15 113:6 113:14 131:15 133:15 135:10 137:17 140:11 172:24</p> <p>described 126:8,9 197:9</p> <p>description 10:2,10 185:3</p> <p>design 112:9 165:22 168:13 169:11,12 170:15 176:14 176:21 185:12 190:9</p>	<p>designed 176:19 192:16 199:18</p> <p>designee 11:14</p> <p>despite 47:3</p> <p>detail 181:16</p> <p>detailed 76:25 202:22</p> <p>details 101:24</p> <p>determination 33:9 177:12</p> <p>determine 154:23 177:14</p> <p>determined 198:22</p> <p>develop 34:15</p> <p>developed 33:25 139:14 148:16</p> <p>developing 92:11</p> <p>development 33:18 89:7 137:21 140:5,6 140:24</p> <p>developments 84:9</p> <p>device 12:14,15</p> <p>devonian 42:15 42:19 49:7,9 49:11,12,12 105:20 118:24 119:12,16,21 126:16,17 128:21 130:24</p>
---	--	--	---

[devonian - dmg]

<p>133:3 141:15 167:4,16,17 171:6,17,18,20 173:7 176:12 179:23 180:5 192:15 199:9 dhardy 4:25 diesel 167:24 difference 97:16 155:15 155:18 198:17 different 48:6 76:10,17 85:8 128:19,19 136:9 140:14 205:3 differently 73:2 difficult 30:18 73:13 137:16 digest 60:23 digital 209:8 210:3 dimensions 135:4,5 dine 66:10 dioxide 114:17 dip 139:20 dips 154:11 dire 8:3,5,7,9 108:12 122:9 165:11 189:17 direct 57:25 70:6,12 81:7 118:10 124:13 132:11 166:21</p>	<p>176:7 188:3 192:1 201:10 directed 88:5 92:1 direction 77:22 163:19 directly 22:21 22:22 36:25 director 7:3 11:5,11 35:19 48:13 75:16 105:3 106:25 disagree 75:25 153:7 disagrees 82:23 discernable 54:1 discerned 54:6 disclosed 40:11 40:14,23 45:2 45:12 48:4 disclosure 40:18 discounting 68:5 discovered 40:13,20 discovery 24:9 26:9,11 28:22 29:20 31:24 32:3,21 33:16 33:22 49:15 52:17,17 discrepancy 199:3</p>	<p>discretion 59:7 99:4 discuss 64:19 92:24 194:22 discussed 76:12 99:13 132:10 171:24,25 176:7 205:16 206:9 discussion 78:5 78:5 discussions 61:15 63:19 65:19 94:2 dismiss 65:14 205:1 dismissed 65:15 disperse 44:6 displace 153:15 displacement 129:13 displaying 138:7 140:4 disposal 42:17 43:18 46:22 49:9,10 179:23 disposing 117:9 dispute 16:21 55:24 disputed 84:2 distance 153:18 distances 138:16</p>	<p>distributed 162:25 district 190:8 205:9 diversion 17:1 17:9 diversions 17:19,20,25 21:21 22:1 divided 125:22 division 2:12 2:16 7:4 11:6 22:23 23:13 27:22 28:10,12 37:7 38:13 40:12,19 41:8 41:9,10,12,18 41:25 42:3,13 42:25 45:21 46:15 48:10 54:16 55:22 64:13 68:24 69:21 72:17 75:17 76:23 78:8 90:1 105:2 107:3,4 107:8 121:15 142:8 201:7,8 division's 107:13 181:14 dizzy 111:14 dmg 118:20,25 119:12,18 168:21,22,23 168:25 169:21</p>
---	--	--	--

[dmg - earlier]

<p>199:11,13,22 200:21 docket 206:18 doctor 11:12 29:9,10 159:15 doctor's 160:3 document 110:7,13 111:20 207:20 doing 30:20 43:22 50:6 51:11 97:18 148:14 domestic 109:8 don 4:14 6:5 dotted 114:7 double 52:25 dr 11:13,13 12:22 13:1,10 14:6,18 20:14 21:9 24:17,18 29:14 30:6,24 31:7,18,19 32:7,14 35:14 46:4 51:6,8,15 53:7,11 56:18 56:19 57:10 58:7,12,13 62:3,8 85:19 88:22 92:14 97:3,23 98:5 98:13 99:5 103:15,22,23 119:8,9,20 120:6,15,20</p>	<p>121:1,8 144:18 144:19,24 145:10,17,23 147:3,10,19 148:4,7,12 149:1 150:4,11 150:22 151:8 151:14,20 152:16 153:7 154:7,12,15,20 155:3 156:8 157:2,8,12,15 158:6,15 159:8 160:7,15 161:12 162:14 162:15 164:8 179:8,9,17 180:13,21 181:3,21 182:1 182:4,11,17,25 183:4,9,14 184:4,9,14 185:6,9,14,17 186:2,4,8,15,24 187:5,11 188:7 188:9 198:4 200:14 202:21 203:11,20,24 203:25 206:3 207:13,14 draft 58:20 76:2 77:7 97:10 drafted 72:10</p>	<p>drafting 94:22 drastic 18:8 73:16 drastically 101:25 drawing 75:24 drawn 96:11 drill 118:16 146:14 151:24 167:17 170:16 170:18,22 171:6,9,11,17 171:20 180:9 188:10 199:11 drilled 41:4 118:24 120:22 125:4,6 145:2 145:4 154:21 179:23 180:14 184:21 187:3 drilling 43:20 43:22 143:23 146:6,13 166:15 170:15 171:12 185:11 185:11 186:25 192:24,25 drills 43:24 44:1 drinking 107:16 133:1 161:22 192:9 200:6 drive 1:16 2:17</p>	<p>driven 85:3 199:3,4 drives 27:20 driving 207:12 drubin 2:8 dts 168:9 due 40:15 195:22 duly 108:6,9 122:3,6 165:7 165:10 189:13 189:16 209:5 duplicative 72:23 duties 205:8 dx 8:14 9:2 dynamic 112:7 132:15 133:13 143:3</p>
e			
<p>e 2:1,1 3:1,1 4:1 4:1 5:1,1 6:1,1 6:13 7:1,1 8:1 9:1 10:1 11:1,1 eagerly 77:5 eales 8:3,15 106:12 107:21 108:2,5,16,17 109:12,24 110:6 111:15 115:24 116:15 117:4,25 119:10 121:20 earlier 70:1 132:20 161:6</p>			

[earlier - ensuring]

<p>174:24 175:18 194:13 195:4 197:1,10 early 40:18 57:1 94:14 118:19 119:25 earthworks 66:11 easier 34:22 east 6:16 105:16 120:1 easy 42:10 83:3 eaton 198:25 eaton's 144:1 198:21,25 199:3 ebner 205:4 echoing 12:11 economically 91:8 economy 73:4 edits 12:10 77:11 education 66:10 109:4 124:7 166:14 educational 123:16 166:3 190:20 effect 17:23 63:24,24 70:1 138:14 effected 117:2 effective 17:18 67:20 72:14</p>	<p>74:4 79:10 80:6 192:17 effectively 91:2 effects 17:12 efficient 117:6 effort 91:23 efforts 40:22 81:24 egregious 26:13 eight 96:9 145:13 either 53:8 77:18 134:13 202:10 el 8:5,18 112:6 121:23,24 122:2,13 123:1 124:6,15 134:25 137:12 141:13 142:7 142:12 160:14 164:17 174:24 electrical 123:17 electronically 11:16 eliminate 114:23 115:2,3 email 41:13 57:4 92:3 emissions 115:11 emnrd.nm.gov 2:19,20,21</p>	<p>empire 3:2,10 4:19 15:12 16:25 22:22 23:4 25:6,7,12 25:16 26:23 29:16 32:15 35:22 36:11,20 40:25 47:7 48:10 51:21 53:21 62:12 63:11 65:13 206:9 empire's 33:7 34:4 employed 108:17 123:2,4 165:16,18 209:11,14 210:8,11 employee 209:13 210:10 employees 85:6 emsu 44:14,17 64:1,4 enable 173:10 enact 81:11 82:1 83:19 84:1 enacted 81:23 81:24 encana 191:3 encompass 103:2 encourage 95:10 96:19,25</p>	<p>endeavor 94:14 ended 166:9 energy 11:14 91:23 96:4 126:9 189:23 191:4 enforce 90:1 enforcement 22:24 34:20,24 35:3 67:17 engage 85:5 91:1 94:15 engaged 41:10 engagement 74:6 76:5,14 78:15 94:11,15 95:11 96:6 engineer 123:8 191:7 engineering 30:7 109:6,14 123:18 165:19 165:20 166:16 190:15,24 191:19 enlarged 120:25 ensue 37:20 ensure 67:23 73:7 90:4 176:19 192:16 193:13 194:25 196:15,25 ensuring 96:6</p>
---	--	---	---

[entered - exceedances]

<p>entered 124:11 166:19 191:13 191:24 entering 85:25 146:22 entertain 102:20 203:14 entire 147:4 163:13 entirely 38:10 42:12 97:7 environment 68:14,21 106:7 107:15 109:8 114:14 117:10 132:25 133:11 142:4 177:3 192:8 200:5 environmental 6:10,15 66:8 70:20 77:8 95:17 96:4 109:6,14 114:11 115:13 environments 126:5 envisioned 120:10 epa 114:18 equally 162:25 ernest 3:3 25:14 ernie 25:23 29:22 31:1 43:5,9 44:19</p>	<p>45:5 46:12 48:5 es 209:4 escape 195:10 especially 26:12 42:14 73:2 84:8 87:16 146:7 152:7 153:25 163:24 181:9 197:3,18 202:24 esquire 2:4,13 2:14,15 3:3,11 3:19 4:3,12,21 5:4,13 6:3,11 6:12,13,14 essential 89:18 essentially 33:10 55:1 63:10,12,16 84:19 145:18 147:3 203:5 establish 30:3 72:13 estimate 121:2 estimated 68:6 142:24 estimations 188:10 et 83:23 evaluate 20:13 35:2 192:4 evaluating 199:9</p>	<p>evaluation 141:14 evd 10:2,10 evening 49:19 81:14 event 84:8,9 131:22 events 132:2 194:19 everybody 12:8 40:7 91:22 97:19 104:12 202:6 208:14 everybody's 90:18 159:17 evidence 16:19 17:8 19:22 20:2,12,20 21:11,14 22:6 23:9 26:1,2,10 26:10 27:13 28:22 29:18 31:23 32:9 33:25 34:3,16 35:1,11 36:12 36:23,25 37:3 37:14,17 38:7 38:11 47:24 50:6 52:14 53:5 57:16 70:16 111:10 117:22 191:16 194:10 evidentiary 38:4</p>	<p>exact 65:13 89:4 198:14 exactly 21:17 24:10 54:9 101:14 exam 160:2 examination 61:4 79:10 80:6 108:12 118:1,6 122:9 124:13 142:10 160:12 165:11 166:21 177:10 189:17 192:1 examine 20:3 33:23,24 124:22 examined 108:8 122:5 140:23 165:9 189:15 examiner 59:1 59:4,9 62:15 63:20 examiners 60:19 example 26:8 95:14 exceed 27:21 30:25 31:3 143:15 195:20 exceedance 45:8 exceedances 48:11 56:2,2</p>
---	--	--	--

[exceeded - family]

<p>exceeded 45:5 48:1 exceeding 16:12 exceeds 197:11 excellent 13:2,9 14:7,20,23 15:15 25:3 35:17 56:17 65:6,24 66:16 66:20 67:5 71:3 78:21 104:20 105:4 107:17 109:18 164:11 188:14 188:23 189:10 202:1 204:15 205:23 207:24 except 139:6 148:17 177:15 exception 89:5 excessive 27:4 exchange 94:17 excuse 143:19 164:18 195:14 excused 121:18 121:19 164:20 executive 205:3 exempted 197:4 exhibit 10:5,7,8 10:12,13 107:10 110:8,9 111:3,9,16 116:3,5,17,18</p>	<p>117:21,21 118:9 190:19 191:10,14 193:9,17,18,19 193:20,22,25 194:5,9,12,16 194:18 195:14 195:18 196:7,8 200:23 201:1 201:15 203:16 exhibits 35:6 36:12 70:6 79:15,15,17,19 79:22 80:7 105:20 106:5 107:5 109:22 110:4,12 116:14 117:17 142:15 201:23 exist 52:18 existing 50:22 76:15,18 120:4 160:20,21 exists 39:22 113:18 expect 60:21 112:21 120:12 121:6 expectation 114:1 expectations 90:19 expected 177:21</p>	<p>expecting 114:3 expects 195:3 expedited 15:18 16:4,8 16:11,16,20 18:5 expensive 73:9 experience 98:1 109:4,7 124:7 166:14 185:4 190:21 experiences 43:17 expert 84:5,6 109:14 124:8 166:15 190:14 191:19 197:9 expertise 74:15 expired 125:5 176:2 explain 43:2 45:16 106:13 124:17 125:19 126:4 127:11 128:16 129:5 134:25 138:11 143:8 166:24 167:6 explained 24:4 40:21 exploration 191:1 explore 55:3 129:8</p>	<p>extension 23:16 extent 21:25 50:8 59:8 96:11 98:3 137:25 138:8 extra 71:7 extract 71:12 eye 154:2</p> <hr/> <p style="text-align: center;">f</p> <hr/> <p>face 90:20 faced 96:9 faces 90:14,15 90:16 facilitate 67:21 106:9 facility 120:8 120:10,10 facing 97:16 fact 36:2 40:11 42:9 44:13 64:14 154:21 167:3 196:9 facts 24:8 fahrenheit 142:25 143:1 143:15 178:10 failed 52:16 89:10 failure 81:23 fairly 18:15 24:3 33:5 fall 68:1 70:24 fallout 91:17 family 166:7</p>
--	---	---	---

[far - fist]

<p>far 12:11 21:6 28:10 46:18 94:21 119:22 174:6 fault 138:10 139:1,2,11,13 139:13,18,23 139:25 140:2,7 140:19,21 141:1,3,8 144:5 150:25 151:2,9 152:9 152:12,18,22 153:8,10,11,15 157:19,20,23 157:24 163:17 163:18,23 faults 129:6,9 129:12,20 130:5 138:13 138:17,21,25 139:9,20 140:3 140:14,16 141:11 150:24 151:3,10,11,16 151:18 152:5 152:17,21 161:3,6,7,11,14 161:17 163:16 192:21 favor 17:2 58:17 fe 1:17 2:7,18 3:6,14,22 4:6 4:15,24 6:6,17</p>	<p>71:24 feasibly 39:13 federal 128:3 feedback 77:10 77:15 122:19 feel 89:16 98:25 99:12 155:17 163:10 196:21 197:16 feet 14:24 49:10 105:22 105:23,25 126:19,24,24 127:4,16,19 129:3,3 130:14 134:7 135:8,8 142:19 154:24 163:4 168:16 168:19,24 169:3 173:20 177:22 178:6 feldewert 4:3 78:23,24 79:1 80:11 feldewert's 84:3 fiber 168:5,8 173:8,8,13,18 173:20 185:23 186:4,14 193:12 195:7 field 43:19 95:22 114:25 190:15 191:19</p>	<p>fight 57:1 figure 29:25 32:11 133:4 file 36:12 50:9 70:5 79:22 80:8 filed 35:22 36:6 36:7 43:6 54:16 63:11 65:13 69:25 75:2 79:17 80:9 81:13 87:1,1 92:5,8 92:12 176:2 filing 69:3,6 77:25 79:4 81:4,8,17 83:15 93:3,8 94:6 95:10 filings 20:22 34:5,7 64:11 87:10 100:6 filling 180:7 final 33:9 86:9 97:10 98:11 finalized 34:7 finally 26:11 60:24 73:21 84:12 financial 67:18 68:1,9,14,21 73:5 76:21 77:1 financially 209:15 210:11</p>	<p>find 24:2 27:12 28:13,19 56:6 69:9 93:6 128:2 131:21 138:1 172:1,3 172:5,6 175:20 182:10 finding 60:20 84:1 findings 53:17 59:17,21 132:7 fine 25:1 62:21 143:24 finish 159:16 160:3 finished 160:2 189:4 fired 176:2 firm 3:4 80:20 first 5:6 13:14 15:10 18:23 19:16 25:17 29:23,24 33:13 43:23 52:15,18 61:1 79:11 80:23 93:16 107:20 108:6 112:12 114:4 120:17,19 122:3 145:19 145:20 160:17 165:7 180:1 189:13 fist 57:1</p>
--	--	---	--

[fit - fund]

<p>fit 72:11 88:8</p> <p>five 24:25 43:25 44:1 47:18 109:9 127:22 137:23 138:23 147:22 147:23 148:11 154:1 162:7 163:12 164:3 166:6,11,11 168:24 208:1,4 208:7</p> <p>fixing 48:8</p> <p>flag 63:6,10</p> <p>flared 114:16</p> <p>flaring 114:23 115:1,3,3</p> <p>fleshing 20:12</p> <p>flexibility 72:12,16,18</p> <p>flour 197:25</p> <p>flow 43:21 163:19</p> <p>flowback 44:4</p> <p>flows 20:3 44:7 44:9</p> <p>fluid 167:24 170:15 196:1</p> <p>fluids 185:12</p> <p>fmi 172:14,21</p> <p>focus 95:9</p> <p>focusing 33:7</p> <p>folks 88:15</p> <p>follow 20:14 21:10 29:15</p>	<p>92:14</p> <p>following 104:3 119:10</p> <p>follows 108:8 122:5 165:9 189:15</p> <p>foot 114:4 120:3 144:9 154:11 168:14 168:24 173:2 183:24,25 193:6</p> <p>footages 105:19</p> <p>footprint 153:17</p> <p>force 73:6 181:1</p> <p>forearm 172:9</p> <p>foreclosing 93:14</p> <p>forego 207:7</p> <p>foregoing 209:3,4 210:4</p> <p>foresee 120:18</p> <p>forget 111:2</p> <p>form 58:25 77:4,12,12 83:5 100:9,20 107:12 201:20</p> <p>formal 64:8 65:4</p> <p>formally 14:1,2 64:16</p> <p>formation 26:6 26:20,20 30:8</p>	<p>31:6 134:22,23 136:24 138:8 147:7 156:24 172:14 173:11 176:12 180:6,6 192:15 198:14</p> <p>formations 42:22 105:22 114:22 130:25 138:9 141:16</p> <p>formula 144:2 198:21</p> <p>formulating 75:4</p> <p>forth 95:11</p> <p>forum 33:25</p> <p>forward 18:16 69:6,19 77:7 82:22 85:13 99:10 104:3</p> <p>found 40:21 161:21 170:8,9 170:11 179:23 179:24</p> <p>four 30:2 42:11 43:25 44:1,13 44:16 140:13 140:13 172:3</p> <p>fox 6:14,21 67:13</p> <p>fracture 30:7 30:17,20 31:5 31:5 136:24 144:1,2,5,6,7,7 154:3,5 198:19</p>	<p>198:22,25 199:3,4</p> <p>fractured 128:5 155:25</p> <p>fracturing 27:25 28:3 172:18</p> <p>framing 16:23</p> <p>francis 1:16 2:17</p> <p>frankly 78:7</p> <p>freely 131:13</p> <p>fresh 170:17 171:18</p> <p>friends 85:6</p> <p>frivolity 50:9</p> <p>front 64:8 89:22 97:13 100:4 109:24 140:5 161:17</p> <p>full 17:24 21:25 22:11 48:19,23 70:6,9,12,16 108:14 122:11 122:23,25 165:13 180:7</p> <p>fully 33:14 34:10 35:10 80:25 93:11</p> <p>fulsome 70:17</p> <p>functioned 74:19</p> <p>fund 66:10 77:3</p>
---	---	---	---

[fundamentally - go]

<p>fundamentally 54:25</p> <p>funds 68:9 77:3</p> <p>furnish 63:21</p> <p>further 18:4 48:11 58:2 69:10 75:10 93:14 103:25 104:5 117:25 119:1 121:14 142:7 144:12 164:16 168:11 188:16,21 202:9 203:9 204:5 209:13 210:9</p> <p>fusselman 105:21 126:19 127:17 128:21 130:25 141:16 173:7</p> <p>future 35:3 66:9 102:22 120:18 169:21</p>	<p>game 85:5</p> <p>gamma 127:21 147:23 148:10 148:14 149:4 172:8,9,20</p> <p>gap 68:6</p> <p>gaps 68:20</p> <p>gas 4:11 6:2 38:21,24 39:6 39:12 68:7 72:1 73:2 74:8 74:18 75:8 76:6 83:12 95:19,21 96:1 105:12,13 106:16 107:14 109:7 112:19 112:20,25 113:11 114:15 114:25,25 115:5 117:5 120:7,23 125:10,10 145:13,25 146:7,15 163:4 165:23 171:8 171:15 176:13 184:21 191:20 192:10,15 195:23</p> <p>gaspar 4:14 6:5</p> <p>gathering 113:15,18,23</p> <p>gauge 186:10 186:12</p>	<p>gauged 193:11</p> <p>gebremichael 8:9 9:3 10:13 107:4,7 188:1 189:9,12,21 191:18 200:9</p> <p>general 36:21 75:18</p> <p>generally 19:18 34:18 42:19 43:13 63:25 72:22 113:6</p> <p>generate 73:3</p> <p>gentleman 197:19</p> <p>geologic 130:16</p> <p>geological 124:22 125:23 150:15,19 160:19</p> <p>geology 112:7 124:16 126:2</p> <p>geophones 131:8</p> <p>geophysical 141:14</p> <p>geophysics 124:8</p> <p>george 8:5,18 121:22 122:2 122:13,25 173:4</p> <p>gerasimos 1:10 7:3 11:5,10</p>	<p>gerry 11:10</p> <p>getting 14:23 43:21 44:3,3,4 88:14 186:18</p> <p>give 54:19 69:5 100:21 101:19 101:19 118:3 150:3 151:16 151:18 154:1 204:21</p> <p>given 19:15 47:15 77:14 83:7 93:9 99:10 101:13 179:18 200:2</p> <p>gives 98:21 173:21,22</p> <p>giving 98:19</p> <p>glad 101:10 185:15</p> <p>gleaned 15:21</p> <p>glitch 60:1</p> <p>global 123:25</p> <p>go 11:10 12:20 15:15 17:22 26:18,22 29:13 30:15 41:6 45:12 50:1,15 51:7,13 53:19 60:16,17 64:10 67:9,10 69:16 71:17 86:14 96:13,14 102:10 104:11 105:8 108:16</p>
g			
<p>g 3:19 11:1</p> <p>g3 167:21 169:10 182:8 182:10,12 183:8,9,20</p> <p>gained 24:13 32:21</p> <p>gaining 34:22</p> <p>galisteo 2:6</p>			

[go - group]

<p>109:23 110:16 111:12 116:12 116:13,14,15 119:21 122:21 138:14 144:22 147:11,24 149:3,7 150:11 150:23 157:5 160:16 161:8 161:10 162:22 164:9 168:10 172:19 175:17 179:1 181:9 182:15 183:7 188:11,19 199:21 202:15 203:2 goal 27:7 godot 87:23 goes 36:15 61:1 94:21 147:7 154:20 157:8 174:7 193:13 going 11:16 20:11 22:23 26:4,18,19 27:24 28:2,6,6 36:13 37:16 38:5,18 43:1 45:9 48:15 50:6 54:12 57:2 59:3,20 59:25 60:25 62:5 63:8 71:20 75:24</p>	<p>77:7 78:19 79:7,8 80:1,8 80:23 82:7,22 83:10 90:6,18 91:14,16 92:8 96:22 99:16 106:25 116:2 119:11,21 132:19 133:24 146:6 152:22 153:14,14,21 154:21,22 156:7,16 159:2 159:8,14 161:21 163:7 163:11,19,20 163:25 168:5 169:7,24 170:5 170:18 171:6 172:1,20 180:24 181:6 183:5,7,8,20 184:25 185:3 185:20 197:22 205:24 206:5 208:13 good 11:2 12:3 13:8 21:17 60:14 67:10 71:22 72:13 78:24 80:18 84:10,16 105:5 106:22 118:2 119:24 127:10 130:20,20</p>	<p>134:20 152:9 155:1 156:10 159:22 176:14 176:14,15 189:7,19 goodnight 3:18 21:12 23:4 24:11 25:15 26:11 29:9 35:18 36:19 38:20 40:8,11 40:18,24 41:10 43:6,17,23 45:12,14,18,20 46:23 48:2,7 48:10 51:5 52:16 63:13 64:12 206:10 goodnight's 44:6 47:12 governing 67:17 governor 82:11 83:11 87:25 99:18 graciously 92:9 gradient 31:5 136:19,22 144:1,2,6,7,8 158:16,17 178:4 198:19 198:22,25 199:4,5 gradients 27:24</p>	<p>graduated 166:4 granted 37:16 69:9 93:10 204:4,23 granting 17:2 graph 52:10 127:19 132:3 137:3,5 graphs 137:2 147:24 grass 57:16 gray 87:5 grayburg 26:19 28:1,5 great 23:24 66:16 104:20 173:24 177:9 203:6 205:10 greater 74:5 125:22 178:9 green 137:3 168:4 greg 7:7 24:18 grids 72:19 grisham 87:25 gross 37:24 ground 69:9 78:18 93:7 133:6 grounds 63:5 81:10 group 40:19 170:20 189:24 190:4 191:8</p>
--	--	---	---

[group - hearing]

<p>193:23 199:7 growing 112:22 113:1,25 120:12 growth 75:6 112:18,19,21 113:22 114:2,6 121:6 guadalupe 3:21 4:5 guarantee 83:10 156:14 guarantees 156:6 guess 18:20,25 24:1 55:6 79:4 82:11 89:4 102:16 201:18 guidance 37:6 37:8 gulf 123:20 gun 81:6 guys 156:17 208:2</p>	<p>145:21 167:10 167:14 175:23 halliburton 166:5,6 170:5 175:7,9 hand 108:3 121:25 165:4 handle 18:6 61:20 151:1,3 handled 18:24 handling 202:23 hanson 5:5 happen 101:6 102:7 happened 36:6 131:20 happening 32:10,16 70:23 happens 101:5 207:16 happy 71:1 202:23 hard 29:25 71:6 172:3,6 hardy 4:21 8:4 8:6,8,11,16,19 8:22 25:16 52:12 104:18 104:21,22,22 105:6,9,10 107:19,20 108:10,11,13 109:12,19,21 111:1,8,11</p>	<p>117:16,24 119:5,6 121:21 122:7,8,10,17 122:18,21,22 124:6,12,14 142:6 144:13 144:14,23 147:25 148:6 159:20 160:10 160:11,13 162:11 164:16 164:25 165:1 165:12 166:13 166:20,22 177:6 182:21 182:24 184:7 184:10 188:15 188:16,20,21 191:12,23 194:7 200:10 200:11 202:11 204:7 hardy's 52:23 harm 37:16,17 37:19 106:6 132:25 177:3 200:1 harming 39:4 harmonize 95:8 hart 3:20 4:4 79:1 harwood 15:24 15:24 59:16 61:6,10</p>	<p>hash 96:10 hb 89:9 head 123:9 134:6 135:16 136:17 137:3 174:10 heads 174:7 health 37:24 68:21 106:7 107:15 109:9 117:9 142:4 177:3 192:7 200:5 hear 11:21 18:14,22 23:3 23:25 24:6,16 24:19,19,21 25:2 43:11 60:6,9 71:14 71:16 88:3,17 101:10 207:21 heard 24:11 35:21 48:15 52:18 55:2,4,5 55:9 62:25 73:21 86:5 95:1 98:8 101:10 206:20 206:24 hearing 10:5,7 15:23,24 16:5 17:13,14,25 18:1 20:4,12 20:24 22:9 23:13,15,16</p>
h			
<p>h 4:3 10:1 169:25 170:4 178:11 197:14 200:18 h2s 114:15 115:17,20 133:23 167:23 169:19 half 96:15 124:25 125:2</p>			

[hearing - hydrodynamic]

27:12 30:13	hearings 22:16	183:6	179:20,25
33:14 34:10,17	23:8 61:16	highlighted	180:9,11,18
35:9 48:19,23	69:21,22 70:21	128:4 155:7	181:5 193:11
53:16 56:7,10	hears 82:5	highly 76:1	holes 180:24
57:25 59:1,3,4	heat 15:7,7	81:25 90:11	holland 3:20
59:4,8,11,15,23	148:24	199:19	4:4 79:1
60:18 61:17,25	held 53:14 68:9	hills 113:19,20	hollandhart.c...
62:14 63:7,18	205:18,24	hindsight 90:21	3:23 4:7
63:20 64:22	help 18:9 72:3	hinkle 4:22	homogenous
67:3,4 69:8,8	105:3 107:1	5:14 80:19	149:13,25
69:12,15,17,25	128:15 137:13	104:23	162:1 163:1
70:4,10,11,17	151:8 163:7	hinklelawfir...	hope 69:8
70:18,24 71:1	165:22	4:25 5:17	93:12 103:13
72:8,9 74:25	helpful 36:15	historical	hopefully 16:5
75:10 78:20	43:3 51:25	131:13,19	85:13 111:13
79:3,5,14,18,18	77:12	historically	158:25 174:23
79:22 80:1	helping 97:14	114:15	206:23
81:6,16 82:3	helps 173:16	history 78:14	hoping 87:13
82:14,23,24	hereto 209:15	83:1	92:25
83:14 84:19	210:11	hobbs 166:5	horizons
86:2,10,18	heterogeneity	hold 18:4 22:10	128:20
87:16 88:7,16	162:16	58:2 79:3	horizontal
88:25 91:20	heterogenous	171:14,14,15	187:2
93:8,9 98:2	149:13,24	183:16	horizontally
99:1,8 100:5	162:1,8	holding 184:6	149:21
100:12 104:9	hi 12:1 104:25	hole 135:15	hot 15:5
109:1,22	high 37:8 42:16	136:21,23	hour 159:18
110:12 111:3	126:9 170:1,2	137:7 142:24	house 81:20
111:12,21	170:6 171:8	143:2 167:17	82:5 83:5
116:22 117:1	175:3 181:11	167:17 168:6	housekeeping
123:13 159:23	196:10	170:11,18	85:21
159:24 165:25	higher 42:18	171:18 172:4,9	huh 186:6
190:18 205:24	46:12 156:3,22	172:20,23	hybrid 69:12
206:4,9,15,19	156:25 161:19	173:4,11,13,21	hydrodynamic
207:1,20	163:9 182:12	173:23 178:2,2	151:1

[hydrogeology - inevitable]

<p>hydrogeology 112:7</p> <p>hydrology 22:2</p>	<p>159:3 192:21</p> <p>impacted 63:3 73:4</p> <p>impacts 158:23</p> <p>impair 28:6 106:6 193:15</p> <p>impairing 39:7 39:11</p> <p>impairment 38:25</p> <p>impart 63:23</p> <p>impede 195:9</p> <p>impeded 163:20</p> <p>implement 73:14</p> <p>imply 93:19</p> <p>important 56:8 56:23 72:25 96:3</p> <p>importantly 33:23 87:3 95:17</p> <p>imposed 42:16 46:15</p> <p>imposing 72:18</p> <p>impractical 72:23 73:12,13</p> <p>impression 162:6</p> <p>improvement 70:21 74:17</p> <p>inactive 76:22 76:25</p>	<p>ination 109:20</p> <p>inception 29:23 75:2</p> <p>inch 106:3 167:15,21 168:6,9,15,16 169:3 170:17 170:18 172:2 173:9,13,13,19 173:19 181:25 182:1 183:12 183:18 187:8 196:25 197:3</p> <p>include 57:25 116:22 127:16 195:25 201:15</p> <p>included 63:19 184:8</p> <p>includes 84:6 126:19 134:1 177:17 197:5</p> <p>including 40:8 54:8 72:4 100:5 106:7 164:5 192:8 200:5</p> <p>inclusion 107:9</p> <p>incorporate 201:16</p> <p>incorporated 200:22 201:3 201:20</p> <p>incorporation 107:11</p>	<p>incorrect 57:5</p> <p>increase 45:23 180:12</p> <p>increased 68:16 141:24</p> <p>increases 186:22</p> <p>increment 137:23 138:23</p> <p>indefinitely 68:12</p> <p>independent 5:11 80:20 166:7</p> <p>indicated 81:17</p> <p>indicates 42:21</p> <p>induced 42:14 42:22 106:8 131:5,19 141:25 192:22 196:10</p> <p>industry 72:11 73:1,18,24,25 74:6,13,14,17 74:18,24 75:1 75:8 89:12,20 90:5,15 91:1 94:24 96:7 123:9,10,18 139:15 198:9</p> <p>industry's 75:6</p> <p>ineffective 72:23</p> <p>inevitable 204:22</p>
<p>i</p>			
<p>ideal 34:18</p> <p>identification 110:10 111:17 116:6,19 191:15</p> <p>identified 44:12 107:10 129:11 136:9</p> <p>identifies 81:19 94:12 139:9</p> <p>identify 41:1 45:4 110:7 111:19 116:17 129:9 133:17 134:22 138:13 139:9 185:21</p> <p>identifying 41:13</p> <p>image 113:17</p> <p>images 36:2 110:1</p> <p>imagine 20:21 83:3</p> <p>immediate 16:15 17:23</p> <p>immediately 17:17,18,19</p> <p>impact 41:19 47:4 64:1,2 73:1 91:8 152:17 153:14</p>			

[infer - intent]

<p>infer 162:20</p> <p>influence 42:22</p> <p>information 10:8 21:3,25 31:4,10 32:3 32:21 34:8,22 49:24 50:11 51:22 52:14 112:15 113:14 116:16 150:18 152:11,13 154:9 158:8 161:14 162:3</p> <p>inherently 76:16</p> <p>inhibited 196:2</p> <p>inhibitors 168:1 196:2</p> <p>initial 77:9 121:1</p> <p>initialization 135:10 136:4</p> <p>initially 43:8 44:12,20</p> <p>initiate 66:25 86:16 100:15 102:25 196:16</p> <p>initiation 74:3 88:4 93:12 94:12</p> <p>inject 43:12 47:21 55:12 104:16 105:12 105:20 115:14 117:5 136:2</p>	<p>160:1 192:14</p> <p>injectate 195:10,23</p> <p>injecting 29:20 30:11,19 34:13 40:13,20 44:14 44:17 47:10,22 114:22</p> <p>injection 15:13 16:1,13 19:1,8 19:16 20:16,17 21:7,14 23:10 25:22 26:1,12 27:5,7,15 28:19 29:16,17 29:24 30:16,21 31:3 33:17 34:5 35:2 38:12,18 39:23 40:9,9,15 41:19 42:6,23 43:14 44:25 45:4 46:7,9 47:3,9,14 48:1 48:12,17 49:6 49:20 50:19,23 50:23 54:5,7 105:17,25 106:1 114:8,12 114:13,19 115:2,7,10,18 119:23 125:15 126:15,15,16 127:6,15 128:8 129:2,21</p>	<p>130:17,23 132:8 133:3,8 133:9 134:1,2 134:5,6,16,23 136:13,15 137:10 138:2,9 138:15,17 140:8 141:9,17 141:21,23 142:2,14 152:24 154:24 155:10,22 157:5,9 169:22 171:22 173:22 176:17,19,22 180:12 184:24 189:25 190:4 190:16 191:8 191:20,20 192:4,11,17,19 192:21 193:5,7 195:5,22</p> <p>injections 16:20 17:21 22:5 47:13 55:18 57:24</p> <p>injunction 16:24 17:3,6</p> <p>injunctive 50:3</p> <p>inoperative 49:23</p> <p>input 69:2 77:17 97:5 136:11 139:17 151:5,5,13</p>	<p>190:9</p> <p>inputs 136:12 139:12</p> <p>inside 186:10</p> <p>insistent 29:6</p> <p>inspect 174:6</p> <p>inspection 174:13 177:13 177:16,18 197:2,4</p> <p>install 193:10</p> <p>installed 131:8</p> <p>instance 30:2 101:21</p> <p>institute 110:17</p> <p>instituted 42:25</p> <p>instructive 81:25</p> <p>intake 187:8</p> <p>integration 195:7</p> <p>intend 118:13 119:17 185:23</p> <p>intended 93:22 118:18 120:22 162:12</p> <p>intending 93:19</p> <p>intends 33:14</p> <p>intent 45:13 92:22 93:4,11 118:12 119:19 199:10</p>
--	--	---	--

[interaction - joins]

<p>interaction 92:6</p> <p>interest 24:5 37:20 106:10</p> <p>interested 71:15 100:21 101:4 159:5 209:15 210:12</p> <p>interesting 24:7 49:6,8 180:13 187:11</p> <p>interestingly 16:18</p> <p>interests 20:11 64:3</p> <p>interfaith 66:11</p> <p>interim 11:6 41:12</p> <p>interject 187:21</p> <p>interlocutory 204:23</p> <p>intermediate 167:11,12 169:1,16 172:7 172:10 199:12</p> <p>international 109:7 191:3</p> <p>interpret 128:19</p> <p>interpretation 128:17 129:11 130:23</p>	<p>interpreted 128:19,24 130:3,3</p> <p>interrelated 64:17</p> <p>interrupt 60:1 99:17</p> <p>interruption 60:11</p> <p>interval 49:9 130:17 141:21</p> <p>intervene 84:21</p> <p>intervened 64:12 65:12</p> <p>intervener's 85:2</p> <p>intervening 65:2</p> <p>intervention 64:9</p> <p>introduced 106:24</p> <p>introduction 112:6</p> <p>inversion 150:7 150:10</p> <p>invert 162:6</p> <p>inverted 162:6</p> <p>invited 88:25 89:1</p> <p>inviting 85:4</p> <p>involved 75:2 89:6,17 93:23 110:21 133:12</p>	<p>involves 113:15</p> <p>ipanm 69:5 73:22 77:13 78:1 80:21 81:1,22 82:4 82:23 83:17 84:4,15,16 85:8 88:23 92:2,7 101:11</p> <p>ipanm's 85:13</p> <p>irreparable 37:16</p> <p>issue 16:2,7 21:5,19 22:4 22:16 33:7 40:22 41:21 42:24 43:15,16 45:6 46:4 47:21 48:6,8 49:22 50:19 51:3 52:19 55:2 70:4 81:25 82:3 83:20 84:2 87:12 158:2,2 206:23</p> <p>issued 45:21 63:15</p> <p>issues 15:22 16:3,7 18:3 24:4 38:17 40:9 42:3,6 48:3,15,24 55:4 64:22 69:10 71:5</p>	<p>76:22 86:23 89:11,11,12 91:2,6,10 93:7 146:12 173:14 204:25 206:1 207:25</p> <p>it'll 170:20 183:24 185:12 185:12</p> <p>item 30:14 58:22 66:2 104:8 194:17 194:17,18,20 196:7,8,15</p> <p>items 196:4,6 199:24 200:4</p>
			j
			<p>j 5:13 6:12</p> <p>jal 113:9</p> <p>james 1:22 209:2,17</p> <p>january 44:15 46:5 70:7</p> <p>jesse 2:14 75:16 93:15 105:2 106:25</p> <p>jessek.tremaine 2:20</p> <p>job 1:23 99:20 190:5</p> <p>joined 71:24 124:2 205:1</p> <p>joining 11:16</p> <p>joins 62:18</p>

[joint - lea]

<p>joint 184:3 juan 66:12 judgement 33:11 july 46:25 54:13 69:19 june 40:18 63:15 92:3 jurisdiction 18:21 20:5 justice 2:5</p>	<p>kicks 171:13 kind 22:17 35:6 49:7 52:23 59:21 61:1 91:21 95:7 167:9 187:21 198:4 kip 15:24 kluck 6:7 know 17:5,8,9 17:12,12 18:7 19:7,22 21:18 21:25 22:7 23:9 24:20,25 27:19,20 28:11 28:16 30:17 32:23 34:12,12 44:20 47:15 48:20 49:16,23 50:15 51:6 52:8,8 53:7 55:2 58:16 59:5,12 61:1 61:18 62:12 63:12 64:12 73:22 74:16 77:20 79:19 82:14,25 83:10 87:25 90:9 92:18,19 93:2 93:7 95:10,21 97:19 98:21 101:8 112:25 131:20 137:16 146:11,16</p>	<p>149:3,10 151:21,23 152:4,6,10,18 152:19 153:11 153:20 156:9 156:16 158:23 159:1 161:2 162:13,16 163:2,6,9 167:24 168:23 169:13,25 171:13 173:12 174:12 175:4,8 177:23 178:17 180:1,11,19 184:5,12,15 185:1,2 197:25 198:24 199:13 202:25 203:6 knowledge 32:20 34:23 61:14 93:19 193:24 209:10 210:6 known 72:2 knows 26:14 74:18 kyle 6:12 67:13</p>	<p>174:22 lacks 81:10 lamar 168:20 land 68:25 118:22 170:19 language 68:25 78:18 83:15 89:7 93:3,21 96:8 laptop 71:5 large 73:6 114:16 120:11 larger 120:12 largest 74:7 137:25 lateral 149:15 laterally 149:20 laterals 44:3 law 3:4 6:10,15 7:9 66:8 77:8 81:23,25 95:18 95:23,24 96:4 96:12 98:12,20 laws 55:13 lawsuit 204:22 lawyer 52:24 53:4 57:18,20 lawyers 53:9 57:16 98:1,2 layers 130:15 lea 15:14 104:16 105:16 160:1</p>
k			
<p>k 2:14 kaitlyn 6:3 71:25 kansas 109:6 kaseeh 8:5,18 112:6 121:23 121:24 122:2 122:13 123:1 124:15 134:25 137:12 141:13 142:7,12 160:14 164:17 174:24 kaseeh's 124:6 keep 68:11 91:24 133:5 136:23 154:2 176:16 186:17 186:21 keeping 134:5 key 92:17 khadir 122:25</p>			
		l	
		<p>l 2:13 3:3 6:14 25:14 lab 188:11 labeled 142:15 lack 16:10 18:25 74:14</p>	

[lead - log]

<p>lead 123:10,21 192:22</p> <p>leads 89:23</p> <p>leak 156:6 168:2 174:5</p> <p>leakage 153:4</p> <p>leaking 180:3</p> <p>leaks 173:24</p> <p>learn 35:10</p> <p>learning 14:24</p> <p>leave 179:25</p> <p>leaving 101:25</p> <p>left 113:17 124:2 127:20 180:10 187:21</p> <p>lefthand 46:16 148:9 167:2</p> <p>legal 16:7 35:7 36:11 75:16 78:9 83:20 87:22 97:25 105:3 106:25 167:4 204:25</p> <p>legend 145:24</p> <p>legislation 82:12</p> <p>legislative 69:22 76:8 78:16 81:20 82:6,9,16,25 84:9 87:19 90:13 91:13,15 94:3 98:15 99:2 205:2</p>	<p>legislatively 101:21</p> <p>legislator 87:22</p> <p>legislature 87:19 90:17 91:21 96:21 102:9</p> <p>legislature's 82:19 97:17</p> <p>letter 116:23</p> <p>level 181:11 183:6 205:9</p> <p>liability 77:1 78:17</p> <p>licensed 55:21 125:25 128:14 129:1</p> <p>light 22:8 54:20 66:12</p> <p>likelihood 192:25</p> <p>likely 20:4 37:14 38:5 75:20 90:11</p> <p>likewise 69:3</p> <p>limestone 127:2 130:13 155:23 198:5,8</p> <p>limit 26:14 30:4 44:18,25 45:6 45:17,19,19,19 46:14 52:23</p> <p>limitations 42:16 56:1 61:3,4 78:11</p>	<p>limited 27:23 36:10 42:19 63:9 85:9 91:23 196:15</p> <p>limiting 87:10</p> <p>limits 42:8,11 43:1,4 46:1,7 46:17,19</p> <p>line 5:2 46:11 65:11 73:15 114:7 168:4,5 168:9,20 173:18,20 193:12 195:8</p> <p>liner 180:2,2,5 181:2</p> <p>lines 46:8 88:6 94:17 96:11 113:23</p> <p>linger 68:15</p> <p>lining 97:17</p> <p>list 7:2 96:13 204:19</p> <p>listed 25:25 172:3 182:2 195:12</p> <p>listening 97:3</p> <p>listing 116:24 193:17</p> <p>lists 169:17</p> <p>literature 134:13,14 135:19 143:6 147:17 148:21 154:19 158:5,7</p>	<p>158:7,9,17</p> <p>litigated 19:22</p> <p>litigation 22:20 29:19 33:17,19 34:19,20,23,25 55:4 204:19</p> <p>little 36:6 43:2 57:5 66:4 98:21 112:14 114:20 119:25 124:19 131:24 137:13 138:2 139:6,6 151:9 168:4 184:15</p> <p>lives 67:23 68:4</p> <p>llc 3:2,10,18 4:10,19,20 5:3 65:11 104:16 104:24</p> <p>llp 3:20 4:4,22 5:14</p> <p>located 105:15 113:8 175:22 184:12</p> <p>location 105:19 113:6 129:8 141:17 146:4 146:12,17 167:4 176:22 184:22 193:3</p> <p>log 148:18 149:4 170:8,9 170:10 172:2,3 172:5,15,15,21 172:21,22</p>
---	--	--	--

[log - malfunctioning]

<p>175:5,5 177:19 185:22 186:1,2 logged 12:14 logging 171:23 logical 75:23 86:11 98:11 logs 125:24 126:2 128:25 148:14,17 149:4 150:14 172:4,8,9,11,13 172:22 185:20 long 50:16 95:24 96:17 98:10,11 169:6 169:7 183:17 206:4 longer 44:3 69:16 look 13:8 15:6 19:20 20:6,21 23:1 25:25 26:6 27:17 42:10 46:2,15 50:1 51:21,24 54:3 64:11 69:6 85:13 95:5 104:3 112:12 113:5 120:14 124:15 125:18 129:5,8 131:18 132:15 145:23 153:16 153:22 155:5,6 155:15 158:22</p>	<p>159:6 161:16 162:17,17,22 162:23 166:23 170:8 172:16 172:18 178:18 183:17 184:19 202:22 looked 33:10 131:18 136:7 149:16 158:10 170:9 205:18 looking 28:18 69:19 119:18 119:25 126:7 129:15 131:15 132:16 134:10 135:9 145:7 147:25 150:3 158:16 171:21 172:18 181:11 181:20 200:20 looks 71:19 156:22 203:5 looming 89:10 lose 171:20 lost 11:23 170:25 lot 16:3 32:20 36:8 41:18 50:2,6 53:3 78:14,14,14 79:24 86:21 145:24 146:6 170:24 171:19 180:15 181:19</p>	<p>198:16 lots 38:11 172:22 186:19 love 15:8 low 46:10 129:4 134:19 184:17 lower 105:21 141:15 luck 6:3 71:25 lunch 159:11 159:15,18 170:9 luther 165:15</p> <hr/> <p style="text-align: center;">m</p> <hr/> <p>m 5:4 made 19:16 30:13 40:22 47:7 53:21 54:15 57:4 61:15 63:22 73:25 83:25 84:21 201:10 magic 90:9 magnitude 131:22,23 132:5 mail 116:23 main 30:14,14 169:13 maintained 131:8 major 57:3 majority 128:3</p>	<p>make 11:21 19:5 21:13 23:7 30:18 34:16 36:19 37:12,13,19 39:2,4,10 40:4 45:13,25 51:4 53:17 54:14,24 57:7 65:18 67:1 73:24 74:23,23 81:12 81:16,18 84:5 86:19 89:19 90:4,5 92:16 96:10 97:8,15 100:10,25 103:5,9 106:19 124:22 132:21 133:6 134:3 137:4 149:23 150:1 162:13 163:3 184:5 187:15 188:1 194:18,20 197:20 198:5 198:16 201:9 207:11,16 makes 49:5 79:24 197:12 making 25:9 80:22 103:8 111:13 malfunctioning 40:16</p>
---	---	---	--

[manage - mexico]

<p>manage 43:14 44:10 62:17 managed 171:12 192:23 management 124:9 manager 124:1 manner 65:17 65:18 194:21 196:14 march 70:11 marginally 16:25 marked 110:7 110:9 111:16 116:5,18 191:14 master 193:14 master's 109:5 material 20:4 34:7 matt 65:9 matter 18:23 19:10 20:9 22:20 32:9 56:22 62:10 63:3,17 64:18 65:7,12,25 69:12 70:5 75:18,23 78:4 matter's 19:21 matters 20:13 58:22 61:6 63:4 64:14 78:17</p>	<p>matthew 5:4 8:3,15 107:21 108:5,16 maximum 30:16,23 105:24 106:1 128:8,8 133:7 134:5,16 136:17,21 137:8 155:21 155:21 176:16 193:5,7 195:5 mbeck 5:8 mccloy 175:25 mcf 121:2,4 mean 25:1 27:18 45:10 47:19,21 50:4 50:10 51:2 54:20 57:19,19 153:8,21 155:8 155:14 156:2 156:14 162:22 174:11 175:2 176:1 179:12 184:2 198:8 207:2 meaning 47:5 meaningful 73:17 means 37:13 49:20 79:17 136:1 measurement 188:11</p>	<p>measures 186:5 mechanism 22:24 meet 11:7 69:2 69:24 114:9 118:13 132:18 206:23 meeting 11:4,8 12:14 13:4,5,6 13:7,12,19 14:4 62:15 69:18 87:15 100:7,17,21,23 102:21 103:1 205:16,18 206:3,14 207:1 207:7 208:13 208:14,15 meetings 15:2 60:4 61:25 87:2 94:16,23 206:5 meets 87:17 88:8 megatons 187:9 member 14:11 72:2 members 13:24 15:16 21:16 23:11 25:13 32:18 52:22 53:2 55:16 60:6 66:22 71:13 78:25</p>	<p>80:18 85:5 86:3 97:9,24 98:18 122:19 membership 85:3 mention 19:12 56:25 mentioned 45:1 118:9 132:20 147:1 148:20 161:6 193:16 195:1,3 196:6 197:1,7 208:12 mercifully 205:7 mere 38:13 merits 37:15 38:6 50:20 met 69:4 meter 40:16 49:22 metering 48:3 method 117:9 177:12 methodology 196:23,24 mexico 1:1 2:2 2:5,11,16 3:2 3:10 4:11,19 5:12 6:2 15:13 15:14 66:10,11 67:20 72:1,3 78:18 80:21 104:17 109:10 110:17,18</p>
---	--	---	--

[mexico - modifying]

<p>113:1,9,10 123:4,20 124:2 131:9 132:22 160:1 166:4,6 191:8 209:19 mexico's 73:19 mfeldewert 4:7 mic 11:21 12:18 michael 4:3 78:25 micro 131:4 156:21 microimager 172:15 microphone 108:15 122:14 microporosity 156:21,25 middle 137:20 162:24 midstream 3:18 4:20 23:4 104:15,23 109:11 159:25 165:18 migrate 161:18 161:19 migrating 161:22 migration 26:5 130:16 152:23 152:25 153:22 miguel 4:12 63:2 71:23</p>	<p>95:4 mile 124:24,25 125:2,9,9,16 138:2 145:9,13 145:14,21,21 146:1 153:10 153:11 175:23 miles 113:8,20 125:11 128:3 129:17,18 131:11,16,24 132:4 135:6 136:8 145:5,15 147:1 153:19 153:19 157:4 milli 156:15 million 8:9 9:3 10:13 47:19 105:25 107:4 114:4 120:14 120:17,18 135:7 142:19 149:12 154:24 162:21 163:3,9 187:8 189:8,12 189:21 193:6 millions 142:15 mind 89:18 91:24 mindful 67:2 87:2 mineral 189:23 minimize 115:10</p>	<p>mining 110:17 minor 129:12 129:12 minute 66:5 85:7 104:11 175:18 188:24 188:25 minutes 13:4,6 13:8,12,19 14:4,22 24:25 misplaced 50:14 missed 25:20 74:9,11 mississippian 127:2 130:12 mississippians 128:9 misspoke 93:17 misunderstood 93:18 mitigation 146:17 mix 114:15 198:6,15 moander 2:13 19:2,4,18 20:19 22:14,19 23:22,23 29:1 29:2,5 32:24 32:25 33:4 35:12 55:5 56:22 62:18 moander's 32:19</p>	<p>mode 119:13 model 124:22 125:13,23 126:2 128:15 129:7 133:15 133:19 134:11 135:3,4,5,5,9 136:3,11,12 149:11,13,13 149:19 150:15 150:19 154:8 157:20,25 160:18,19 161:9,11,25 162:16,22,23 163:1,2,10,11 163:13 173:17 179:12 198:17 199:1 modeled 157:19 161:3,7 modeling 143:7 146:23 147:13 147:21 155:17 156:15 157:19 179:14 moderated 1:10 modern 43:16 modification 89:23 95:12 modifications 75:21 76:21 modifying 76:18,19</p>
---	---	--	--

[moment - necessarily]

<p>moment 118:4 143:13 178:21 179:3 moment's 23:3 momentarily 116:12 money 79:7 monitor 32:23 44:9 123:25 173:16,24 174:2 monitored 131:12 monitoring 172:25 173:10 174:6 194:19 196:11 montand.com 3:15 montezuma 4:23 montgomery 3:12 month 13:20 43:11,13 48:16 70:10 76:4 91:19 206:6 monthly 41:7 53:23 54:1,4,5 56:1 months 15:23 70:7 76:13 96:9 99:1 205:6</p>	<p>moose 113:21 morgan 6:13 67:13 210:2,15 morning 11:2 12:3 13:15 35:19,21,23 36:1 57:1 62:13 67:11 71:23 78:1,24 80:18 81:14 106:22 206:24 morrow 186:20 motion 12:24 13:4 14:1,3,3 14:22 15:18 16:4,8,11,16,20 18:5,16 24:3,8 25:17,25 28:12 32:1,4 33:7,10 33:12 35:4 36:6 40:5 48:14 50:9 52:4 53:14 56:24 58:3,4 58:19 102:25 103:4,6,8,12 202:17 203:14 204:22 205:1,3 208:11 motion's 15:25 motions 38:7 42:7 83:16 motive 27:20 mountain 170:19 199:7</p>	<p>mouse 37:11 move 12:25 13:8,11 14:5 43:16 58:5 66:2 69:24 82:22 104:8 111:2 117:16 124:7 155:14 191:10,18 194:5 203:11 203:19 moved 58:4 65:14 69:18 99:10 103:13 103:14,15 movement 25:6 137:22 moving 153:20 156:16 msuazo 4:16 mud 170:16 171:9 186:25 muds 186:21 187:4 mullins 5:5 multi 181:16 multiple 44:10 145:18 multiply 154:11 mute 12:14 122:20 muted 11:22 202:8</p>	<p>n n 2:1 3:1 4:1 5:1 6:1 7:1 8:1 9:1 11:1 naeva 66:11 name 71:23 104:25 106:23 108:14 122:11 122:13,23,25 165:14 167:3 189:20,21 name's 25:14 75:16 narrow 69:9 93:7 narrowed 102:8 natural 28:3 113:11 189:23 nature 16:16 19:25 33:5 63:8 67:3 76:11 91:8 101:14,16 195:22 198:14 navigate 73:8 navigating 97:17 nay 58:15 100:12 necessarily 23:7 32:15,20 79:16 86:9 146:10,19</p>
---	---	---	---

[necessary - number]

<p>necessary 37:22 38:4 58:16 69:14 75:20 76:11 94:13 107:1 113:12 196:12 196:21 197:16 necessitated 196:9 need 12:9 13:5 13:18 14:10 15:4 17:15 25:1 33:25 34:11,12 37:2 38:17,18 39:19 39:19 40:1,10 41:4 53:14,15 55:13 58:9,10 58:24 61:2,25 64:10 66:3 72:8 73:16,18 86:9 87:20 89:3 105:3 107:22 113:2 114:2 115:8 118:15 136:23 151:20 157:11 161:10,18 188:6 208:10 needed 102:7 139:23 184:22 needing 69:14 needs 16:8 27:1 31:12 64:18 67:20 68:4</p>	<p>72:11 80:24 86:23,25 89:22 92:17 113:16 140:25 150:12 152:20 negative 37:24 negligible 127:9 128:10 neither 75:5 209:11 210:7 neocem 175:11 net 47:13 neutron 172:7 never 49:15,24 nevertheless 64:16 new 1:1 2:2,5 2:11,16 3:2,10 4:10,19 5:11 6:2 15:13,14 64:22 66:10,11 67:20 72:1,3 73:19 78:18 80:21 84:11 104:16 109:10 110:17,18 113:1,9,9 123:4 124:2 131:8 132:22 160:1 166:4,5 191:8 201:19 209:19 nice 11:6 34:14 nickel 167:22</p>	<p>nine 11:3 nm 1:17 2:7,18 3:6,14,22 4:6 4:15,24 5:7,16 6:6,17 nmac 66:14 67:16 115:22 nmbd 205:4 nm DOJ.gov 2:8 nmocd 92:15 92:16 153:24 162:18 163:14 181:8 184:19 185:19 189:5 202:23 203:1 nmoga 69:4 72:2,7,9,21 73:22 74:7,16 74:21,24 75:9 80:21 88:23 89:17 93:20,23 96:18 97:4 101:10 nmoga's 72:7 75:3,8 83:17 noncorrosive 167:23 nonexpert 84:14 nontechnical 79:16,22 80:4 84:14,22 87:7 normal 188:12 normally 41:1 151:22,24</p>	<p>179:18 186:25 north 3:21 4:5 118:22 130:6,6 northeast 129:16 130:7 138:22 140:15 140:18,19 northwest 140:15,18 nos 1:4 notary 209:18 note 12:5 55:5 noted 177:12 notice 10:8 69:6 70:1 77:7 77:15,19 79:5 81:15 83:14 86:8,14,21,22 86:25 87:13,14 88:8 98:12,19 100:1,5,9,17,20 103:1 104:3 116:16,22 117:1 206:19 206:23 notices 116:20 notified 81:3 notorious 180:3 november 124:3 nuance 90:19 number 15:14 36:18 39:3 43:10 66:8</p>
---	--	---	---

[number - oil]

<p>74:13 104:15 105:15 112:13 115:15 118:10 118:14 119:15 119:18 120:2 135:6,23 144:21,22,24 147:11 148:5,5 149:3,3,7 150:4,6,12,16 150:23 152:7 154:16,23 155:4,6 159:24 160:18 162:17 162:18 169:16 189:4 192:11 192:16 199:9 199:17 numeration 39:15 numerous 76:23</p>	<p>objections 111:5 117:19 166:17 191:11 191:22 194:6 observatory 131:9 obtained 28:22 29:19 31:12 127:13,13 135:18 obviate 87:20 188:6 obvious 83:3 obviously 16:7 45:11 occ 19:17 occasion 45:25 occur 45:25 82:24 193:1 occurred 33:18 36:4 occurrence 46:22 occurs 46:23 ocd 10:11 18:23,24 19:3 19:13,17 20:9 20:15,23 21:6 21:24 22:12,16 23:8 25:22 28:18,23,25 29:21 30:9,13 31:8 32:11,19 33:6,9,14,15 34:8,25 35:2</p>	<p>51:20 54:24 55:3 56:21 62:18 73:14 75:17 77:7 78:4 86:13 89:5 93:16 94:4,12,18 95:8 105:2 106:11,25 116:5 118:9 172:1 177:13 177:15,18 181:11 188:25 191:5,14 193:6 193:12 194:9 194:24 195:2,4 196:4,7,8,12 197:13,20,24 199:14 ocd's 19:7 28:16 33:5,13 33:20 34:5,11 35:8 57:2 107:2 115:24 116:4 193:25 195:19 ocduic 193:23 october 69:18 205:17,20,24 205:24 offer 84:19 86:1 offered 84:11 office 68:25</p>	<p>officer 15:24 17:25 23:16 34:17 53:16 56:10 57:25 59:9,11,15 61:17 70:4 86:18 209:2 officer's 17:14 officers 59:23 offices 79:1 190:8 offset 171:1 offsets 124:23 offshore 123:19 123:19 ogrady 6:13,20 oh 29:11 60:16 71:12,12 95:5 103:7,9,11 151:12 160:3 180:19 187:7 200:25 204:9 207:14 oil 1:2 2:2,11 2:16 4:11 6:2 7:3,5,7 11:4,6 11:11 26:22,25 37:9 38:21,24 39:6,8 68:7,24 69:20 72:1 73:2 74:7,18 75:8,17 76:6 76:23 83:11 95:19,21 96:1 105:1 106:15</p>
o			
<p>o 11:1 o'clock 11:3 208:2,5 o'grady 67:13 obey 55:13 obeyance 58:2 objection 109:17 111:6 117:20 124:10 166:18 191:12 191:23 194:7</p>			

[oil - opposed]

107:14 109:7 112:19,25 114:24 125:10 145:24 166:7 171:9 186:15 186:17,21 187:3 190:11 okay 12:4,7,17 12:18,20 13:11 14:13,16 15:9 23:18,21,24 24:15 25:3,11 29:4,8,13 33:4 38:17 39:1,4,6 40:23 42:12 43:13 44:16 46:1,3,9,11,13 46:15,17 47:2 53:11,11,23 54:7,25 55:3 56:19,20 57:8 58:6,11,18,19 60:12,14 61:12 62:8,9,20,22 65:8,24 71:21 80:16 86:2 99:19 100:8,18 100:24 102:15 102:23 103:3 103:14,19,25 108:1 109:16 110:2,6 111:14 111:19,19 112:1,5,11 115:24 116:9	116:12,15 118:8 119:7 120:6,20 125:18 126:12 127:13 128:1 128:18 129:7 131:3 133:15 133:16 134:2 134:12 135:9 135:12 137:15 137:19 139:13 139:24 140:11 141:13,13 142:21 143:17 143:24,25 144:11,19,24 145:11,11,23 149:14 150:22 151:8,9 155:20 156:18,19 157:12 159:6 159:17,22 160:4,19 164:18 172:24 174:21 176:4,5 176:6,10 177:21 178:25 179:1,2,3,7 182:24 184:9,9 184:14,14 185:17 186:4,8 186:15 187:5,5 187:11 188:14 188:18,23 189:2 191:24	200:10,12,25 201:5 202:5,6 203:8,21,24 204:9 206:13 206:21 207:15 207:16,18,23 207:25 once 21:24 41:3 42:1 64:22 154:21 171:16 173:3 193:7 one's 49:8 ones 44:24 ongoing 34:19 open 15:1 60:4 61:25 87:2 94:21 151:10 151:15,18,22 151:25 152:1,4 157:20,23 161:3,7,10,11 163:17,21,23 167:17 171:18 172:19,22 173:3 179:20 179:25 180:9 180:18,24 181:5 opened 54:23 opening 8:11 8:12 105:7 106:20 operating 5:2 38:20 65:10 72:3 133:7	operation 21:12 117:6 165:23 operational 72:17 73:11 118:12 operations 74:18 109:10 109:11 114:5 operative 67:18 operators 19:19 43:19 55:21 67:25 68:11 72:16 114:25 opinion 76:1 94:21 115:13 115:20 117:4,8 141:14,20,23 176:18,24 192:13 199:23 200:3 opportunity 20:3 21:2 33:22,23 34:15 35:20,25 54:20 74:11 92:23 97:5,6,8,12,13 97:22 98:6 100:22 118:3 oppose 74:24 81:9 opposed 76:8 76:18
--	--	---	---

[opposes - part]

<p>opposes 72:9 72:21 74:25 75:9,9,10 80:22 opposing 88:4 88:24 opposition 65:3 optic 168:5,8 173:8,18,20 185:23 186:5 186:14 193:12 193:12 195:8 optics 173:8 oral 84:17 85:8 order 17:17,17 21:19 22:4 27:5,21 30:10 30:12 37:7 40:2 44:21 51:2 54:25 55:11,14,17 56:4 57:22 58:16,20 63:14 63:14 67:21 69:20 70:4 77:19 79:23 97:5 184:8 201:13,16,20 ordered 58:8 orderly 86:19 orders 26:7 28:14 42:10 45:21 50:22 organization 191:5</p>	<p>organizations 85:3 original 35:4 originally 69:17 orphan 67:24 orphaned 68:16 ought 50:18 83:15,23 84:21 85:4 outcome 63:17 89:24,24 209:16 210:12 outgrowth 75:24 86:11 98:11 outlined 67:15 193:9 195:18 outlining 112:2 outlook.com 3:7 output 139:7 139:25 140:21 141:5 outside 26:3 62:15 64:3 130:17 186:13 outstanding 157:16 overall 19:7 112:5 195:2 overburden 72:20</p>	<p>overcome 38:5 overlaid 130:5 130:5 overlay 134:8 overly 72:22 overnight 27:14 overpressure 174:12 oversight 189:25 overview 112:12 own 37:22 60:21 73:8 owned 166:7 oxy 4:2 79:2,2</p> <hr/> <p style="text-align: center;">p</p> <hr/> <p>p 2:1,1 3:1,1 4:1,1 5:1,1 6:1 6:1 7:1,1 11:1 p.a. 3:4,12 5:5 p.c. 4:13 6:4 p.m. 208:16 p110 169:7 181:24 182:3 183:2,19 package 92:12 packer 167:19 167:24 168:10 173:19 176:15 186:11 196:1 padilla 3:3,4 25:13,14 29:14 29:18 30:22,25</p>	<p>31:10,21,22,25 32:2,13 49:2,5 51:19,23 52:13 58:23 59:5,10 59:14,19,22 60:24 61:5,9 61:11,12 62:20 62:21 padilla's 60:18 padillalawnm 3:7 page 8:2 120:15 167:7 182:17 palace 6:16 paleography 126:5 palmer 210:2 210:15 papers 35:21 42:21 parallel 34:19 65:17 parameter 30:15 136:5,16 parameters 101:20 134:11 136:14 139:16 155:6,7 pardon 208:3 part 15:10 16:23,23 18:1 18:3 21:6 29:19 31:6 32:1 33:1</p>
---	---	--	--

[part - permit]

<p>45:24 53:16 55:7 57:12 88:7 90:22 92:10 94:6 115:22 119:17 128:23 132:2 172:15 183:1 189:24 193:23 199:16,21 201:1</p> <p>participate 33:15 63:7,21 65:16 92:19 94:22 97:22</p> <p>participated 33:16</p> <p>participating 65:3 93:20</p> <p>participation 63:8</p> <p>particular 18:22 19:10 30:8 62:10 64:11 66:16 76:3 83:22 93:2,9,21 99:19 113:22 146:13,18 149:6 153:15</p> <p>particularly 26:3 49:8</p> <p>parties 15:15 18:1,13,22 23:25 24:16 25:2,4,10</p>	<p>34:12 35:11 55:6 58:22 60:19 61:8 62:14 63:20 65:3 66:15,24 69:7,8 70:5 71:15 75:21 76:3,13 77:6 77:17,18,24 78:5,6 80:9 81:7 83:13 84:21 85:14 87:17 88:4,21 93:2 94:17,20 98:3 99:23,25 100:16,22 102:6 104:1,17 116:24 117:2 201:11,19 204:5 209:12 209:14 210:8 210:11</p> <p>partnership 74:10</p> <p>party 37:25 52:24 70:15 76:4 202:10</p> <p>paseo 3:13</p> <p>pass 13:23 81:22 89:10 96:22 102:3</p> <p>passed 75:1 90:17 101:16 101:21,24 129:14</p>	<p>passes 58:19 83:6</p> <p>passing 91:3</p> <p>past 38:3 131:21 152:23 199:2</p> <p>paul 8:7,21 143:21 165:2,6 165:15</p> <p>paying 39:20 39:23 40:2</p> <p>peifer 5:5</p> <p>peiferlaw.com 5:8</p> <p>pejoratively 57:20</p> <p>penalties 22:1</p> <p>pending 15:23 22:20,20 34:6 63:17 146:9 204:19</p> <p>penetration 186:23</p> <p>people 14:24 25:1 60:6 80:8 87:10 111:13 174:9 207:12</p> <p>peralta 3:13</p> <p>percent 46:3 112:20,22 128:9 133:22 133:23 134:17 135:22 136:2 136:24 149:24 149:25 153:12</p>	<p>155:9,9,11,22</p> <p>perforate 180:8</p> <p>performance 72:14</p> <p>performing 134:4</p> <p>period 30:2 40:20 76:12 78:12 82:16 121:2 137:10 140:8 164:4</p> <p>periodically 46:23 105:13</p> <p>permeability 127:8,9 129:4 130:19 134:13 134:16,19,24 146:22,25 147:13,20 148:17,22,22 156:12 197:24</p> <p>permian 3:18 5:2 65:10 69:5 125:22 180:15 180:17</p> <p>permit 17:10 53:18 55:19,25 56:5,12 57:23 57:24 58:1 106:12,13 107:9 115:25 118:14 119:17 125:5 168:7 178:19 200:23 203:15</p>
--	--	--	---

[permits - point]

<p>permits 16:15 18:11 55:13 190:7</p> <p>permitted 16:12 120:22 125:4</p> <p>permitting 108:23 181:9</p> <p>perpetrating 17:22</p> <p>person 86:23</p> <p>persons 85:25</p> <p>perspective 73:25 74:14</p> <p>petition 69:4 76:9 78:19 86:13 94:18,23 98:10 204:23</p> <p>petitioner 66:24</p> <p>petroleum 5:11 69:5 80:20 123:4 124:3 166:9 190:3,15 190:23 191:19</p> <p>petrophysical 127:25 134:11</p> <p>petrophysics 147:5 149:9</p> <p>pfas 70:24 77:21 79:24 87:7</p> <p>physically 41:5</p> <p>pick 198:10</p>	<p>picked 150:24 198:11</p> <p>picture 140:2,3</p> <p>pilot 4:10 63:3 63:6,13,16,18 64:9 65:12,17</p> <p>pilot's 63:25 64:3</p> <p>pin 207:2</p> <p>pipe 169:8,22 171:4 183:24 184:2</p> <p>pipeline 44:8</p> <p>pipes 171:16</p> <p>pivot 184:22</p> <p>place 139:16 170:7</p> <p>placed 75:4 77:2 169:20</p> <p>plan 115:17,21 118:12 171:10 171:25 172:4 172:14 173:1 173:15 184:18 184:24 185:1,4 185:11,12</p> <p>plans 146:18 184:16 193:10</p> <p>plant 105:14 113:19 114:5 115:3,11 117:6 120:12,24</p> <p>plants 113:21</p> <p>platform 126:10</p>	<p>play 180:16</p> <p>plaza 5:6</p> <p>pleadings 28:8</p> <p>please 13:17 15:20 18:19 25:12 35:18 49:4 56:21 63:1 64:6 91:24 103:18 105:8 106:21 108:14 109:3 110:6 111:19 112:14 114:12 116:17 118:4 121:25 122:11 122:20,24 123:15 124:17 126:4 127:12 128:12 130:1 130:21 133:15 134:25 135:10 137:16 142:15 143:8,13 162:4 165:3,13 166:2 166:24 167:6 176:10 179:3 189:19 190:20 195:16</p> <p>pleased 72:6</p> <p>pleasure 59:7 77:22</p> <p>plenty 91:7</p> <p>plot 47:17 167:5</p>	<p>plug 68:7</p> <p>plugged 68:5 125:7 145:16</p> <p>plugging 67:19 67:21 68:2 76:22</p> <p>plume 137:18 137:22 138:1,5 138:7,8,19,20 138:21,25 139:1,4,10,10 140:4,5,24 153:18,19 155:13 162:24 163:25 173:17</p> <p>plus 15:5 34:20 167:24 178:7</p> <p>po 3:5 5:15</p> <p>pocket 50:12 82:13,21 87:24 99:18</p> <p>pockets 49:17 87:25</p> <p>point 18:15 20:5,19 21:17 22:3 26:23 44:8 47:7 51:3 53:1 55:11 58:17 60:18 66:23 85:1,20 86:15 93:19 97:21 119:18 136:19,22 150:2 153:3,6 156:7 198:10</p>
--	---	--	--

[point - presented]

<p>202:18 204:18 205:14,16 pointed 20:10 points 46:13 62:9 147:16 poisson 143:18 178:13 179:11 187:22 200:18 poisson's 179:5 188:13 198:3 policy 81:9 politely 153:7 polled 61:23 pollutants 114:18 polytechnic 190:25 pool 39:24 poorer 89:23 populating 163:12 porosities 127:23 129:4 porosity 127:8 127:9,22 128:4 128:7,8,11 130:19 134:12 134:19,24 146:22,25 147:12,20 148:16,18,22 149:4,7 150:7 155:9,10,21,23 155:24 156:2,2 156:11,20,24</p>	<p>161:25 162:9 172:21 173:5,6 174:15,22 porous 180:5 posed 77:1 position 19:7 20:15 33:20 35:8 63:25 65:11,13 72:7 75:4,5 76:24 79:3 108:22 123:7,24 181:14 190:2,6 positive 89:24 possible 41:11 44:7 91:18 post 68:1 134:2 134:2 postpone 99:21 potential 35:3 78:7 114:6 120:17 138:10 139:11,13,18 139:25 140:8 140:21 146:12 152:20 153:4 158:22 potentially 21:4 27:25 54:25 63:21 102:21 pounds 31:3 106:2 170:23 pouring 26:17</p>	<p>power 39:15 66:12 powerful 139:6 practical 73:17 82:2 89:17 practice 44:6 50:24 practices 43:17 prc 70:21 pre 87:10 100:6 precedence 37:5 preclude 59:18 98:19 prefer 99:7,11 178:22 preference 61:17 preferred 74:21 prehearing 77:19 116:4 prejudgment 88:15 prejudice 53:15 prejudicial 55:15,15,20 preliminary 16:24 17:2,6 preparation 110:21 119:13 prepare 102:3 102:6 110:18</p>	<p>prepared 35:5 101:18 111:23 132:11 171:3 176:7 190:18 193:22 210:3 preparing 29:5 68:23 94:18 101:20 133:12 prerogative 99:3 presence 192:20,20 present 15:15 25:4,10 37:13 37:17 46:6 48:20 59:3 61:24 62:5 66:15,19 70:17 76:3 77:6 79:8 79:21 84:22 100:22 104:17 107:3,5 presentation 10:7 52:19 67:1 111:13,21 112:2 142:18 150:16 166:24 183:1 206:18 presentations 76:24 204:13 presented 35:5 36:24 55:23 77:8,25 78:17 87:15 92:7,11 92:12 93:25</p>
---	--	--	--

[presented - processed]

<p>175:18 204:25 presents 83:7 president 108:19 pressure 27:23 27:24 30:8,9 30:14,17,20,23 31:1,3,5 38:11 46:3 47:6 51:17,18 106:2 133:8 134:6 135:16,16 136:18,21,23 136:23,24 137:3,7,9 139:23 140:1,5 140:20 152:19 154:3,5 161:17 161:19,20 163:20,22,23 164:1 171:8,12 171:14,14 173:21,23,25 174:11 176:17 186:5,12 192:21,24 193:11 196:10 pressures 20:17 26:15 28:5 32:23 36:3 41:6,14 42:12,23 44:11 44:23 45:20 46:4,9 52:7,9 53:25 54:9,11</p>	<p>152:18 174:8 pressurization 48:18 presume 47:10 pretending 53:5 pretty 20:23 28:9,20 39:1 94:20 139:8 144:9 170:23 172:10,13 prevail 37:15 38:5 40:5 prevalent 113:24 prevent 37:23 37:24 98:14 107:14 117:12 132:23,24 142:3 176:25 192:6 195:10 198:1 preventing 181:4 prevention 95:23 prevents 130:16 previous 30:13 previously 106:24 108:25 117:18 123:12 165:24 195:1 196:4</p>	<p>primarily 34:1 109:8 primary 33:7 80:22 126:22 126:22 155:23 196:18 prior 69:3,8 70:16 74:20 82:14 93:3 98:9 194:13 209:5 prism 22:8 proactively 120:23 probably 29:15 32:2 50:3 61:2 76:4 99:25 119:14 137:12 146:2 157:16 157:17 168:23 175:7 179:19 180:25 183:20 207:2 problem 27:13 57:4 80:17 87:21 91:21 95:7,13 99:5 118:5 146:18 163:15 problematic 96:16 97:20 problems 27:24 90:7 95:18 146:6 170:24</p>	<p>procedural 61:6 63:5 64:18 77:25 78:4 79:23 97:16 101:23 procedure 62:17 procedures 15:10 61:8 64:25 100:6 proceed 20:23 23:25 34:22 35:9 90:25 98:20 102:16 102:19 108:10 122:7 178:25 proceeding 49:13 60:3 64:2 86:20 210:4 proceedings 57:12 63:17 209:3,5,6,9 210:6 process 32:21 70:23 75:22 76:2,5 81:5 92:11,25 93:13 93:24 94:2,7 94:14 97:22 98:10 159:24 190:9 processed 34:10 78:2</p>
--	--	--	--

[processing - provides]

<p>processing 105:14 113:16 115:4 123:21 123:22</p> <p>procession 86:19</p> <p>produce 40:2 52:16 125:14</p> <p>produced 16:1 16:13 38:12 49:15 50:13 53:22</p> <p>producing 26:20 39:20,22 72:4 171:1,2,7 199:14</p> <p>product 90:5 96:24</p> <p>production 41:20 112:25 120:7 125:7 145:6,8 146:5 167:15 169:23 172:12 179:21 181:3 184:23 184:25 191:1</p> <p>productive 75:5</p> <p>professional 109:4 123:16 166:3,14 204:13</p> <p>profit 27:19,20</p> <p>program 140:17</p>	<p>prohibition 38:25</p> <p>project 124:8 181:16 192:19</p> <p>pronounce 80:13</p> <p>proper 120:25</p> <p>properly 68:4</p> <p>properties 127:25 155:16 176:15</p> <p>property 118:21,21 120:1,3 157:19</p> <p>proposal 68:19 69:1 76:17 77:5 84:15 85:15 93:21,24 93:25 94:3,5 94:19 96:20</p> <p>proposals 75:21 76:8 81:11 92:24</p> <p>propose 100:1</p> <p>proposed 43:7 43:8 44:20 45:18,20 59:16 60:20 66:25 68:19 69:24 70:1 71:7 72:9 76:5,12 77:11 77:15 78:4,6 79:5,11 81:3 81:15 82:1,14 83:19,22,24</p>	<p>86:1,6,7,22 87:14 88:6 89:8 90:10 92:4 95:12 100:5 103:1 105:14,24 106:1,5,11,13 113:7 115:25 117:8 125:15 129:21 132:8 141:10 144:25 175:19 176:24 177:2 192:23 193:3,4,5 195:5 199:25 201:19 203:16</p> <p>proposing 70:22 77:15 84:18 98:23 202:24</p> <p>proposition 87:24</p> <p>proprietary 175:11</p> <p>propriety 15:25 16:6</p> <p>prospect 90:15 90:15,16</p> <p>protect 26:24 37:23,24 107:14,15,16 117:9,12 132:23,25 133:10 142:3,4 169:21,22</p>	<p>176:25 192:7,7 200:4</p> <p>protected 27:2</p> <p>protecting 114:14</p> <p>protection 95:23</p> <p>protects 168:17</p> <p>protocol 196:13</p> <p>prove 26:4 28:15 39:19 133:2,18</p> <p>provide 17:24 35:6 44:22 48:9 59:16 72:15 77:17 83:15 92:9 97:5 105:7 112:5,6,8 152:13 160:16 161:14 162:3 190:8,9 196:12 199:24</p> <p>provided 24:10 34:3 38:10 41:12 53:3 77:9 94:5 105:19 112:15 116:16,20 117:1 168:6 194:13</p> <p>provides 44:21 193:14</p>
--	--	---	--

[provision - radius]

<p>provision 83:16 84:8 196:13</p> <p>provisions 67:18,19 83:9 87:3 93:6</p> <p>prudent 86:16 89:18 90:24 98:25</p> <p>prudential 84:13</p> <p>psi 31:3 46:16 140:19,22 141:5 144:9 154:11 161:18</p> <p>public 20:11 25:21 32:15,16 37:20,24 41:2 41:19 60:7 67:4 76:24 80:4 81:9 82:22 85:9,11 87:3,6 106:7 106:10 107:15 117:9 142:4 177:3 192:7 200:4 209:18</p> <p>publicly 41:23 54:17</p> <p>publics 28:23</p> <p>published 12:9</p> <p>pull 51:12 116:2</p> <p>pump 175:14 175:15,15</p>	<p>purpose 33:24 55:12 68:8 72:19 95:10 107:13</p> <p>purposes 35:3 64:20 91:16</p> <p>pursuant 86:17</p> <p>pursue 20:6</p> <p>pursued 74:6</p> <p>pursuing 34:25</p> <p>push 78:11 208:1,4,7</p> <p>pushing 152:24</p> <p>put 28:21 30:1 36:5 43:3 44:9 47:17 61:18 86:8,22 89:21 97:14 136:5 151:10 152:2 152:11,21 163:3,18 167:24 181:1 198:15</p> <p>putting 158:21</p> <hr/> <p style="text-align: center;">q</p> <hr/> <p>qualifications 109:13</p> <p>qualified 109:13 124:7 166:15 209:7</p> <p>quality 70:20 123:22</p> <p>quantities 39:21,23 40:2</p>	<p>quantity 38:21</p> <p>question 18:21 21:10 23:22 29:15 30:5 31:21 49:22 51:20 52:7 62:12 88:22 89:2 92:1 102:13,16 119:22,24 121:15 143:25 146:2,9 147:19 149:2,8 151:7 151:13 158:20 158:24 159:4 160:17 161:3,5 161:24 168:21 170:1 174:25 180:22 181:19 187:7,22 188:3 188:8 200:16</p> <p>question's 143:21</p> <p>questionings 160:4</p> <p>questions 18:13 31:13,15 32:6 33:15 34:15 35:13 49:1 51:5,6 54:21 55:8 61:16,16 71:2 77:25 85:18,19 88:12 88:19,21 101:1 101:4 117:25</p>	<p>118:1 119:1 121:11,12 142:7,9,22 143:17 144:12 144:17 157:16 159:16 160:6,8 160:15 161:13 162:12,14 164:17 170:25 175:21 177:7,8 178:25 179:4,6 181:15 187:15 187:17 188:2 188:17 196:19 200:9,11,13,14 202:2</p> <p>quick 29:15 51:19 120:14 187:21 188:24</p> <p>quickly 36:14 41:11 51:10 78:2 118:16 145:3 206:25</p> <p>quite 76:25</p> <p>quorum 12:5,6 61:24</p> <hr/> <p style="text-align: center;">r</p> <hr/> <p>r 2:1,4 3:1 4:1 5:1 6:1 7:1 11:1 63:15</p> <p>radius 124:24 124:25 125:2,9 125:11,16 136:8 145:5,5 145:9,15 146:1</p>
---	---	--	---

[ragdale - read]

<p>ragdale 8:7,21 112:8 143:22 146:3 165:2,3 165:6,13,15 166:23 174:14 175:17 177:7 179:20 188:17 188:18</p> <p>ragdale's 166:13</p> <p>raise 40:6 48:16 82:2 121:25 165:3</p> <p>raised 15:22 16:3,8 36:20 62:12 108:2</p> <p>ran 140:16</p> <p>range 105:16 177:22 179:18 179:20 188:12</p> <p>rankin 3:19 35:19 48:25 49:5,25 50:12 51:11,14 52:25 53:2,19,20 54:18 55:9,23 57:11,17 61:2 62:11</p> <p>rate 42:16,19 43:1,4 46:7 105:25 112:21 138:2 142:14 144:3 154:22 162:20 163:5,7 180:12 186:23</p>	<p>193:7,8 195:5 195:6 198:23 199:4 202:24 202:25</p> <p>rates 42:22 43:14 44:22 47:3 48:1,12 49:6 54:5,12</p> <p>rather 16:22,22 22:23 43:20 48:20 70:13 75:24 88:5 89:24 179:25 201:14,23 206:25</p> <p>ratio 178:15,16 179:5,11 187:22 188:13 198:3,11 200:19</p> <p>ration 143:18 143:19 178:14</p> <p>ratios 198:16</p> <p>ray 127:21 147:23 148:10 148:14 149:4 172:8,10,20</p> <p>razatos 1:10 7:3 11:2,5,10 11:15,23 12:2 12:4,16,20,23 13:2,9,11,17,21 14:2,7,13,16,19 14:23 15:3,20 18:19 19:2</p>	<p>22:12,25 23:6 23:14,18,21,24 24:15,20 25:3 25:7,9 29:1,4,6 29:13 31:13,18 32:6 33:2 35:12,15,17,20 48:13,25 49:4 51:4,13 54:18 56:14,17,20 57:8 58:5,8,10 58:14,18 59:25 60:8,12,14,16 62:9,20,22,24 63:1 64:6 65:6 65:20,24 66:3 66:7,20 67:5 71:3,17,21 75:12 78:21 80:11,16 85:16 85:22,24 95:3 95:5 99:16 100:2,8,10,18 100:24 102:12 102:15,23 103:3,7,10,14 103:19,22,24 104:10,14,20 105:4,8 106:17 106:21 107:17 107:22 108:1 109:15,18 111:5,7 117:19 117:23 118:2,5 119:3 121:10</p>	<p>121:19 122:18 124:11 159:14 159:22 160:9 164:11,15,18 164:23 166:17 166:19 177:9 179:7 187:14 187:19 188:7 188:14,18,23 189:2,10 191:11,13,22 191:24 194:6,8 200:10,12 202:1,5,8,19 203:23 204:15 204:18 205:10 205:13,23 207:4,13,17,19 207:24 208:3,6 208:12</p> <p>rcx 8:14 9:2</p> <p>rdx 8:14 9:2</p> <p>reach 67:22 68:3 138:25 139:2 143:2 153:3,5 161:13</p> <p>reached 137:10 137:11</p> <p>reaching 92:22 98:9</p> <p>reactivation 152:20</p> <p>reactive 75:4,5</p> <p>read 188:5</p>
--	---	---	---

[reading - referred]

<p>reading 175:6 real 120:14 131:12,13 173:25 187:21 realistically 101:6 realities 73:19 really 19:25 27:18 35:7 42:9 51:15 57:11 69:1 74:9 98:5 119:12 132:17 155:11,14 156:12,12,13 163:9,23 173:16 176:1,3 181:4 199:21 realm 204:24 reason 22:6 33:21 40:15,25 41:22 43:10 46:20 62:16 72:10 84:16,16 149:10 161:4 188:3 205:25 reasonable 106:15 reasonably 39:13 reasoning 161:8 reasons 40:5 84:13 90:19 96:25 196:18</p>	<p>reassess 193:6 195:4 rebut 35:25 37:3 rebuttal 70:9 70:13 160:2 recall 150:9 175:23 recap 54:23 receipt 44:8 receipts 116:23 receive 176:13 received 49:16 77:10 111:9 117:22 191:15 194:9 receiving 47:5 81:14 recent 33:17 45:3 74:19 81:20 recently 42:13 43:1 77:10 109:9 184:20 reclamation 77:3 recognized 190:14 recommend 17:11 58:4 94:19 159:10 159:14 199:20 recommendat... 17:16 53:17 56:9 59:16</p>	<p>175:10 201:23 recommendat... 58:1 176:11 190:8 194:1 recommended 55:17 178:12 recommending 22:3 59:11 reconvene 159:23 record 12:5 38:11 52:14 56:22 57:6 66:6 70:17 78:14 91:9 104:13 108:15 122:12 159:21 165:14 187:25 189:1,3,20 201:8,10 209:9 210:5 record's 201:15 recorded 194:19 209:6 recording 209:8 210:4 recordkeeping 64:21 records 25:22 25:22 28:23,25 recoverable 39:6,13 recovered 38:21,24 40:1</p>	<p>recovering 39:1 recovery 39:24 123:5 124:3 red 71:10 94:17 113:19,20 redirect 119:4 144:13,14 160:12 162:12 redline 77:12 redlined 71:6 reduce 38:20 39:24 49:20 115:3,7 192:24 reduced 209:7 reducible 136:1 redundant 72:23 118:11 118:12,14,15 119:11,17,22 194:20 196:17 199:6,11,22 200:21 reevaluate 20:6 refer 105:12 110:18 135:25 reference 107:11 referenced 75:19 94:13 142:13 referencing 142:17 referred 16:22 174:24</p>
---	--	--	---

[referring - requests]

<p>referring 31:23 142:17</p> <p>refine 75:22 92:23 93:5</p> <p>refinement 73:17 75:23 80:24 95:11 96:6 99:13</p> <p>reflect 20:22 74:14</p> <p>refuting 52:3</p> <p>regarding 76:24,25 110:24 127:24 129:6,21 132:8 136:3 137:17 138:4,18 142:14 160:17 161:25 190:8 192:20</p> <p>regardless 53:1</p> <p>regards 146:3 159:1 162:16 163:16 181:23 202:23</p> <p>region 32:23</p> <p>regional 139:21 143:6 154:18 158:11</p> <p>regression 197:16</p> <p>regs 55:13</p> <p>regularly 93:23</p> <p>regulating 75:7</p>	<p>regulation 116:21</p> <p>regulations 37:22 74:14 91:4</p> <p>regulator 180:23 191:5</p> <p>regulatory 67:21 68:20 108:20 191:2</p> <p>reintroduction 83:4</p> <p>reject 96:19,25</p> <p>relate 15:22,24 16:4</p> <p>related 18:21 56:24 64:14 76:5 114:2 209:11 210:7</p> <p>relates 22:21</p> <p>relation 138:21 139:10</p> <p>relative 194:12 209:13 210:10</p> <p>relatively 78:2</p> <p>releasing 163:22</p> <p>relevance 19:9</p> <p>relevant 49:13</p> <p>relied 37:1 48:22</p> <p>relief 47:8,20 50:3</p> <p>relieved 205:7</p>	<p>reluctantly 16:22</p> <p>rely 38:10</p> <p>remaining 179:4</p> <p>remand 23:7 23:12,19</p> <p>remanding 22:16</p> <p>remedial 22:1</p> <p>remedy 20:7</p> <p>remember 62:4 62:4 80:12</p> <p>remind 88:11 91:5</p> <p>reminders 15:4</p> <p>reminding 15:1</p> <p>repeat 80:23 92:2</p> <p>reply 15:19 24:3,9 34:2</p> <p>report 17:15 41:17 59:11 60:22 177:16 197:5</p> <p>reported 1:22 52:9</p> <p>reporter 124:20 137:14</p> <p>reporting 25:21,24 29:21 29:23 31:11 34:13 41:2,7 41:19</p>	<p>reports 41:3,5 41:13 134:14 147:18 148:24</p> <p>represent 128:13,20 136:16 137:3 137:21 195:19</p> <p>representation 51:16 193:25</p> <p>representations 34:16</p> <p>representatives 69:4</p> <p>represented 130:8</p> <p>representing 19:3 63:3 72:1 79:1 80:20 105:1</p> <p>represents 93:25 137:2 140:20</p> <p>request 19:6 52:17,17 69:11 70:3,12 71:1 79:6 109:13 163:9 166:14</p> <p>requested 69:17 73:16 161:15</p> <p>requesting 114:3 121:3 133:5</p> <p>requests 59:20</p>
--	---	--	---

[require - right]

<p>require 39:18 114:8 123:11 197:24 required 38:3 41:3 72:21 140:1 141:7 152:3 196:16 requirement 37:10 requirements 41:7 73:9 76:21 88:9 93:1 106:15 115:21 118:13 132:17 195:21 201:16 requires 74:23 118:10 requiring 70:5 research 42:21 123:5,8 124:3 125:5 reservations 90:7 reserve 203:1 reserves 195:4 reservoir 30:6 47:4,4 112:8 132:15 133:13 135:21 142:23 155:8,19 160:23 176:22 residual 26:22 26:25 39:8</p>	<p>resin 169:24 resistance 181:24 resistant 167:23 169:19 169:19 182:7 183:24 184:2,2 195:25 199:15 199:19,20 resistivity 172:8,22 resolve 67:4 resolved 16:5 17:13 42:5 resource 78:9 resources 75:7 91:22 108:19 189:24 191:4 respect 88:1 114:11 200:18 respectfully 69:11 respond 31:8 32:11 35:7 36:8,22 48:21 49:3 50:2 98:1 98:2 155:15 157:17 179:12 179:13,14 180:23 205:8 responded 187:23 respondent 15:25 16:12 17:18</p>	<p>response 15:18 16:21 20:1 23:4 24:3 32:19 33:1,5 36:10,19 49:23 50:1,13 51:25 52:1,2,16 57:3 94:18 196:20 responsibilities 108:21 123:6 190:5 responsible 108:23 189:24 rest 18:3 53:11 restating 55:20 resubmitting 201:23 result 37:18,18 45:2 74:12 117:6 141:24 results 82:15 91:17 137:1 resume 10:13 107:6 190:18 retain 110:17 retarder 170:7 retarders 175:12 retired 166:11 retrogression 143:1,9 197:18 return 68:17 review 15:17 36:16 76:8 124:16 175:23</p>	<p>190:7 reviewed 77:7 115:24 116:7 192:10 reviewing 196:22 revised 84:11 revisions 73:18 94:19 revoke 15:13 rfi 21:4 rice 5:2 65:10 rich 56:12 rid 133:10 rig 168:15 rigged 162:7 right 15:7,8 23:3,14 27:3 29:9 47:20 57:1,12,16 60:15 65:20 104:8 108:3 112:19 114:1 118:19 120:8,9 121:25 127:21 143:11 148:19 156:1 162:24 165:4 183:10 183:14 195:4 199:18 201:24 202:13 203:1,2 203:12 204:3 204:12 206:11 206:17 207:15</p>
---	--	---	---

[righthand - rustler]

<p>righthand 130:11 134:21 134:22 148:10 148:13 167:5 rights 37:23 39:4,7,11,14 50:21 95:23 106:6 107:15 117:13 132:24 142:3 176:25 192:7 200:1 righty 13:13 rigid 72:18 rip 15:24 rise 94:3 risk 96:2 106:8 140:8 141:24 risks 68:12,14 68:16,22 73:8 roadrunner 113:19 robert 8:3,15 108:5,16 robust 91:9 rock 42:15,20 95:16 174:19 role 20:5 roles 109:8 roll 11:9 14:10 58:9,10 103:17 203:22 room 101:25 174:9 roswell 5:16</p>	<p>roughly 91:20 roz 26:25 28:6 39:8,21 50:20 rubin 2:4 11:20 13:24 14:10,21 14:25 15:16,21 18:17 21:15 22:18 23:11,15 23:19 24:2 28:7 29:11 31:20 32:1,5 32:17 36:18 52:21 53:13 54:21 55:9,14 55:16 56:14 57:13 58:6,9 58:19,23 59:5 59:14,22,25 60:4,17 61:5 61:11,13,21 62:3,7 64:5,6,7 64:24 65:21 66:1,17,22 67:6 71:4,9,13 71:19 85:20,23 85:25 97:24 98:17 99:24 100:3,9,14,19 102:24 103:5,9 103:12,17,25 104:4,7 107:24 108:2,9 119:4 119:7 121:13 121:17,24 122:6 144:13</p>	<p>144:17 165:3 165:10 189:16 200:15,25 201:5,17,24 202:9,13 203:8 203:12,21,24 204:1,3,9,12,16 204:20,21 205:11 206:7 206:13,21 207:6,9,15,18 208:10 rubin's 25:18 27:11 50:16 102:19 rule 17:6 59:18 75:22 76:3 80:22 83:22 85:14 98:11 rulemaking 66:25 72:8 74:1,3,5,22,25 75:9 77:21 78:7,19 79:8 79:24 81:4 82:2 83:19 86:1,6,17 90:22 91:16 92:4,8,20 96:24 97:1,6 98:20 100:16 102:17,19,25 190:10 206:19 rules 64:8 65:1 67:25 68:10</p>	<p>70:14 71:7 72:9,10,11,13 72:15,15,20,22 72:24 73:1,6 73:10,12,16,17 73:23,25 74:12 74:23,25 75:1 75:9,10,19 76:9,18 78:19 84:2 86:17 87:4,12 88:9 88:10 89:8,11 89:18,21,25 90:2,8,10,12,20 92:11,18,24 94:13 95:20 96:8,15,19,23 132:22 181:7 ruling 77:20 98:14 rumors 82:5 run 162:9 167:12,19 168:1,6 169:18 169:25 172:20 172:22 173:15 182:8,13 running 94:8 172:14 173:13 180:2 runs 96:2 rustler 168:17</p>
---	--	---	---

[s - see]

<p>s</p> <p>s 2:1 3:1 4:1,21 5:1 6:1 7:1 10:1 11:1 safe 176:19 192:16 safely 133:6 141:20 176:14 safety 109:9 174:10 196:1 saint 2:17 sake 91:3 salinity 136:7 136:10 157:3 salt 170:18 saltwater 46:22 san 26:5 27:1 27:25 28:4,7 39:7,21 43:5 49:11 50:20 64:2,3 66:12 sandstone 179:19 198:6 198:10 santa 1:17 2:7 2:18 3:6,14,22 4:6,15,24 6:6 6:17 71:24 sat 61:15 satisfied 98:12 187:24 188:4 saturated 135:23,24 170:20</p>	<p>save 207:12 saw 26:11 28:11 50:10 saying 21:20 22:5 23:7,8,12 24:11 26:19 29:4 30:12 39:3 97:7,11 97:12 100:15 152:16 183:19 207:7 says 55:25 56:12 103:13 135:6 scaling 46:21 46:22,23 scenario 83:3 161:9 163:18 163:23,24 164:5 scenarios 151:24 schedule 69:12 scheduled 206:10 schedules 97:16 205:19 schematic 167:7,8,10 scheme 67:21 schlumberger 123:19,24,25 124:1 schools 72:4</p>	<p>scientific 42:21 scope 18:21 63:9 68:25 69:10 102:8,11 scramble 90:18 91:19 101:18 102:3,4 scrambling 101:22 screen 36:17 51:12,16 82:7 109:23,24 116:13 seal 126:22 127:1,3 130:16 130:20 134:23 172:16 193:14 193:15 195:9 sealed 152:4 second 13:1,10 14:6 58:6,7 86:15 103:4,16 118:3 120:2 125:6 167:12 168:22 196:16 203:20 207:14 secondary 126:25,25 128:7 155:24 156:1,5 secondly 79:13 80:7 secretary 11:14 205:4</p>	<p>section 57:2 82:17 83:21 84:4,17 105:15 123:9 170:19 173:2 sectors 96:3 see 12:18 20:2 20:12,17 22:21 26:6 30:7,9,17 37:2 42:10 44:21 46:9,11 46:17,24 47:16 47:17 50:22 56:11 60:3,12 60:13 64:22 67:8 74:13 75:23 76:7,9 100:7 109:24 110:4 111:14 112:20 113:19 113:23 114:4 120:12 121:6 125:8 126:13 127:19,19 128:4,21 129:24 130:6,8 130:11,24,25 131:19 132:1 134:8,21 135:6 135:23 137:9 137:20,24 138:22 140:14 140:19,24 141:3,6 144:25 145:17 146:1</p>
---	--	---	---

[see - shaheen]

<p>148:9 150:5 151:12,12 153:4 155:13 156:7,20 157:14 163:19 163:24 167:15 168:4 169:6,15 174:9 175:19 175:24 178:18 180:15 181:24 182:22,25 183:2 seeing 41:23 44:1 46:20 52:15 96:21 148:18 174:2 seek 68:20 seeking 37:6 47:8,8 66:24 67:16 seeks 105:11 seem 17:7 18:15 27:10 51:6 seemingly 27:4 seems 26:16 52:6 98:9 seen 52:2,20 55:14 70:19 112:18,20 152:17 193:19 sees 88:8 seismic 123:22 124:1 125:25 126:3 128:14</p>	<p>128:16,25 129:11 149:16 161:1 162:10 192:19 194:18 194:19 196:11 196:13 seismicities 131:4 seismicity 42:14,23 106:8 131:5,16,20 141:25 192:22 196:11 seismology 131:9 seismometers 131:7 selected 146:4 146:17 self 21:20 40:11 45:2,12 48:4 seningen 2:15 8:10,12,17,20 8:23 9:4 104:19,25 105:1,4 106:18 106:19,22,23 107:18 109:17 111:6 117:20 118:4,5,7 119:1,3 121:16 124:10 142:8 142:11 144:11 159:10,19 164:13 166:18</p>	<p>177:8,11 179:4 189:6,7,18 191:9,17 192:2 194:4,11 200:8 202:12 204:10 sense 73:25 74:23 79:25 89:19 90:4,5 186:11 207:12 sensible 84:13 sensitivity 152:8 sentiments 203:13 separated 61:23 separately 14:9 131:1 september 26:24 27:12 35:10 48:24 50:7,18 56:7 59:3 63:8,18 63:21 94:7 206:4,14,18 sequestration 106:9 serious 16:14 35:22 40:7 96:20 seriously 35:24 45:11,15 48:2 48:23 serve 55:12</p>	<p>served 20:11 service 5:3 65:11 123:9 services 4:20 104:15,24 123:25 124:1 159:25 session 11:9 69:23 78:9 81:21 82:7,8,9 82:16,20 83:5 84:10 90:13 91:13,15 98:15 99:2 101:6,15 202:15 sessions 145:6 set 15:23 23:13 33:14 98:14 99:1 115:22 167:16,19 168:14,16,17 168:19 169:1,2 170:17 171:4 171:16 206:22 setting 62:4 88:25 98:15 seven 96:9 140:17 168:24 several 37:12 99:1 125:9 160:15 179:23 severely 20:24 sfd 134:4 shaheen 3:11 25:15</p>
---	---	--	---

[shale - simulation]

<p>shale 126:23 127:2 128:22 130:12,13 145:6 156:9,10 shales 186:18 186:19,22 shallow 126:9 shallower 160:25 shanor 4:22 5:14 80:19 104:23 share 36:16 64:6 82:7 109:22,23 185:16 shared 94:20 sharing 51:11 sharon 3:11 25:15 sheila 7:9 12:12 205:20 206:8 207:19 shell 191:3 shoe 169:25 shoot 184:3 short 68:1 shortly 92:12 should've 28:24,24 32:3 50:13 show 19:23 23:9 26:25 27:13 28:3 35:1 36:2</p>	<p>37:14,15,21 38:17,18,19,23 39:12,19,19,21 39:25 40:1,3 41:1 45:9 50:13 53:23 85:6 88:16 106:4 131:1 134:15,18 138:4 139:3 140:7,9 147:24 149:5 152:1 168:8 showed 57:11 173:4 showing 34:3 37:19 38:4,4 39:2,2,5 40:4 43:7 110:1 112:24 113:22 134:18 138:6 138:16 140:3 149:7 156:12 183:15 showings 37:12 37:13 shown 38:7 113:14 124:17 125:19 126:4 126:11 127:24 128:12,17 130:1,21 131:2 135:1,10 136:3 136:14,25 137:17 138:11</p>	<p>138:16,18 139:22 140:12 145:1 150:24 166:24 167:7 167:13 168:12 169:4 170:14 183:21 shows 44:20 46:5 84:19 113:17 124:24 125:1 127:11 127:14,15 129:6 131:6 137:5 148:2 156:24 167:3 167:10 168:14 169:8,9 shrink 112:14 shut 22:3 47:12 174:10,11 184:22 shutting 18:8 21:22 side 34:4 35:14 46:16 53:8 85:2 120:1,2 130:11 134:21 134:22 148:9 148:10,13 163:10 167:2,5 sides 85:3 sierra 66:13 signature 58:21 209:16 210:14</p>	<p>significant 68:6 73:7 89:22 146:7 significantly 102:8,11 192:24 silica 197:25 silurian 105:21 105:21 141:15 141:16 siluro 118:24 119:16 126:16 126:17 128:21 130:24 133:3 176:12 similar 63:12 65:11 70:23 118:21 139:5 193:20 similarities 181:13 similarly 141:2 simple 33:6 simply 27:14 45:20 46:21 54:3 55:18,20 56:3 93:17 94:12 simulated 133:24 136:13 simulation 132:16 133:13 133:16,17 135:3,13,21 136:6,15 137:2</p>
--	--	--	---

[simulation - special]

<p>137:6 139:8 140:22 141:6 142:23 151:1,2 151:6,13 152:10,10 157:25 198:17 199:1 simulations 112:8 single 149:8 198:16 sir 29:8 66:21 85:16 164:24 185:7 187:6,12 200:17 sit 118:17 site 112:7 124:16 131:17 sites 114:16 situation 25:19 28:15 156:17 six 34:17 52:4 76:4 96:9 136:22 142:19 166:11 205:5 size 135:8 skills 209:10 210:6 slide 52:7 112:1 112:13,16,17 113:2,5,5,15 120:13 124:17 124:24 125:18 125:19 126:4 126:11,11</p>	<p>127:11,24 128:12,17 129:5,6 130:1 130:21 131:2,5 131:15 132:16 134:10 135:1,9 136:4,14,25 137:17 138:4 138:11,18 139:3,22 140:9 140:12 144:21 144:22,24 147:11,24 148:4,5 149:3 149:3,6 150:4 150:5,12,16,23 153:9 155:3,4 155:6 161:24 162:17,18 166:23 167:13 168:12 169:4 170:14 171:24 173:4 175:18 175:20 182:17 slides 111:23 124:15 129:24 132:10 139:5 176:6 slip 138:10 139:11,13,18 139:25 140:2,8 140:21 150:25 152:9,12,18 slippage 141:4 144:5</p>	<p>sloughing 186:18,22 slow 137:12 slowly 90:25 124:19 slug 43:25 44:5 small 73:7 124:25 smaller 73:2 snippet 43:7 so2 114:23 software 139:8 139:14,17,19 139:25 140:21 140:23 141:3,4 141:6 solutions 4:10 somebody 52:10 174:7 somewhat 76:10 sonic 172:15,21 sorry 13:18 14:2,24 17:20 37:10 51:17 56:20 60:3 67:8 85:24 95:2 103:7 118:8 126:24 144:4,16 151:6 178:16,20 sort 45:16 54:23 56:3 67:15 68:4,15 92:23 93:13</p>	<p>99:10 101:14 101:17,22 102:2 sosa 31:2 sounded 188:4 sounds 19:6 185:3 sour 114:15,25 115:5 source 132:25 154:9 192:8 sources 107:16 200:6 south 1:16 2:17 105:16 123:20 130:7,7 153:20 southeast 113:1 113:9 southern 190:24 southwest 129:18,19 132:2 138:23 140:15 141:2 space 45:19 136:2 153:13 speak 18:7 28:7 28:8 32:24 34:9 35:21 124:19 speaking 19:19 25:16 speaks 23:16 special 167:22 169:8</p>
---	---	---	--

[specialist - step]

<p>specialist 190:3 specific 20:20 36:22 38:16 83:15 89:7 102:20 141:8 182:4 195:22 specifically 37:3 63:13 95:9 114:2 133:2 specification 151:21 152:5 specifics 88:4,5 specs 169:5 speculative 88:2 101:14,16 spend 79:7 spent 123:18 123:23,23 spikes 45:24 spiking 46:21 split 60:25 130:4 167:10 splits 18:7 spring 93:10 94:9 springs 171:2 spur 98:3 square 106:2 135:6 squarely 94:1 squiggly 46:8 sshaheen 3:15 st 1:16</p>	<p>stabilizing 114:5 stacked 118:25 staff 68:24 78:12 181:18 stage 119:25 169:18 stages 169:17 178:6 stakeholder 76:5,14 93:24 94:2,10,15 stakeholders 92:17 94:24 stand 65:11 88:19 164:21 189:9 standard 105:25 142:19 144:10 154:24 163:4 192:3 195:19,21 198:9 standards 16:24 72:14 192:6 194:25 standpoint 30:7 stands 33:21 64:2 stanford 139:14 star 144:25 start 24:17 25:5,7,11</p>	<p>26:17 67:7 69:25 92:25 93:11 99:22 104:21 124:16 140:17 144:18 144:21 174:2 177:23 181:8 188:25 207:22 started 123:19 starting 33:4 71:11 76:6 94:7 133:25 starts 174:1,3 state 1:1 2:2,11 2:16 17:20 55:13,18 63:16 67:23 68:7,9 68:13,25 72:4 76:23 77:2 78:17 83:24 87:4,12 88:9 98:12 103:12 108:14 109:10 118:22 119:15 122:11,23 143:3 165:13 166:4 189:19 191:7 202:17 209:19 state's 73:4 74:7 stated 21:24 86:7 statement 8:11 8:12 63:24</p>	<p>70:13 106:20 116:4 states 81:13 static 178:2 stating 56:4 station 120:11 194:19 stations 131:7 131:11,12 196:12 status 68:12 statute 39:15 76:18,19 90:12 96:23 statutes 90:17 90:23 statutory 76:15 81:11 stay 33:8 37:6 37:16,18,22 38:8 50:4,5 65:15 118:21 118:23 stayed 64:17 137:6,8,9 205:9 staying 46:1 134:5 steady 137:9 step 18:8 144:3 154:22 162:20 163:5,7 193:8 195:6 198:23 199:4 202:6,25</p>
--	--	--	--

[supportive - targa]

<p>supportive 63:25 supports 107:8 suppose 64:19 supposed 88:6 sure 11:21 17:4 19:5 21:13 23:7 25:9 32:22 45:13,25 51:5 54:24 61:7 65:2,18 67:8 73:24 87:4 92:16 93:18 96:10 97:9 100:2,10 100:25 101:13 107:24 124:21 132:21 133:6 134:3 137:4,13 150:17 162:13 178:18,24 183:1 184:5 187:15 194:18 194:20 197:20 198:5 201:9 207:16 surface 30:24 46:8 106:1 133:7 167:11 169:15 176:16 177:15,22,23 178:1 197:1 surges 43:18 49:18,19,20,21</p>	<p>surprise 79:13 80:10 84:24 85:7 surprised 79:20 155:12 155:13 163:17 surveyor's 167:5 sus 20:24 suspend 27:10 47:9 suspension 33:8,9 37:6 50:5 swd 4:10 15:14 63:14 125:3 145:14,15 147:1 swds 43:1 44:10 179:24 swear 107:22 107:24 swearing 15:6 sweep 172:10 172:13 swi 135:25 sworn 108:6,9 122:3,6 165:7 165:10 189:13 189:16 209:5 system 41:25 42:1 113:18 170:23 171:12 systematic 50:24</p>	<p>t t 3:11 10:1 table 71:18 89:1 96:8,20 125:1,1 139:15 175:25 182:15 182:25 tackled 88:7 tag 105:13,20 106:9 114:2,12 114:13,20 115:2,10,14 117:9 120:8,13 130:16 133:18 133:21 136:2 137:17,19,22 138:1,20 139:10 140:4 141:17,20,23 153:19 176:13 176:19,22 184:24 tailored 192:18 take 18:8 19:20 21:23 26:2 35:24 36:4 44:2 45:11,14 48:22 52:4 64:1 66:4,5 79:2 83:20 89:5 91:14 95:14 104:11 125:12 133:4 133:19,19 135:13,15,17</p>	<p>154:25,25 159:17,17 162:19 163:14 171:13 173:2,6 188:24,24 196:12 203:21 takeaway 114:2 taken 21:6 53:1 92:16 146:7 209:3,12 210:9 takes 45:14 48:2 139:19,19 talk 61:2 158:1 talked 170:4 184:15 talking 19:8 50:4,21 53:4 59:1 63:5 76:17 80:3,4,5 144:4 154:13 199:17 talks 49:14,18 tannis 6:14 67:13 tapestry 56:12 targa 4:19 10:4 104:15,23 105:11 106:13 107:12 108:19 110:8,9,16 111:3,9,16 113:18 114:8 115:14,17 116:9,11,17,18</p>
---	--	---	---

[targa - thank]

<p>117:17,21,21 121:3 132:18 159:25 165:18 177:17 183:5 183:16 184:6 188:21 189:4 193:5,7,10 194:22,24 195:3,11 197:9 197:13 198:20 202:11 targa's 106:14 107:20 111:12 112:2 113:2 115:20 117:8 121:22 165:1 192:14,23 196:20,22 199:10 taxes 75:6 taxpayers 67:24 68:13 td 171:11 team 52:25 123:10,21 157:17 teams 60:2,3 66:19 122:20 tech 110:18 123:4 131:9 tech's 124:2 technical 45:18 77:9 79:9,9,14 80:3,5 84:6 123:10 188:2</p>	<p>190:7 technically 39:13 technology 110:17 tell 20:20 30:22 54:9 108:7 120:6 122:4 155:17 159:1 165:8 174:4 189:14 telling 148:15 temperature 135:17,17,18 142:24 143:3,5 143:14 158:1,2 158:3,16,17,19 158:21,22 159:2 170:2,6 170:11 173:10 173:21,23 174:1,1,3,25 175:6,12 177:21,25 178:1,2,9 193:11 197:10 temperatures 170:1 175:3 temporary 68:11,15 ten 66:5 104:11 188:24,25 tend 15:22 38:20 41:18 46:9</p>	<p>tends 39:23 tenneco 37:9 38:14 55:9 term 17:20 95:14,18 96:2 96:2,17 terminated 43:23 terms 27:19 30:15 33:11 34:2 36:23 46:2 52:2 57:15 64:1 78:11 82:25 94:10 95:22 102:2 150:13 180:23 201:12 test 11:21 47:1 86:11 154:22 162:20 163:5,7 175:14,15 193:8 195:6 198:23 199:4 202:25 testified 108:8 108:25 122:5 123:12 165:9 165:24 189:15 190:11 197:10 testify 110:23 testifying 209:5 testimony 17:14 21:2 63:23 64:13 70:6,9,13,14</p>	<p>79:14 84:4,5,6 84:7,10,11,14 84:20,22,24 85:7 86:25 87:7 91:7 106:4 143:14 183:5 185:22 199:24 200:4 201:10 203:17 testing 171:23 tests 144:3 texas 113:21 text 88:6 89:15 thank 13:3,12 14:25 15:3 23:2,23 29:8 31:9,16 32:5 35:12,17,20 48:25 51:4,13 53:20 54:18,22 56:14,16 57:8 61:21 65:4,5 65:20 66:5,20 67:4,5,11 70:25 71:3,22 75:10,12,15 78:21 80:11 85:12,15,16 89:2 91:24 92:21 97:1 101:3 102:12 102:14,23 104:2,4,5,12,22 105:5,10 106:17 107:16</p>
---	--	---	---

[thank - timely]

107:17,20	78:3 137:6	154:25 156:18	121:3 132:5,5
108:11 109:18	167:21 169:13	157:4,15	136:9 157:3
109:19 111:8	206:17	158:23 159:4	160:20,21
112:11 116:12	things 21:3	162:18 163:4	163:12 169:17
117:15,24	22:17 37:20	163:14 168:21	173:5 191:6
119:2,3,6,9	56:23,25 86:22	169:13 170:1	threshold 37:9
121:8,12,16,20	91:8 99:11	170:25 173:4,7	throws 49:7
121:21 122:8	131:3 135:14	175:1 178:1	thursday 1:11
122:20 124:5	135:14 175:13	179:17 180:12	tied 45:19
124:12 142:6	think 11:23	181:7 182:2,7	160:25 161:1
142:21 143:24	13:21 18:9	182:9 184:7,18	till 29:10
144:11,19	19:23 20:10	185:9 188:5,12	133:25 137:10
159:9,19,20	24:24 25:21	197:19 201:7	137:11
160:8,11 161:2	27:5 28:7,8	201:15 202:21	time 11:8 18:11
161:12,23	31:1,7 32:9	203:4 207:2,11	20:7 25:1
164:7,8,10,24	36:4,14 43:3	thinking 19:16	34:10 36:5,8
165:1 166:20	47:25 50:16	104:10 181:8	40:21 41:9
174:21 177:5	51:1 52:12,19	thirdly 81:10	52:15,18 60:25
179:16 181:21	52:22,22 53:16	thirtyone	61:3,3 78:12
185:17 187:5	59:6 62:13,15	126:18 127:16	79:7,7,23 80:9
187:12,12,17	64:15,24 65:17	thorough	87:1 91:22
188:17,22	65:21 66:3	185:13	97:1 98:19,21
200:11 201:17	77:23 78:1,10	thoroughly	99:12 105:11
202:3,7 204:7	78:13 79:24	102:6	120:25 131:12
204:10,12	83:14,17,21	thought 13:7	131:14 159:2
205:13 208:14	84:12 85:4	103:8 118:19	159:11 164:9
that'd 178:6	88:15 89:21	118:19 161:10	171:10 173:25
theoretical	90:24 97:15,20	thoughts 101:9	179:6 191:9
198:21	99:24 101:10	thousand 45:7	194:4 196:16
thickness	101:18 102:3,5	168:24,24	204:8 205:12
126:20 127:15	120:13 129:16	thousands	207:12
129:1 130:14	138:12 143:2	142:14	timeframe
thing 25:20	144:15,23	three 36:7	54:12 90:10
49:7 50:16	146:2 150:12	80:22 104:8	timely 194:21
59:21 61:1	153:2,2,5	120:17,19	196:13

[times - two]

<p>times 171:19 175:16</p> <p>timing 87:18 89:4 99:9</p> <p>tisdell 6:12,19 67:13</p> <p>tobosa 125:23</p> <p>today 11:16 15:11 16:9 22:5,9 25:17 34:1 35:5 51:24 52:15,18 53:10 56:4 57:11,18,22,23 58:3,21 61:23 63:4,17 67:12 69:11 71:24,25 72:6 73:16 75:3,18 85:25 86:8 88:21 100:15 105:2 107:2 110:23 111:22 112:2 118:17 121:2 181:19 199:8 201:9 203:18 204:8 206:20</p> <p>together 74:11 92:24 93:6 97:14 98:4 99:25</p> <p>told 92:8</p> <p>took 91:12,13 136:8,8,10 140:16 160:14</p>	<p>top 125:1 128:20 131:1 156:5 167:16 168:17,20,22 169:2 170:19 171:5,17 177:13,15,16 185:21 196:22 196:24</p> <p>topic 207:21</p> <p>tops 130:3,8 180:2</p> <p>total 38:21 39:24 47:22 68:6 127:3 153:18</p> <p>touched 198:4</p> <p>towards 20:1</p> <p>township 105:16</p> <p>trade 74:8</p> <p>trademark 175:10</p> <p>traditional 34:24 85:9</p> <p>training 118:2 190:21</p> <p>transcriber 210:1</p> <p>transcript 210:3,5</p> <p>transcriptionist 209:8</p> <p>transfer 76:20</p>	<p>transmissibility 157:24,25</p> <p>transmits 186:13</p> <p>treat 44:9 114:25</p> <p>treated 105:12 117:5 151:17 192:14 195:23</p> <p>treatment 113:11</p> <p>tremaine 2:14 75:14,15,16 78:22 81:13,19 82:4 86:6 93:15,16 105:2 106:25 181:10 187:19,20 201:6,17,22</p> <p>tremaine's 89:6</p> <p>tried 158:18</p> <p>triggered 198:6 198:15</p> <p>true 20:18 52:8 81:5 110:13 132:13 193:25 206:8 209:9 210:5</p> <p>truly 96:5</p> <p>truth 53:8,9 108:7,7,8 122:4,4,5 165:8,8,9 189:14,14,15</p>	<p>try 12:17 28:13 28:19 41:11 42:5 69:9 86:4 93:6 138:14 171:14 172:1 173:6</p> <p>trying 26:23 50:10 95:5 96:10 116:13 126:14 149:5</p> <p>tubing 167:18 168:9,13 169:9 173:19 176:15 182:16 183:10 186:12 187:8</p> <p>turn 12:17 29:2 108:15 138:10 160:10</p> <p>turned 57:3 109:25 122:14</p> <p>turning 189:5</p> <p>turns 57:5</p> <p>tweaked 86:14</p> <p>twelve 148:6</p> <p>twenty 142:19</p> <p>two 25:24 39:3 41:22 43:20,21 44:2,23 46:6 58:19 70:7 80:2 85:2 96:3 107:5 124:24 125:1,11,16 129:12,12 130:5 135:14 138:13 145:1,9</p>
---	---	---	--

[two - usually]

<p>145:14,15,19 145:22 151:24 169:16 175:16 191:6 196:4 198:15 199:12 206:5 type 156:11 197:8,9,12,13 200:20 typewriting 209:7 typical 18:24 18:25 179:18 179:20 180:14 typically 19:14 19:17 61:15 69:23 98:22 124:21</p>	<p>undamaged 180:11 under 17:9 37:5,21 39:14 39:14,15 44:17 47:18,22 74:1 76:18 81:6 82:17 97:20 111:24 132:11 140:17 162:5 169:6 176:7 192:25 underground 105:17 189:25 190:4,15 191:8 191:20 192:4,8 195:21 200:5 underlying 22:17 174:19 understand 27:10 32:18 38:14 42:20 45:6 48:7 73:1 102:24 149:17 149:18 151:6 181:12 187:23 202:16 understanding 48:9 59:15 62:6 70:16,22 100:11 201:11 understood 55:21 206:8 undertaken 64:19</p>	<p>underway 77:21 unempirical 198:23 unfair 53:8 unfortunate 74:2 unfortunately 74:1 75:25 unit 26:4,21 39:17 units 125:22 142:13,17 university 109:6 unnecessary 73:19 unsubstantiat... 47:25 upcoming 17:13 69:22 81:6 82:6,15 91:15 update 94:13 154:1 204:22 205:13 updated 194:1 upgrade 183:23 upload 41:5,24 uploaded 42:2 upper 105:21 141:15 upside 114:6</p>	<p>urges 96:18 usa 4:2 79:2 use 68:18 95:15 95:15,19,25 96:1 128:2 144:8,8 147:8 147:15,17 148:25 154:10 154:10 155:16 158:18 163:2 169:24 170:20 171:10 183:5,8 183:20 185:4 185:20,23 198:20 used 95:19 125:24 127:23 139:15 142:13 143:7 148:11 157:18,25 158:13 160:18 160:20,21,24 162:7 174:14 178:5 186:25 useful 67:23 68:4 uses 95:14 using 128:25 144:1 148:23 149:11 170:22 176:14 187:3 195:24 usual 85:10 usually 177:24 177:25 198:8</p>
u			
<p>uh 186:6 uic 40:19 190:7 190:9 191:7 ultimate 39:24 82:15 158:19 ultimately 35:1 38:21 67:3 89:19,19,23 99:9 unacted 82:13 unanimously 13:23 unclear 73:12 uncontrolled 27:4,4</p>			

[utilize - water]

<p>utilize 197:13 198:7 199:15 utilized 150:14 150:18 198:25</p>	<p>vice 108:19 videoconfere... 5:13 7:8 view 16:17 33:13 130:4 vigorously 36:20 violate 56:5 violated 28:14 53:18 56:13 58:2 violation 16:14 18:11 55:19 56:9 virtually 14:12 86:24 viscosity 171:19 viscous 170:24 visual 174:13 177:13,16,18 197:2,4 voir 8:3,5,7,9 108:12 122:9 165:11 189:17 volume 12:15 12:18 30:19 152:2,3 153:16 volumes 20:16 21:8 25:22 28:5 29:20 38:12 41:2,6 41:13,20,20,23 42:2 43:18 44:5,10 45:4</p>	<p>47:5,11,23 49:6,20 53:23 53:24 54:1,4 112:19 vote 13:19 14:10 100:15 103:18 203:22 voters 66:10 voting 58:17</p>	<p>134:18 137:4 146:11,16 147:10 149:10 149:12 150:17 151:21 152:4 159:12 163:24 164:4 201:25 208:6,7 wanted 23:6 51:15 54:19 57:6 61:18 63:6,10 83:9 84:5 133:2 134:15 160:15 162:13 164:21 167:21 wanting 54:24 55:3 wants 20:23 22:12 24:6,18 24:21 79:20,21 warrant 22:2 warranted 16:17 warrants 16:15 waste 37:23 38:19 91:22 95:24 106:6 107:14 117:12 132:23 133:10 142:3 176:25 192:6 200:1 water 4:10 16:1 16:13 26:17,18 30:1 39:15</p>
<p>v</p>	<p>wait 27:11 29:2 29:10 waiting 87:22 87:23,24 159:15 walk 36:13 want 13:20 19:7 20:2,2 21:23 22:7 23:1 24:16,19 26:2 27:11 28:15 30:7,9 32:24 36:15,18 47:8 48:23 51:9,16 52:24 52:25 53:7,20 54:14 56:3,9 80:8 87:10 88:11,16,17 98:3,25 99:25 100:12,24 101:8 102:16 104:7 130:7 131:1 133:6,10 133:24 134:3</p>	<p>w</p>	

[water - witness]

<p>42:9 43:25 44:4,9,16 63:3 63:7 70:20 95:17 107:16 126:9 133:1 135:24,24 156:23 161:22 168:2,18 170:17 171:18 192:9 200:6 water's 26:18 watering 39:17 40:3 way 18:6 21:7 41:24 43:4 46:17 55:15 59:12 81:1 94:8 151:4,10 152:22 153:12 163:10 171:11 173:24 195:9 199:18 ways 164:2 we've 33:16 35:21 42:4 45:1 47:15 51:24 77:10 85:3 86:5 94:19 96:21 99:13 101:10 105:19 112:20 128:14,14 132:10 167:8 171:25 182:7 204:18</p>	<p>website 82:19 week 69:14 70:2 81:4 92:5 99:19,21 205:17 week's 12:7 weeks 34:17 36:8 44:2 weigh 17:2 welc 79:5 93:25 welc's 76:9 welcome 61:7 187:13 welcomed 92:9 well's 105:24 wellbore 112:9 159:4 167:6,8 wellock 169:24 wells 25:24,25 26:3,5 29:23 29:24 38:20 41:22 42:8,17 42:19 43:19,20 43:21,24 44:3 44:7,13,17,23 45:22 46:6,23 46:24 47:2,12 47:18,23 52:4 67:22,24 68:3 68:4,8,11,14,17 91:7 124:23,23 125:1,10,11,14 127:13,22 136:9 144:3 145:1,6,9,13,13</p>	<p>145:15,18,24 146:21 147:8 147:20 148:11 157:3,10,18 158:13 160:18 160:20,20,22 160:24,25 162:7,8 163:12 163:12 165:23 171:1,2,7 175:19 179:24 180:15,24,25 181:5 184:23 187:3 190:9 191:21 195:20 195:22,24 196:9 199:2 wendell 1:15 went 45:3 47:2 147:13,21 160:22 166:5 west 113:8,20 120:2,3 130:7 western 6:10 6:15 66:8 77:8 westernlaw.org 6:18,19,20,21 wet 14:24 186:18 whatsoever 42:11 wildcat 113:21 william 7:5 11:13</p>	<p>willingness 69:2 wish 37:10 86:1 198:2,18 202:14,16 206:23 wishes 18:14 57:22 59:8 61:24 withdraw 57:2 57:6 witness 61:3 63:22 78:9 79:9,9,11 84:6 107:3,21,25 108:6 119:14 119:24 120:9 120:16,21 121:5,9,17,22 122:3 144:16 145:8,11,21 146:24 147:6 147:14,22 148:2,8,19 149:14 150:8 150:20 151:4 151:12,15 152:15 153:1 154:5,10,14,17 155:2,20 156:18 157:7 157:10,13 158:4,10 159:6 159:13 160:6 164:6,19,21</p>
---	---	---	---

[witness - yep]

<p>165:2,7 179:16 179:22 180:19 181:2,25 182:2 182:6,13,19,22 183:3,7,11,22 185:5,7,10,15 185:25 186:3,6 186:9,17 187:2 187:10,13 188:6 189:8,13 200:16,24 201:2 202:5,7 203:18 209:4 witness's 70:6 70:9 witnesses 8:14 9:2 20:3 33:23 33:24 80:3,5 97:17 100:6 110:23 112:2 181:18 189:5 196:20 wolfcamp 169:2 170:22 171:5,5,6,7 186:19 187:3 wonderful 87:21 152:14 wondering 18:20,23 19:12 19:13 55:8,10 59:2,20 60:25 103:11 118:11 119:21 155:11 156:11</p>	<p>woodford 126:23 128:9 130:12 134:9 156:9 172:17 173:2,3 185:1 186:20 word 16:11 19:1 120:25 wording 77:9 words 16:5 47:3 work 69:8 74:11,23 75:21 77:5,24 78:10 90:25 92:24 93:1,6 98:4,4 101:23 164:1 166:5 189:22 189:23 191:3,4 worked 74:12 74:17 166:6,7 166:10,10 205:21 working 42:4 85:14 90:21 109:10 123:19 191:1,7 works 78:8 207:4 worms 54:24 worse 80:15 worst 96:16 161:8 163:18 163:24</p>	<p>would've 54:16 74:21 wozniak 4:13 6:4 71:24 wrap 208:8,9 wrapped 100:4 wristen 105:21 126:18 127:17 141:15 write 201:25 writing 84:15 206:7 written 20:1 84:10,17,22 182:9 184:18 185:4 wrote 52:11</p> <hr/> <p style="text-align: center;">x</p> <hr/> <p>x 8:1 9:1 10:1</p> <hr/> <p style="text-align: center;">y</p> <hr/> <p>y 46:16 yates 166:9 yay 100:11 yeah 13:22 24:18 25:9 32:7 62:3 70:25 71:9 103:15 110:3 114:13 115:1 118:13 119:14 119:20 122:15 126:6 133:1 136:15 138:12 144:19 145:10</p>	<p>148:7,8 149:14 152:13 154:7 155:2 156:7 157:15,24 158:6 159:16 161:24 162:15 164:23 178:20 179:9 181:3 182:1,17,19 183:18 184:14 188:9,24 201:4 202:21 206:11 207:12 208:10 year 40:12,17 40:23,24 42:4 48:4 69:21 90:13,18 92:3 94:8 114:5 125:7 138:23 140:8 164:3 181:16 187:9 years 74:13 89:13 109:7,9 114:20 120:17 120:19 121:3 123:18,23 131:21 133:25 134:1,1 137:23 154:1 166:6,11 166:12 178:5 190:25 191:6,6 yellow 128:5 yep 12:20 113:7 114:13</p>
--	---	--	--

[yesterday - zones]

yesterday 59:1
z
zero 47:5
zone 26:25
27:25 30:1
39:9 40:3
49:10 125:15
126:15,15,16
126:21 127:6
127:15 128:9
128:10 129:2
130:9,10,23
133:3 134:6,8
134:16,20,23
155:8,10,22
156:1 157:6,9
158:19 168:18
173:22 179:21
181:4 199:13
zones 26:22
48:18 172:16
172:17 173:5,7
184:25 187:1
199:14